

The Idea of America

The Idea of America:

What It Was and How It Was Lost

Revised and Expanded Second Edition

A collection of essays selected by William Bonner and Pierre Lemieux



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The selections in this book are presented unabridged unless otherwise noted, using the original works as a source whenever possible. When necessary, some effort has been made to modernize spelling, capitalization and punctuation for consistency, except in cases where modernization may lessen the impact of the original text (as in the Declaration of Independence).

We have removed all original footnotes, with the exception of the excerpt from John Umbeck, which retains selected notes. All other footnotes—indicated with one or more asterisks—are from us.

In choosing these selections, we benefited from the advice of a few scholars, notably Prof. Alan Kors (University of Pennsylvania), Dr. Robert Higgs (Independent Institute), and Prof. Martine Brownley (Emory University). None of them bears the responsibility of our final editorial decisions.

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FOREWORD

“In the beginning, all the world was America.”

— John Locke

“The Garden of Eden was a perfect place,” my friend Manuel explained. “Man had free will. He could live in harmony with nature and God—and everything would be fine. But if he defied God, the stain of original sin would be on his descendants forever.”

Eve ate the forbidden fruit. Ever after, men and women have been tarnished; every silver lining has a cloud—and a correction follows every bubble market.

When America was discovered, some people thought it might be a kind of Eden. Explorers recounted their tales of naked savages, snakes, and low-hanging tropical fruit. Maybe it was Eden, but gone to seed.

Whatever it was, many people thought they could make a paradise out of it. Adventurers, entrepreneurs, religious zealots of every stripe—all made their way to the New World intent upon turning it into the Eden of their dreams. Five hundred years later, America is what they made of it—both a paradise, and a complete mess.

But if Americans have a special gift, it is a talent for ignoring irony and ambiguity and going on with their special mission: getting rich. Most Americans look at the country as if it were an Enron financial statement. Sure, many of the assets are fictitious and the liabilities are understated. But like Merrill Lynch, we are all bullish on America.

“Proud to Be an American,” says one bumper sticker. “One Nation—Indivisible,” says another. America was, of course, founded on the opposite

principle—the idea that people were free to separate themselves from a parent government whenever they felt they had come of age. But no fraud, no matter how stupendous, is so obvious as to be detected by the average American. That is America’s great strength—or its most serious weakness.

After Sept. 11, 2001, so many people bought flags that the shops ran short. Old Glory festooned nearly every porch and bridge. Patriotism swelled every heart.

Europeans coming back to the Old Country reported that they had never seen anything like it. A Frenchman takes his country for granted. He is born into it, just as he is born into his religion. He may be proud of La Belle France the way he is proud of his cheese. But he is not fool enough to claim credit for either one. He just feels lucky to have them for his own.

America, by contrast, is a nation of people who chose to become Americans. Even the oldest family tree in the New World has immigrants at its root. And where did its government, its courts, its businesses, and its saloons come from? They were all invented by us. Having chosen the country—and made it what it is—Americans feel more responsibility for what it has become than the citizens of most other nations. And they take more pride in it, too.

But what is it? What has it become? What makes America different from any other nation? Why should we care more about it than about, say, Lithuania, or Chad?

Most Americans, if pressed for an answer, would reply, “Because America is a free country.” What else can be said of the place? Its landmass is as varied as the Earth itself. Inhabiting the sands of Tucson as well as the steppes of Alaska, Americans could as well be called a desert race as an arctic one. Its religions are equally diverse—from mossbacked Episcopalians of the Virginia Tidewater to the holy rollers of east Texas and the Muslims of east Harlem. Nor does blood itself give the country any mark of distinction. The individual American has more in common genetically with the people his people come from than with his fellow Americans. In a DNA test, this writer is more likely to be mistaken for an IRA hit man than a Baltimore drug dealer.

America never was a nation in the usual sense of the word. Though there are plenty of exceptions—especially among the made-up nations of former European colonies—nations are usually composed of groups of people who share common blood, a common culture, and a common language.

Americans mostly speak English, but they might just as well speak Spanish. And at the debut of the republic, the Founding Fathers narrowly avoided declaring German the official language—at least that is the legend. A Frenchman has to speak French. A German has to speak the language of the Vaterland. But an American could speak anything. And often does.

Nor is there even a common history. The average immigrant didn't arrive until the early twentieth century. By then, America's history was already three centuries old. The average family missed the whole thing.

If Americans weren't united by blood, history, religion, or language—what else is left? Only an idea: that you could come to America and be whatever you wanted to be. You might have been a bog-trotter in Ireland or a baron in Silesia; in America, you were free to become whatever you could make of yourself.

“Give me liberty or give me death!” said Patrick Henry, raising the rhetorical stakes and praying no one would call him on it. Yet the average man at the time lived in near-perfect freedom. There were few books and few laws on them. And there were fewer people to enforce them. Henry, if he wanted to do so, could have merely crossed the Blue Ridge west of Charlottesville and never seen another government agent again.

Thomas Jefferson complained, in the Declaration of Independence, that Britain had “erected a Multitude of new Offices, and sent hither Swarms of Officers to harrass our People and eat out their Substance.” Yet the swarms of officers sent by George III would have barely filled a mid-sized regional office of the IRS or city zoning department today.

Likewise, the Founding Fathers kvetched about taxation without representation. But history has shown that representation only makes taxation worse. Kings, emperors, and tyrants must keep tax rates low; otherwise, the people rise in rebellion. It is democrats who really eat out the substance of the people: The illusion of self-government lets them get away with it. Tax rates were only an average of 3% under the tyranny of King George III. Among the dubious blessings of democracy are average tax rates that are 10 times as high.

“Americans today,” wrote Rose Wilder Lane in 1936, after the Lincoln administration had annihilated the principle of self-government—but before the Roosevelt team had finished its work—“are the most reckless and lawless

of peoples” but, she immediately continued, “we are also the most imaginative, the most temperamental, the most infinitely varied.”

But by the end of the twentieth century, Americans were required to wear seatbelts and they ate low-fat yogurt without a gun to their heads. By the beginning of the twenty-first century, they were submitting to strip searches at airport terminals and demanding higher taxes to protect freedom. The recklessness seems to have been bred out of them. And the variety, too. North, south, east, and west, people all wear the same clothes and cherish the same ideas. Liberty has been hollowed out in modern America, but it is still worshipped as though it were a religious relic.

— *William Bonner*

INTRODUCTION

By Pierre Lemieux

This is an anthology on America. Its selections have been chosen to convey what was, and hopefully still is, the idea of America.

Individual liberty was long thought to be the essence of America. In chapter 6 of this book, Lord Acton emphasizes the worldwide significance of the American Revolution, of “the American notion that the end of government is liberty, not happiness, or prosperity, or power, or the preservation of an historic inheritance, or the adaptation of national law to national character, or the progress of enlightenment and the promotion of virtue.” In his *Civil Disobedience* (chapter 20), Henry David Thoreau conveys the American spirit of liberty when he reports being “in a huckleberry field, on one of our highest hills, two miles off, and then the State was nowhere to be seen.” America was the place, if any, where the state (in the general sense of “government”) was nowhere to be seen. The inscription on the Statue of Liberty (chapter 24) says it all, America was a beacon of liberty: “From her beacon-hand / Glows world-wide welcome.”

The beacon of liberty survived until quite recently. Analysts used the idea to endorse or criticize public policy. Reflecting on the growth of government surveillance in America, Prof. Peter P. Swire wrote that “the beacon of liberty argument suggests that U.S. adoption of surveillance tools can have significant negative effects elsewhere in the world.” He continued, “Instead of applying its weight on the side of liberty, however, the United States is becoming a leader in requiring surveillance technologies. . . . The moral authority of the United States will be on the side of government rather than on the side of individual liberty.”¹ Swire was not talking about the growth of government surveillance that followed 9/11: he was writing in 1999, and focussing mainly on the monitoring of financial transactions with tools like money-laundering controls.

Remember America?

Remember America? In the 1950s, there was no political correctness, and Americans were proud of their culture. Despite the grip of religion, one could

1. Peter P. Swire, “Financial Privacy and the Theory of High-Tech Government Surveillance,” *Brookings-Wharton Papers on Financial Services*, 1999.

privately indulge pornographic tastes without much risk. One could quite safely entertain one's vices on one's private property. There was already much economic regulation, often inherited from the 1930s, but it only indirectly affected the average American. Men of business were not scared of the state. There was no public health insurance—no Medicare, no Medicaid. The owner of a restaurant or a bar could run it as he wished, and admit whom he wanted, including smokers. The rule of law was a means for citizens to protect themselves against the state. Except for the driver's license, there were no interior ID papers, and even driver's licenses did not always bear a photograph—thus providing no “government-issued photo ID.” Cops and border praetorians were still humble, at least when facing people who looked like sovereign individuals.

Let's not idealize the past too much. The picture is still pretty clear.

Consider the first decade of the twentieth century. In general, anybody could start a business, find investors, and sell whatever he produced without any government license or oversight. There was no SEC, no IRS, no FCC, no FDA, no EPA, no Federal Reserve, and so forth. The absence of financial regulation (except on banks) did not prevent the development of vibrant capital markets, and New York was on its way to becoming the main financial place in the world. The right to keep and bear arms, so typically American in the twentieth century, had survived relatively unscathed—but for the significant exception of Southern states' attempts to prevent freed blacks from keeping or carrying guns. There was no witch hunt, and in a legal fight between an individual and the government, it was the latter that felt handicapped. Writing in 1910, Lord Acton could confidently say that the American people were “more free than any other the world has seen.” In her celebration of American liberty in the early twentieth century (chapter 26), Rose Wilder Lane could exclaim: “That is what Europeans meant when, after a few days in this country, they exclaimed, ‘You are so free here!’” Liberty was everywhere palpable.

There was even more liberty before the Civil War—at least if you were white. Of course, friends of liberty were opposing slavery. In 1849, Henry David Thoreau wrote:

How does it become a man to behave toward the American government today? I answer, that he cannot without disgrace be associated with it. I cannot for an instant recognize that political organization as my government which is the slave's government also.

The idea of America was not consistent with slavery, which was bound to be abolished as it had been in the rest of the civilized world. Note that abolishing slavery basically meant abolishing government support for slavery, for otherwise, the slaves could flee North or West. There was real hope of bringing the blacks to enjoy American liberty.

Back up still more in time. What could a foreigner expect when moving to America just after the Revolution? He has to fend for himself, answers Benjamin Franklin in 1784 (chapter 14). There were few government jobs, and it was a rule in some states that no such job “should be so profitable as to make it desirable.” A mere “man of quality” coming from Europe and wanting to live off the public, explains Franklin, “will be despised and disregarded.” The immigrant can expect no help from government, and certainly not from the central government as “Congress have no power committed to them, or money put into their hands, for such purposes.” Strangers coming to America can only expect encouragements “derived from good laws and liberty.” This being said, the foreigner is welcome: “One or two years residence give him all the rights of a citizen.” As for helping the local industry against imports, “the governments in America do nothing to encourage such projects.”

Once, it seems, there was America.

How long did it last? Murray Rothbard (chapters 3 and 7) emphasizes the opposition between the libertarian foundations of America and how American governments built upon them. Indeed, when one thinks about America, one is confronted by the paradox of a powerful state trusted to protect the individual right to distrust it. Lord Acton notes that “the temper of the Constitutional Convention was as conservative as the Declaration of Independence was revolutionary.” The Revolution, writes anarchist and feminist Voltairine de Cleyre (chapter 21), aimed at “a change in political institutions which should make of government not a thing apart, a superior power to stand over the people with a whip, but a serviceable agent, responsible, economical, and trustworthy,” and she adds immediately in parentheses, “but never so much trusted as not to be continually watched.” She argues that the ideals of the Revolution were rapidly betrayed by the government created under the Constitution.

Let us take note of a terminological quirk that has marred the idea of America. Using the term “States” to describe the former colonies abolishes the distance between *the state* and the subject, who doesn’t live *under* a state

anymore but *in* a state. This terminology is very Rousseauvian,² and any mistrust towards the state is more easily disarmed. The word “government” is substituted to describe the political apparatus. Not only does this usage create much noise in international contexts, where “the government” mainly refers to the administration or the executive (as opposed to the legislative and the judiciary), but it also confuses “the government” and “government,” as if criticizing “government” (i.e., “the state”) could only mean criticizing a specific administration. In this introduction, I often ignore what I think is an unfortunate usage, and use “the state” to mean the whole apparatus of government, in the three branches and at all levels.

American history does not show a linear progress of individual liberty. In the early colonies, Puritanism led to serious infringements. In the Connecticut Code of 1650, Alexis de Tocqueville reports (chapter 12), “there was scarcely a sin which was not subject to magisterial censure.” “Sometimes, . . .” he adds, “the zeal for regulation induces [the legislator] to descend to the most frivolous particulars: thus a law is to be found in the same Code which prohibits the use of tobacco.” This was little compared to the burning of suspected witches in Massachusetts later in the century. But Rothbard argues (chapter 3) that the libertarian influence increased during the eighteenth century. The theocratic trends had abated by the time Tocqueville wrote *Democracy in America* in the mid-nineteenth century.

A reversal to authoritarian Puritanism occurred at the end of the nineteenth century, which can no doubt be traced to the increase in state power fuelled by the Civil War. The first federal law criminalizing the mailing of obscene material was adopted in 1865, the very year the Civil War ended.³ With Anthony Comstock’s crusade against birth control and obscenity, and the rise of the temperance movement, America seemed headed back to theocracy. In the early twentieth century, de Cleyre thought that the spirit of America had been lost. The Prohibition, which lasted from 1919 to 1933, continued to illustrate the dark side of American religion and busybodyism. Until 1971, contraception was still on the postal prohibition list, and Wendy McElroy reports that, in the late 1960s, a U.S. customs officer forced an American woman to throw her diaphragm into the harbor before allowing her to re-enter the country.⁴

2. From Jean-Jacques Rousseau, a French eighteenth-century philosopher.

3. Wendy McElroy, *A Woman’s Right to Pornography* (New York: St. Martin’s Press, 1995), 60.

4. *Ibid.*, 63.

During the twentieth century, the authoritarian strand in American religion abated. The battles won by the Larry Flints during the second half of the century suggested that Puritanism was dead. Yet, other sorts of prohibitionist and Puritanical causes were resurrected under political correctness and related currents. Social stuff, environmental stuff, and public-health stuff fed the bloodthirsty gods of the new religion, dictating socially acceptable opinions and lifestyles. Just as the separation of state and religion seemed to have been won, the state became the new religion.

Again, the past must not be idealized. Go back to the nineteenth century, when state intervention should not be underestimated, if only because of slavery. Many forms of economic intervention appeared. Protectionism, in the form of high tariffs, was rampant. State governments were already strangling banks with tight regulations (especially unit banking), which played a role in the Great Depression and reverberated up to the 2007–2009 recession.⁵ It remains that, until the Civil War, America was probably, for a white man, the freest country in the world.

Starting in the late nineteenth century, government intervention in the economy gathered steam—notably with the creation of the Interstate Commerce Commission in 1887 and the adoption of the Sherman Antitrust Act in 1890. According to historian Jeffrey Hummel, the Civil War was “America’s Turning Point.”⁶ He argues that the War was an enterprise of aggrandizement of central power, of the *American state* as opposed to the *American States*. The Civil War gave, if only temporarily, immense powers to the state, and “altered attitudes about government.”⁷ In 1869, George Ticknor, the well-known scholar and Harvard professor, wrote:

The civil war of '61 has made a great gulf between what happened before it in our century and what has happened since, or what is likely to happen hereafter. It does not seem to me as if I were living in the country in which I was born, or in which I received whatever I got of political education and principles.⁸

5. See my *Somebody in Charge: A Solution to Recessions?* (New York: Palgrave-Macmillan, 2011), and Charles W. Calomiris, *U.S. Bank Deregulation in Historical Perspective* (Cambridge: Cambridge University Press, 2000).

6. Jeffrey Rogers Hummel, *Emancipating Slaves, Enslaving Free Men* (Chicago and La Salle: Open Court, 1996), 349.

7. *Ibid.*, 357.

8. Quoted *ibid.*, 333.

“In contrast to the whittling away of government that had preceded Fort Sumter,” Hummel concludes, “the United States had commenced its halting but inexorable march toward the welfare-warfare state.”⁹

In the field of public finance, the idea of America also started to be lost in the late nineteenth century. A temporary federal income tax was created in 1862 to finance the Civil War. Extended twice, it died in 1872, but was re-adopted by Congress in 1894, only to be ruled unconstitutional by the Supreme Court two years later. In 1909, however, the Sixteenth Amendment legalized the income tax. Frank Chodorov later wrote: “As a result of income taxation, we now have a government with far more power than George III ever exercised.”¹⁰

The 1910s and 1920s were periods of great increases in government intervention. Between 1913 (the year when the Federal Reserve System was created) and 1920, total government expenditures grew from 7.5% of GDP to 12.1%. The New Deal was another period of large increases in government power. Despite the optimism she exulted in the selection reproduced in chapter 28 of this anthology, Lane became very worried about the evolution of American politics after the New Deal. Total government expenditure in America reached 19.7% before World War II, 27% in 1960, and more than 30% from 1980 to the early 2000s.¹¹ In the wake of the 2007–2009 economic crisis, it now stands over 40%.¹² And there is a distinct possibility of a default on U.S. government debt, perhaps even during the current decade.¹³

Yet, individual liberty was the essence of the idea of America as experienced through the country’s history. American liberty is adventurous and poetic: read Mark Twain in chapter 18. The conquest of the frontier was a fabulous individualist adventure. The California gold rush, which John Umbeck describes in chapter 17, is emblematic. Thousands, perhaps hundreds of thousands, of greedy men converge to a place where, literally, the state is nowhere to be seen. They manage to create their own laws. Equally armed, they live in peace. The fabulous warning posted by a gold miner tells the story:

9. *Ibid.*, 359.

10. Frank Chodorov, *The Income Tax: Root of All Evil* (Old Greenwich: Devin-Adair, 1954), 119.

11. Vito Tanzi and Ludger Schuknecht, *Public Spending in the 20th Century: A Global Perspective* (Cambridge and New York: Cambridge University Press, 2000), 6–7.

12. “Taming Leviathan,” *The Economist*, March 17, 2011.

13. See the conclusion of my *Somebody in Charge*.

All and everybody, this is my claim, fifty feet on the gulch, cordin to Clear Creek District Law, backed up by shotgun amendment.

“I was not born to be forced,” proclaimed Thoreau. Whatever faults and rough edges characterized the average American (as H. L. Mencken reminds us in chapter 15), however naïve was his idea of individual independence (witness Ralph Waldo Emerson in chapter 16), he was self-reliant, inventive, adventurous, and free.

America Today

Now, Tocqueville’s forecast for democratic societies (chapter 10) seems to have come true in America. “I had remarked during my stay in the United States,” he wrote in 1840, “that a democratic state of society, similar to that of the Americans, might offer singular facilities for the establishment of despotism.” Ancient tyrants like Roman emperors “possessed . . . an immense and unchecked power” which they frequently used “to deprive their subjects of property or of life; their tyranny was extremely onerous to the few, but it did not reach the many; it was fixed to some few main objects and neglected the rest; it was violent, but its range was limited.” The future democratic tyrannies, said Tocqueville, will extend “over the whole community,” and maintain men “in perpetual childhood.” The government “provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry.” It “covers the surface of society with a network of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd . . . till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd.”

Of course, one easily finds more sheepish people than Americans. Yet, Americans are now caught into the “network of small complicated rules, minute and uniform” that Tocqueville forecasted. This is probably the main, albeit often neglected, bifurcation in the evolution of America. Virtually all activities—even those protected by the Bill of Rights—are regulated in some ways, and most often in many ways. Just at the federal level, there are probably 4,000 statutes, although it’s hard to tell the exact number, notes a *Wall Street Journal* reporter, “because the statutes aren’t listed in one place.” And this does not include the

regulations. In 2001, federal prosecutors brought more than 80,000 cases.¹⁴ To this must be added the laws and regulations at the State and local levels. All these laws are not pious wishes: 15% of all Americans have an arrest record.¹⁵

James Bovard provides a vivid description of how today's American state is powerful compared to the English state at the time of the Revolution:

The Massachusetts colonists rebelled after the British agents revived "writs of assistance" that allowed them to search any colonist's property. Modern Americans submit passively to government sweep searches of buses, schools, and housing projects. Virginia revolted in part because King George imposed a two-pence tax on the sale of a pound of tea; Americans today are complacent while Congress imposes billions of dollars or retroactive taxes. . . . Connecticut rebelled in part because the British were undermining the independence of judges; nowadays, federal agencies have the power to act as prosecutor, judge and jury in suits against private citizens. Maine revolted in part because the British Parliament issued a decree confiscating every white pine tree in the colony; modern Americans are largely complacent when local governments impose almost unlimited restrictions on individuals' rights to use their own property.¹⁶

Note again that Bovard was writing before 9/11. Whatever happened afterwards, the American state was already, before 9/11, incredibly more powerful than the Founders, the Americans of the late nineteenth century, and probably even those of the 1950s, could ever imagine.

Consider a few paradigmatic cases of out-of-control, Tocquevillian state power.

Serious monitoring of financial transactions can probably be traced to the creation of the Securities and Exchange Commission in 1934, but the agency's original mission of monitoring the issuing of securities was only the opening salvo. Seventy-five years later, on the eve of the recent recession, the state exerted financial surveillance over, and imposed minute rules and regulations

14. Gary Fields, "Sentencing Shift: In Criminal Trials, Venue is Crucial But Often Arbitrary," *Wall Street Journal*, December 30, 2004.

15. Mark Cooney, "The Decline of Elite Homicide," *Criminology*, Vol. 35 (1997), 386. I am grateful to Don B. Kates for providing this reference.

16. James Bovard, *Lost Rights: The Destruction of American Liberty* (New York: St. Martin's Press, 1994), 6.

on, all kinds of financial transactions.¹⁷ The SEC has played an important role in the witch hunt against corporate executives and financial wizards (the modern Salem witches), and in the “governance” fad. Through civil suits and administrative proceedings and orders, the SEC mandates and controls securities registration, regulates brokerage, trading and disclosure, and helps enforce the prohibition of insider trading. It often scares large companies into settling suits without trial. It imposes fines and work bans. It regulates stock exchanges, which were historically private organizations. By mandating certain sorts of disclosure and preventing others, the SEC is, in fact, engaged in the control of information and speech. It also prosecutes violators of the burdensome 2002 Sarbanes-Oxley Act.

Federal money laundering legislation was introduced in 1970 in order to fight organized criminality fuelled by the creation of victimless crimes (especially drug consumption) by the state itself. Gradually tightened from the 1980s on, the legislation now allows for the monitoring of all cash transactions over \$10,000 and of virtually all non-cash money transfers. Banks and other financial intermediaries have been drafted in the service of the state against money launderers, that is, against anybody who transfers money earned in one of the innumerable crimes manufactured by galloping legislation. Even after creating costly “compliance departments,” financial intermediaries are not immune to the risk of civil or criminal prosecution. William McDavid, general counsel of J.P. Morgan Chase, used an analogy: “Think if you are running a railroad, and we say to you, ‘We want you to monitor everyone who takes your train and see if their trip is legitimate.’”¹⁸

“Americans today,” wrote Lane seven decades ago, “are the most reckless and lawless of peoples.” The observation was meant as a celebration of America. Controlling, scaring, and often punishing financial entrepreneurs has been an important step in the taming of the reckless and the lawless, the Michael Milken and the Martha Stewarts—that is, in the taming of America. The attacks on the idea of America have proceeded on several other fronts.

ID papers provide another way of controlling the reckless and the lawless. “We were not obliged, as Continental Europeans have been,” wrote Lane in 1936, “to carry at all times a police card, renewed and paid for at intervals, bearing

17. On this, see my *Somebody in Charge*.

18. Glenn R. Simpson, “As Investigations Proliferate, Big Banks Feel Under the Gun,” *Wall Street Journal*, December 30, 2004.

our pictures properly stamped and stating our names, ages, addresses, parentage, religion, and occupation.” Parentage, religion, and occupation don’t need to appear on an ID card when the state links it to databases. Indeed, European ID cards don’t include such details. What is dangerous with ID cards, or official ID papers in general, is that they help the state follow an individual, through different databases, from one residence to another and from the cradle to the grave. Without ID papers, it is very costly for the state to enforce laws that require information on the whereabouts of the subject. Consequently, fewer such laws are enacted, and the ones that are cannot all be efficiently enforced.

It used to be that Americans could escape the authorities by disappearing where the state was nowhere to be seen. Jeffrey Hummel reports that during the Civil War, some 13% of soldiers, from either North or South, deserted, and that over half these deserters were never apprehended.¹⁹ This would be unconceivable with the surveillance apparatus of today’s American state, which relies on the ubiquitous Social Security Number (SSN) and on the driver’s license, an interior passport now matched to the SSN database.

The last half of the twentieth century has seen the introduction of ID papers in America. Nine-eleven provided a good excuse for accelerating the trend. In 2004, the obligation to identify oneself with “government-issued photo ID” when agents of authority request it was legalized by the Supreme Court (split 5 to 4) in the *Hibel* case.²⁰ The intelligence reform bill adopted by Congress in December 2004 has moved further down the road to a national ID card by mandating federal standards on State driver’s licenses. Representative Ron Paul (R-Texas) declared, “Nationalizing standards for drivers’ licenses and birth certificates, and linking them together via a national database, creates a national ID system pure and simple.” This, warned Paul, points to “a Soviet-style internal passport system.” The fact that the 3,000-page bill was adopted 336 to 75 by the House, and 89 to 2 by the Senate, shows how far the idea of America has receded.

The twentieth century also marked a return in force of Puritanism—besides, of course, the rise of Islam’s own obscurantism. Prohibition was only the first salvo. The so-called “war on drugs” was soon to start, and to intensify up to our time. However difficult it is to imagine, drug consumption was totally legal in the early twentieth century. No doubt, drug addiction is often, although not always, accompanied by wretched lives; and the causality may go as much from

19. Jeffrey Rogers Hummel, *Emancipation Slaves, Enslaving Free Men*, 248.

20. “Court Backs Police on Identification Requests,” *Wall Street Journal*, June 21, 2004.

the latter to the former than the reverse. Alcohol is probably more devastating, if only because of its direct contribution to accidents and violent crimes. Moreover, the war on drugs, as any “war” on what a significant proportion of the people want, has generated unbearable costs. I am not talking mainly about the \$40 billion spent by American governments every year to eliminate the supply of drugs, nor about the violence generated in producing countries like Mexico, but about the cost of violence at home. This cost includes the harm done to the 1.5 million Americans arrested every year for drug offenses, of which half are locked up; the violence caused by gangs warring for their territories; and the wholesale onslaught on our liberties caused by the growing power and militarization of the police justified by this unwinnable war.²¹

Busybodies have not limited their crusades to the drugs they had declared illegal. The war on tobacco, which Tocqueville found nascent in seventeenth century Connecticut, has been revived with a vengeance. The anti-smoking crusaders ignore individual preferences and the pleasure that smokers find in tobacco. (If smokers did not find pleasure worth more than the present and future costs of tobacco, they would quit smoking.) The new social hygienists have invented a “social cost of tobacco,” which is just a way of saying that smokers make sinful choices, for smokers actually cost less “to society” than old-age survivors collecting Social Security and billing Medicare. Moreover, the anti-smoking jihadists deny to private owners of restaurants, bars, and other places decreed “public” the right to welcome smokers, in a sort of hygienic apartheid. Interestingly, alcohol has remained relatively unscathed, perhaps because it is consumed by a much larger part of the population, including the good people of the establishment.²²

Real crimes have also provided the authorities with excuses to further crush our liberties. Sexual crimes—or any crime—committed by adults against children are horrible and must be punished. But this has little to do with sex-offender registries and related laws. In some places, urinating in public is deemed a sexual crime punishable by inscription in sex-offender registries, among other penalties. Studies show that only 5%, or at the very most 25%, of the nearly 700,000 individuals on these registries are actually dangerous. Many are people

21. “How to Stop the Drug Wars,” *The Economist*, March 5, 2009.

22. See, for example, my “The Economics of Smoking,” *Library of Economics and Liberty*, at <http://www.econlib.org/library/Features/feature5.html>; “The World Bank’s Tobacco Economics,” Regulation, Fall 2001, 16–19; and “Heil Health” *The Independent Review*, Fall 1999, 303–306.

who, when teenagers or young adults, had consensual sex with teenagers. Once on sex-offender registries, they are often unable to find permanent jobs, and legally prohibited from living near a school or accompanying their children to school activities. They are constantly ostracized, threatened, and even murdered. “Pretty much all the things that make you a good father are now illegal for me to do,” says a father who, years before, when he was 27, had consensual sex with a 15-year-old girl.²³ Several countries have imitated America’s sex-registry laws, illustrating the new influence of the former beacon of liberty.

In this field, as in others, foreign countries usually import the worst from America and ignore the best.

Americans have come to accept that the Transportation Safety Administration open their suitcases, and that its agents scan and hand-search travelers, touch their “junk,” and request breast cancer survivors to remove their prostheses. The fact that Customs could already do this at international borders only shows the reality of the slippery slopes to tyranny. If we accept external border controls, why not interior controls, too? The TSA has slid down the slippery slope with a vengeance, brushing off the Fourth Amendment which declares (chapter 2): “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” All over the world, banana republics and not-so-banana republics have imitated the TSA, not always under duress.

Reflecting on America in the nineteenth century as “A Republic in the Age of Monarchy,” historian Robert Kagan notes about the tyrannies of the times—Russia, the Austrian Empire, Prussia, the German Confederation—that “agents of the state listened to and reported on private conversations, opened mail, and kept close track of citizens traveling abroad.”²⁴ We’ve come to this, with a smile on our scanned faces.

America has witnessed a large-scale high-jacking of the law by the state. The same has happened in other Western countries, but it is more surprising in America. Inherited from the mother country, the rule of law was a crucial component of the idea of America. The Bill of Rights was meant to reinforce the common law guarantees against persecution through legal prosecution. These guarantees were gradually overcome by the state through its mere power to spend, the proliferation of laws, the federalization of crimes, the use of civil

23. “Unjust and Ineffective,” *The Economist*, August 6, 2009.

24. Robert Kagan, *Dangerous Nation*, (New York: Alfred A. Knoff, 2006), 158.

courts to enforce laws (as opposed to criminal courts, where the burden of proof is much heavier), and the judicial interpretation of all these laws. When the government cannot prove a crime without a reasonable doubt, it can now count on an arsenal of legal instruments to threaten, persecute, and punish.

De Cleyre explains that the Revolution was “the blow dealt. . . . against the counter force of tyranny, which has never entirely recovered from the blow, but which from then till now has gone on remolding and regrappling the instruments of governmental power, that the Revolution sought to shape and hold as defenses of liberty.” Poor Voltairine! What would she say if she came back?

The attack of 9/11 dramatically lowered the political cost of increasing state power; consequently, there has been more of it. When something costs less to those who want it, they ask for more. Americans lowered their resistance, so politicians and bureaucrats were able to make them accept more controls. The July 2004 Department of Justice report on the USA PATRIOT Act provides for interesting reading.²⁵ The government claims that the new powers granted by the USA PATRIOT Act (wiretappings, searches, warrantless access to ISPs, etc.) have stopped a few terrorist conspiracies. The report also confirms that the new powers have been used to hunt fraudsters, computer hackers, child pornographers, drug dealers, etc. The introduction of the report had already prepared the reader:

Some of the examples in this report do not involve terrorism but instead detail how the Department has used certain provisions in the USA PATRIOT Act to combat serious criminal conduct. . . . Congress chose not to limit certain authorities contained in the USA PATRIOT Act only to the context of terrorism, and the examples contained in this report demonstrate the wisdom of that decision.

Recall that “USA PATRIOT” stands for “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.”

Of course, I am not arguing that 9/11 should have been left unpunished. But on September 10, 2001, the American state had been granted enough power to wage an intergalactic war. In fact, its powers were already unconstitutional and destructive of the idea of America. State conceit and state power are perhaps the most disturbing consequences of foreign wars: a humble state could not, to use John Quincy Adam’s formula (chapter 25), go abroad “in search of monsters to destroy.”

25. Department of Justice, *Report from the Field: The USA PATRIOT Act at Work*, July 2004, 2, at www.justice.gov/olp/pdf/patriot_report_from_the_field0704.pdf.

If all these advances of the state cannot be called “a long train of abuses and usurpations,” to borrow from the Declaration of Independence (chapter 1), one wonders what can.

The Danger of the State

How could a state—the American state—founded on the ideal of individual liberty become so powerful? How could a state imbedding the idea of America become so anti-American? It is true that all Western states have followed the same route during the twentieth century, and that their citizens have lost many of their traditional liberties. Leviathan naturally grows. But how could it also happen in America?

Consider a related paradox. Canada remained a British dominion while America became an independent country. The Canadian state (federal and provincial governments) was in theory unlimited;²⁶ the American state, trusted with the sacred mission of protecting liberty, was formally constrained by the Bill of Rights.

Now, look at what happened. At least during the twentieth century, virtually all slippery slopes seem to have been activated in the United States many years, sometimes decades, before being imported into Canada. The U.S. federal income tax was established in 1913; the Canadian equivalent came only four years later. The American feds introduced unemployment insurance in 1935; the Canadian feds, in 1940. The Federal Reserve System was created in 1913; the Bank of Canada, in 1935. The American New Deal was imitated by a Canadian Conservative government after a lag of a few years, and with much resistance. Born in 1934, the SEC predates its first Canadian (provincial) sister by 11 years; and despite the misguided efforts of many federal governments, including the actual Conservative government, securities regulation remains, to this day, a provincial jurisdiction, with no nationwide securities regulator. During the first half of the twentieth century, even the right to keep and bear arms was, in some respects, better protected in Canada than in some places in the United States.

The creeping up of government ID papers, mainly the driver’s license with photograph, started in the United States before being imitated in Canada one or two decades later. The ubiquitous use of the Social Security Number in the United States predated by at least a decade the proliferation of the Social

26. Although it was somewhat constrained by the common law, including the English Bill of Rights.

Insurance Number in Canada. It took two decades for U.S. money laundering legislation to be plagiarized in Canada. FINTRAC (Financial Transactions and Reports Analysis Centre of Canada), the little brother of the American FinCEN (Financial Crimes Enforcement Network), was only created in 2000. The war on drugs, the catch-all crime of domestic violence, the feminist legislative agenda, the environmental craze, the corporate governance witch hunt, the prosecution of sexual harassment writ large, the anti-smoking jihad—all these crusades started in America and were only later embraced by the Canadian governments.

It is as if, in Canada, the state had forgotten to legislate, regulate, and control, except for importing tyrannical fads from elsewhere, including from the Land of the Free.

There are glorious exceptions where Americans have remained freer, although it is seldom completely black and white. Personal taxes are generally lower in the United States than in Canada, but this is only since the 1960s. Self-defense and free speech have resisted better in the America, but not without being attacked. Chapter 22 reproduces a 2004 Department of Justice memorandum reaffirming that the right to keep and bear arms is an individual right in America, while it has virtually disappeared in all other countries during the twentieth century—including now in Canada. In *District of Columbia v. Heller* (chapter 23), the Supreme Court confirmed the opinion of the Department of Justice. Don't forget, though, that this constitutional right is seriously restricted, or has been abolished, for a large number of Americans, including those who have been found guilty of a "felony," a basket that now includes a host of paper crimes and victimless crimes. Private health insurance is not prohibited in America as it has been for a few decades in Canada; yet, in America, 40% of health expenditures are financed by the taxpayer (compared to 70% in Canada), and the industry is tightly regulated. And Barack Obama has just built a big Trojan horse with his health insurance legislation.

One could argue that both America and Canada were only following a general world trend in the growth of Leviathan, and that American politicians and bureaucrats were simply quicker and more entrepreneurial than their Canadian counterparts. There may be some truth in this: applied to politics, American entrepreneurship sometimes works for the worst.

With hindsight, the Founders did not take seriously enough the danger of the state, as illustrated by James Madison's argument (chapter 8) that the federal government would be kept in check by the States and the will of the

citizens. Perhaps the state is so dangerous that trusting it with any glorious mission is looking for trouble, even if this mission is to protect liberty. This could explain why the Canadian state seemed, for a while, to better resist the totalitarian temptation *à la* Tocqueville.

A comparison of France and America tends to confirm this hypothesis. In both countries, the typical citizen thinks that his country is the mother of the rights of man, while that all other peoples in the world are rotting in chains. Yet, in both countries, the state has become an irresistible force for surveillance and control—more advanced in one country or the other depending on the institutions' capacity for resistance and the vagaries of history and culture. Compared to these two leaders, the mission-less Canadian state remained for a long time humbler, and protected individual liberty by its lack of ideas and initiatives. Nowadays, though, Canada and France are probably sliding faster than America on the slippery slope of tyranny.

The state should protect liberty: that's its only acceptable function. But it should remain humble in doing so, and be constrained in such a way that it is forced to be humble.

Will America Be?

There remains something special about America: the idea that individuals can manage their lives by themselves, without heavy dependence on political or administrative authority. This ideal has been shared more or less, at certain times, by all Western countries, but only in America did it define politics and the public discourse with such intensity, and for so long.

As de Cleyre reminds us, anarchism—the ideal of a free society without a state—was often not far below the surface in American discourse. For such an important insight, she can be forgiven for understanding so little about economics and, with her attack on “commerce and manufacture,” for throwing the commercial baby with the tyrannical bathwater. She is not alone in ignoring the tight link between economic freedom and individual liberty in other fields: many other authors of this book did not understand it, either. It's a typical error of European anarchists. In America, the anarchist tradition has been more closely enmeshed with individualism and capitalism, up to the contemporary “anarcho-capitalists” (of which economist and historian Rothbard was a figurehead). Here, anarchism was often seen as the ultimate limited government, as Thoreau explained so vividly:

I heartily accept the motto, “That government is best which governs least”; and I should like to see it acted up to more rapidly and systematically. Carried out, it finally amounts to this, which also I believe—“That government is best which governs not at all”; and when men are prepared for it, that will be the kind of government which they will have.

Those who believed the state remained necessary thought that it should be constrained and challengeable, not unlimited and all-powerful. Jefferson argued that “a little rebellion now and then is a good thing,” and that “[t]he tree of liberty must be refreshed from time to time with the blood of patriots and tyrants” (chapter 19). Americans have constantly flirted with anarchy. It is remarkable that the *Heller* ruling (although not the summary reproduced in our chapter 23) cites Lysander Spooner’s *The Unconstitutionality of Slavery* (1845), where he argued that slaves had, by virtue of the Second Amendment, the right to keep arms for personal defense. The citation was repeated more explicitly by the Court in the follow-up case of *McDonald v. Chicago*. In which other country would the Supreme Court cite an anarchist as an authority?

Yet, when we look around America today, it seems clear that the idea of America has failed. Can we imagine that any of the classical authors of this anthology, or any of the Founders, would think that today’s America is a free society in the strong sense of the word? It is certainly quite open, and less unfree than many other countries in the world. It may or may not be less unfree than other Western countries, depending on which area of human endeavor is considered. At any rate, contemporary America is far from the idea of America as we see it unfold in this book.

Not all hope is lost, though. We have reasons to be optimistic or, at least, not too pessimistic. Witness the richness of the idea of America. Some powerful symbols of American liberty survive. Strong barriers to power remain in place. The paradigmatic right to keep and bear arms has recently regained some of the ground it had lost. Freedom of speech is probably better protected in America than anywhere else. It is in America that the advancing steamroller of the state is likely to meet the most resistance. The emergence of the Tea Party movement has raised hopes of reclaiming American liberty; whether these specific hopes will be satisfied or disappointed remains to be seen.

One thing is sure: if liberty and civilization have any future, the idea of America is the key. Will America be?

PART I

FOUNDING DOCUMENTS

Chapter 1

The Declaration of Independence

IN CONGRESS, July 4, 1776.

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun

with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection

of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

The 56 signatures on the Declaration appear in the positions indicated:

Column 1

Button Gwinnett
Lyman Hall
George Walton

Column 2

William Hooper
Joseph Hewes
John Penn
Edward Rutledge
Thomas Heyward, Jr.
Thomas Lynch, Jr.
Arthur Middleton

Column 3

John Hancock
Samuel Chase
William Paca
Thomas Stone
Charles Carroll of Carrollton
George Wythe
Richard Henry Lee
Thomas Jefferson
Benjamin Harrison
Thomas Nelson, Jr.
Francis Lightfoot Lee
Carter Braxton

Column 4

Robert Morris
Benjamin Rush
Benjamin Franklin
John Morton
George Clymer

James Smith
George Taylor
James Wilson
George Ross
Caesar Rodney
George Read
Thomas McKean

Column 5

William Floyd
Philip Livingston
Francis Lewis
Lewis Morris
Richard Stockton
John Witherspoon
Francis Hopkinson
John Hart
Abraham Clark

Column 6

Josiah Bartlett
William Whipple
Matthew Thornton
Samuel Adams
John Adams
Robert Treat Paine
Elbridge Gerry
Stephen Hopkins
William Ellery
Roger Sherman
Samuel Huntington
William Williams
Oliver Wolcott

Chapter 2

U.S. Congress: The Bill of Rights

*The first 10 amendments to the U.S. Constitution in their original form
as ratified December 15, 1791.*

Congress of the United States

begun and held at the City of New-York, on

Wednesday the fourth of March, one thousand seven hundred and eighty nine.

THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; *viz.*

ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by

a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

PART II

REVOLUTIONARY IDEALS

Chapter 3

Murray N. Rothbard: The Growth of Libertarian Thought in Colonial America

Murray N. Rothbard (1926–1995) was an American economist and historian.

We have touched several times, especially in dealing with religious doctrines and institutions, upon the growth of libertarian views in eighteenth-century America. This extremely significant development was not a full-blown giant that suddenly burst upon the European and American scenes. J.H. Hexter, in his brilliant *Reappraisals in History*, warns us of the dangerous temptation toward a linear view of history—a view adopted in different ways by “Whig” and Marxist alike. The linear view assumes a steady march from past to present; Hexter cites the concept of the “rising middle classes.” Historians, he points out, noted that the English middle classes were dominant in the nineteenth century, and virtually nonexistent in the Middle Ages. Hence the linear assumption of a steady march upward by the middle classes century by century, a picture which Hexter indicates is far from the truth. But the important point here is that history often moves not in a smoothly linear trend but in varying patterns of rises and falls of trends shattered by contrary trends.

The growth of libertarian thought in eighteenth-century America was, to be sure, heavily influenced by a preceding growth in England, the main source of cultural influence on its colonies. But the pattern was not so simple. For it must be remembered that parts of America itself had experienced entirely libertarian institutions in the seventeenth century: for example, Rhode Island, North Carolina, and Pennsylvania. To a large extent, this libertarianism had been *unarticulated*. In short, the abundance of fertile virgin land in a vast territory enabled individualism to come to full flower in many areas. But only

Murray N. Rothbard, excerpted from *Conceived in Liberty*, vol. 2: “‘Salutary Neglect’: The American Colonies in the First Half of the 18th Century” (Auburn: Ludwig von Mises Institute, 1999), chap. 33, without the footnotes. Reproduced by permission of the Ludwig von Mises Institute.

in such cases—important to be sure—as those of Roger Williams and Anne Hutchinson did practicing libertarianism receive theoretical articulation and groundwork. This does not mean that no theoretical rationale existed. Indeed, it exploded in a mighty surge during the height of the Puritan revolution; Roger Williams and his friends among the libertarian wing of that revolution helped each other develop these doctrines.

But the significant fact of the mid-seventeenth century was the defeat of the revolution and the victory of the counterrevolution. In England this victory can pinpointed to Oliver Cromwell's shift rightward and his suppression of the Levellers—perhaps the finest libertarian movement up to that time. The steady retreat of Roger Williams from libertarian principles and enthusiasm can be dated from the disheartening victory of this Cromwellian counterrevolution. A similar counterrevolution against liberalism occurred in other parts of Europe: in France with the defeat of the Holy League in the late sixteenth century and of the popular Frondeur movements in the seventeenth century; in Holland with the victory of the Orange Party over the Republicans. Civil war and foreign wars prevented England from turning its attention to its American colonies until the end of the seventeenth century. When it finally did so, it used its power to crush libertarian reality where it existed in America. Thus England imposed a counterrevolution on virtually libertarian conditions in Pennsylvania and New Jersey, and reversed the liberal-tending Leislerian revolution, which had had to force its way against what was in many ways the most reactionary colony of all, New York. Liberal-tending rebellions in the South (for example, Bacon's Rebellion in Virginia) were crushed, and reactionary policies entrenched or deepened. After the vigorous turmoil and turbulence of the late seventeenth century, when so many parts of America struggled in various ways toward freedom, a rather bleak uniformity was imposed on the colonies by England. Then first half of the eighteenth century saw an increasing political stalemate between the contending forces, now generally consisting of the Crown and privileged oligarchy as against the rest of the population. This period of quiescence was matched in the mother country, in institutions as well as in thought and opinion. In the first half of the eighteenth century, England settled down into a centrist Whig settlement; radical-liberal thought was more or less underground, expressed in thin trickles by lone independent thinkers. These liberals kept alive the torch of seventeenth-century Republican liberalism. When the radical-liberal

movement burst forth once again as a political force in England in the later eighteenth century, it came not as a completely new phenomenon, but as a renaissance of seventeenth-century radical models.

In the first half of the eighteenth century, America was more eager to learn from British liberalism, past and contemporary, than were the English themselves. England was, for one thing, the major cultural and ideological influence in the colonies, and Americans were eager to learn. For another, America had the heritage of its virtual epoch of libertarian revolutions in the last half of the seventeenth century; it was a long time before England was able to clamp down on America. And furthermore, America was not saddled with the enormous encumbrances on liberty that faced the English liberals: a pervasive and oppressive feudal land system—which had broken in America on the rock of vast new land, a drive for proprietary profit, and an American refusal to pay quitrents; an established church hierarchy; a large central state apparatus; and a thoroughly oligarchic polity.

Americans suffered from these ailments to some degree, differing from one colony to the next. And such institutions as slavery, especially in the plantation South, and quasi-feudal landholdings in the Hudson Valley, presented great problems—but not nearly to the extent experienced by Great Britain. Above all, the rapid breakdown of attempts at imposing a feudal land system threw open land and areas of American life to a mobility and opportunity that Europe could not yet experience. The far greater democracy in the bulk of the American colonies than in England was a reflection of this breakdown. If liberty was to be achieved in the Western world, it was clear by the eighteenth century that America would have to take the lead—to achieve in practice the fruits of a theory generated in England.

One basic influence on colonial American thought was the fact that two contrasting traditions emerged from its Protestant and Puritan heritage. One was the fanatical theocratic-persecuting tradition, which reached its apogee in Massachusetts Bay and in the Dutch Orange Party. The other was optimistic, individualist, libertarian, and even deistic, and was reflected in the Levellers, and in such escapees from Massachusetts as Anne Hutchinson and Roger Williams, and later in Charles Chauncy and Jonathan Mayhew.

Apart from ancient writers, three sources were the most frequently cited and quoted in eighteenth-century America, especially in the first half of the century: Algernon Sidney, John Locke, and Trenchard and Gordon of *Cato's*

Letters. Each made a profound contribution to the growth and development of libertarian thought in America.

Algernon Sidney was one of the leading theorists of the Republican movement in seventeenth-century England. In particular, the doctrines expounded in his posthumously published *Discourses Concerning Government* were stamped on men's minds by the circumstances of his martyrdom. Arrested in the early 1680s, Sidney was killed in late 1683 by the Crown and thus dramatized the Republican and libertarian cause. Sidney's basic importance was his stress on the right of revolution. To Sidney, revolution and freedom were closely linked. Whenever people's liberties were threatened or invaded, they had the right, nay the *duty*, to rebel. Everyone might legitimately slay a tyrant, and there is much justification for defending the rights of individuals against tyranny. Revolution to Sidney was not an evil but the people's great weapon for the overthrow of tyranny and for exercising their rights to popular government. There was nothing sacred about governments, which on the contrary should be changed as required. The types of laws necessary in a country were to be discerned by man's reason investigating the fundamental laws of man's nature. Against the arbitrary whim of the ruler, Sidney championed law as "written Reason" and as defense of life, liberty, and property: "If there be no other law in a kingdom than the will of a Prince, there is no such thing as liberty. Property also is an appendage to liberty; and 'tis as impossible for a man to have a right to lands or goods, if he has no liberty, and enjoys his life only at the pleasure of another, as it is to enjoy either when he is deprived of them."

Although Sidney urged popular government as against monarchy, he was no believer in the unlimited rights of Parliament. On the contrary, it was to be subordinated to the individual rights of the people. Power, he warned, inevitably corrupts and every institutional power must be guarded against. To Sidney, government rested on a contract between government and governed. When government fails to perform its role in the service of the people, it deserves to be removed. Nor can a people give up their liberties permanently or be bound to government by the dead hand of the past. In his *Dying Speech*, Sidney proclaimed that "God has left nations the liberty of setting up such governments as best please themselves." He thanked God that he had now become a witness to the truth and to the "Old Cause" of liberty against tyranny in "an age which makes truth pass for treason."

A liberal Republican and friend of Sir Henry Vane (the Massachusetts

champion of Anne Hutchinson), Sidney had been unhappy with Cromwell's turn to tyranny and had spent the Republican years in retirement. He was then forced to spend the bulk of the Restoration years in exile, until his execution. Sidney's great classical model was Brutus and his stirring motto *Manus haec inimica tyrannis* ("This hand to tyrants ever sworn the foe," in the translation of John Quincy Adams).

Algernon Sidney's widening impact on America during the eighteenth century influenced the great liberal Massachusetts Congregational ministers Andrew Eliot and Jonathan Mayhew. Eliot testified that this "martyr to civil liberty" first taught him just principles of government. Indeed, the defense of revolution by the martyred Sidney was far more inspiring to Americans than the defense by the timorous John Locke. Sidney's historical honor roll consisted of those who had helped their countrymen get rid of tyrants. Injustice, to Sidney, made a government illegal. "Swords were given to men that none be slaves but such as knew not how to use them," and "the law that forbids injuries were of no use if no penalty might be inflicted on those who will not obey it." Concluded Sidney: "Let the danger be never so great, there is a possibility of safety whilst men have life, hands, arms, and courage to use them, but the people must certainly perish, who tamely suffer themselves to be oppressed . . . by the injustice, cruelty, and malice of an ill magistrate."

If liberty found its martyr in Algernon Sidney, it found its elaborated systematic defense in the *Essay Concerning Civil Government* of the noted philosopher John Locke. The *Essay*, we now know, was written in the early 1680s at about the same time as Sidney's *Discourses*; it was therefore written when Locke, too, was a revolutionary plotter against Stuart rule, and *not*, as had been assumed, as a conservative *ex post facto* rationale for the Glorious Revolution of 1688.

There were two strains in Locke's *Essay*: the individualist and libertarian, and the conservative and majoritarian, and examples of caution and inconsistency are easy to find. But the individualist view is the core of the philosophic argument, while the majoritarian and statist strain appears more in the later, applied portions of the theory. We know, furthermore, that Locke was an extraordinarily secretive and timorous writer on political affairs, even for an age when criticism could and did lead to exile and death. Hence, it is not unreasonable to assume that the conservative strain in Locke was a camouflage for the radically libertarian core of his position; certainly it was not difficult to

concentrate on that core and make it the groundwork of a libertarian creed. And Locke's *Essay* was particularly worthwhile in that it soared above the usual narrowly parochial concern of the day for time and place: from English liberty, ancient privileges, and the common law, to a universal abstract political philosophy grounded on the nature of man.

Locke began his analysis with the "state of nature"—not as an historical hypothesis but as a logical construct—a world without government, to penetrate to the proper foundation of the state. In the state of nature, each man as a natural fact has complete ownership or property over his own person. These persons confront unused natural resources or "land," and they are able to maintain and advance themselves by "mixing their labor with the land." Through this mixing, the hitherto unowned and unused natural resources *become* the property of the individual mixer. The individual thereby acquires a property right not only in his own person but also in the land that he has brought into use and transformed by his labor. The individual, then, may keep this property, exchange it for the property of others, or bequeath it to his heirs. He has the "natural right" to the property and to defend it against invasion by others. The moral justification for government, to Locke, was to defend these rights of property. Should government fail to serve this function, and itself become destructive of property rights, the people then have the right to revolt against such government and to replace it with one that will defend their rights.

Thus, Locke, by the use of reason in investigating the laws of man's nature, adumbrated the doctrine of the natural rights of the individual to person and property, rights that are anterior to government and that government is duty-bound to defend, on pain of a justified overthrow.

Locke is clear that aggression and invasion of another's right can establish no just title to property or rule, and that this holds for great heads of states as well as for petty criminals: "The injury and the crime is equal, whether committed by the wearer of a crown or some petty villain. The title of the offender and the number of his followers make no difference unless it be to aggravate it. The only difference is, great robbers punish little ones to keep them in their obedience, but the great ones are rewarded with laurels and triumphs, because they are too big for the weak hands of justice in this world, and have the power in their own possession which should punish offenders." As to the legislature:

The reason why men enter into society is the preservation of their property; and the end why they choose and authorize a legislature is that there may be laws made, and rules set, as guards and fences to the properties of all the members of the society . . . whenever the legislators endeavor to take away and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people, who are thereupon absolved from any farther obedience, and are left to the common refuge which God hath provided for all men against force and violence.

Locke's reply to the critics of this theory of revolution was trenchant: Those who oppose the right to revolution as turbulent and destructive "may as well say, upon the same ground, that honest men may not oppose robbers or pirates, because this may occasion disorder or bloodshed. If any mischief come in such cases, it is not to be charged upon him who defends his own right, but on him who invades his neighbor's."

To the objection that his theory allowed for frequent revolution, Locke countered that "such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people without mutiny or murmur. But if a long train of abuses, prevarications, and artifices, all tending the same way, make the design visible to the people . . . 'tis not to be wondered that they should then rouse themselves."

The third great influence on America, and perhaps the most widely cited source in the colonies, was the works of John Trenchard and Thomas Gordon, especially their *Cato's Letters*. We have already noted the influence of the letters on the freedom of the press, as well as the strong influence of Trenchard and Gordon's contemporaneous *Independent Whig* series, both written in the early 1720s. Trenchard and Gordon were part of a small group of Englishmen who during the eighteenth century kept alive the torch of liberal Republican principles. This group was variously called "Commonwealthmen," "Real Whigs," or "True Whigs."

The great significance of *Cato's Letters* is that in them the wealthy John Trenchard and his young protégé Thomas Gordon greatly radicalized the impact of Locke's libertarian creed. They did so by applying Lockean principles to the concrete nature and problems of government, in a series of powerfully argued and hard-hitting essays that were often cited and reprinted and widely

read throughout the American colonies. *Cato's Letters* did more than merely restate Lockean doctrine. From the position that the people have the right to revolt against a government destructive of liberty, "Cato" proceeded to argue with great force that government is always and everywhere the potential or actual aggressor against the rights and liberties of the people. Liberty, the source of all the fruits of civilization and human happiness, is ever liable to suffer the aggressions and encroachments of government, of power, the source from which war, tyranny, and impoverishment ever flow. Power always stands ready to conspire against liberty, and the only salvation is for the public to keep government within strictly limited bounds, and to be ever watchful, vigilant, and hostile to the inevitable tendencies of government power to encroach upon liberty.

Expounding Lockean doctrine, "Cato" puts it thus:

All men are born free. Liberty is a gift which they receive from God Himself; nor can they alienate the same by consent, though possibly they may forfeit it by crimes. . . . The right of the magistrate arises only from the right of private men to defend themselves, to repel injuries, and to punish those who commit them; that right being conveyed by the society to their public representative, he can execute the same no further than the benefit and security of that society requires he should. When he exceeds his commission, his acts are as extrajudicial as are those of any private officer usurping an unlawful authority; that is, they are void; and every man is answerable for the wrong which he does. A power to do good can never become a warrant for doing evil.

Liberty "Cato" defined as "the power which every man has over his own actions, and his right to enjoy the fruit of his labor, art, and industry, as far as by it he hurts not the society, or any members of it, by taking from any member, or by hindering him from enjoying what he himself enjoys. The fruits of a man's honest industry are the just rewards of it, ascertained to him by natural and eternal equity, as is his title to use them in the manner which he thinks fit. And thus, with the above limitations, every man is sole lord and arbiter of his own private actions and property."

From liberty all other blessings flow:

Indeed liberty is the divine source of all human happiness. To possess, in security, the effects of our industry, is the most powerful and reasonable incitement to be industrious: And to be able to provide for our children,

and to leave them all that we have, is the best motive to beget them. But where property is precarious, labor will languish. The privileges of thinking, saying, and doing what we please, and of growing as rich as we can, without any other restriction, than that by all this we hurt not the public, nor one another, are the glorious privileges of liberty; and its effects, to live in freedom, plenty, and safety.

Moreover, “Cato” made clear that the rights and liberties he was enunciating were individual and not those of the majority. The despotism of the majority can be as bad as the tyranny of one or a few:

It is a mistaken notion in government, that the interest of the majority is only to be consulted, since in society every man has a right to everyman’s assistance in the enjoyment and defense of his private property; otherwise the greater number may sell the lesser, and divide their estates amongst themselves; and so, instead of a society, where all peaceable men are protected, become a conspiracy of the many against a minority. With as much equity may one man wantonly dispose of all, and violence may be sanctified by mere Power.

But in this idyll of liberty there is always and ever the threat of the encroachments and aggressions of power, of government:

Only the checks put upon magistrates make nations free; and only the want of such checks makes them slaves. They are free, where their magistrates are confined within certain bounds set them by the people. . . . And they are slaves, where the magistrates choose their own rules, and follow their lust and humors; than which a more dreadful curse can befall no people . . . and therefore most nations in the world are undone, and those nations only who bridle their governors do not wear chains.

Once acquiring power, rulers will try their best to keep and extend it:

We know, by infinite examples and experience, that men possessed of Power, rather than part with it, will do any thing, even the worst and the blackest, to keep it; and scarce ever any man upon earth went out of it as long as he could carry everything his own way in . . . This seems certain, that the good of the world, or of their people, was not one of their motives either for continuing in Power, or for quitting it.

It is the nature of Power to be ever encroaching, and converting every extraordinary power, granted at particular times, and upon particular occasions, into an ordinary power, to be used at all times, and when

there is no occasion; nor does it ever part willingly with any advantage.

If liberty for “Cato” is the source of human happiness, the tyranny of power is the source of vast human misery:

Tyrants . . . reduce mankind to the condition of brutes, and make that Reason, which God gave them, useless to them: They deprive them even of the blessings of nature, starve them in the midst of plenty, and frustrate the natural bounty of the earth to men; so that Nature smiles in vain where tyranny frowns: The very hands of men, given them by Nature for their support, are turned by tyrants into the instruments of their misery, by being employed in vile drudgeries or destructive wars, to gratify the lust and vanity of their execrable lords. . . .

Tyrants . . . are supported by general ruin; they live by the destruction of mankind; and as fraud and villainy, and every species of violence and cruelty, are the props of their throne; so they measure their own happiness, and security, and strength, by the misery and weakness of their people. . . . That wealth, which dispersed amongst their subjects, and circulated in trade and commerce, would employ, increase, and enrich them . . . is barbarously robbed from the people, and engrossed by these their oppressors. . . .

Alas! Power encroaches daily upon Liberty, with a success too evident; and the balance between them is almost lost. Tyranny has engrossed almost the whole earth, and striking at mankind root and branch, makes the world a slaughterhouse, and will certainly go on to destroy, till it is either destroyed itself, or, which is most likely, has left nothing to destroy.

The corruption and lust for power in human nature are the causes of the aggressive nature of power, and therefore require eternal vigilance against power’s encroachments:

There has been always such a constant and certain fund of corruption and malignity in human nature, that it has been rare to find that man, whose views and happiness did not center in the gratification of his appetites, and worst appetites, his luxury, his pride, his avarice, and lust of power and who considered any public trust reposed in him, with any other view, than as the means to satiate such unruly and dangerous desires! And this has been most eminently true of Great Men, and those who aspired to dominion. They were first made great for the sake of the public, and afterwards at its expense. And if they had been content to

have been moderate traitors, mankind would have been still moderately happy; but their ambition and treason observing no degrees, there was no degree of vileness and misery which the poor people did not feel.

The appetites therefore of men, especially of Great Men, are carefully to be observed and stayed, or else they will never stay themselves. The experience of every age convinces us, that we must not judge of men by what they ought to do, but by what they will do; and all history affords but few instances of men trusted with great power without abusing it, when with security they could.

“Cato” assured his readers that there was no danger that the public might exercise its right of revolution against tyrannical government too frequently or imprudently; due to settled habits, as well as the propoganda and power of government, the danger is quite the reverse:

It is foolish to say, that this doctrine can be mischievous to society, at least in any proportion to the wild ruin and fatal calamities which must befall, and do befall the world, when the contrary doctrine is maintained: For, all bodies of men subsisting upon their own substance, or upon the profits of their trade and industry, find their account so much in ease and peace, and have justly such terrible apprehensions of civil disorders, which destroy everything that they enjoy; that they always bear a thousand injuries before they return one, and stand under the burdens as long as they can bear them. . . .

What with the force of education, and the reverence which people are taught, and have been always used to pay to princes; what with the perpetual harangues of flatterers, the gaudy pageantry and outside of Power, and its gilded ensigns, always glittering in their eyes; what with the execution of the laws in the sole power of the prince; what with all the regular magistrates, pompous guards and standing troops, with the fortified towns, the artillery, and all the magazines of war, at his disposal; besides large revenues, and multitudes of followers and dependents, to support and abet all that he does: Obedience to authority is so well secured, that it is wild to imagine, that any number of men, formidable enough to disturb a settled State, can unite together and hope to overturn it, till the public grievances are so enormous, the oppression so great, and the disaffection so universal, that there can be no question remaining, whether their calamities to be real or imaginary, and whether the magistrate has protected or endeavoured to destroy his people.

The American colonists eagerly imbibed from Trenchard and Gordon, not only the Lockean doctrine of individual liberty and of the right of revolution against government in what Professor Bernard Bailyn has justly called a “superbly readable” form; but also, and even more important, the dichotomy between liberty and power, and the ever-constant threat to the crucial liberties of the people by the eternal incursions and encroachment of governmental tyranny. Even more concretely, Trenchard and Gordon were not afraid to point to the corruption and the increasing power of government and its bureaucracy in the relatively free England of their day. It was a warning that the American colonists were eagerly to take to heart.

Libertarian English views were also brought to America with a dramatic burst by the great liberal Massachusetts minister, Jonathan Mayhew. We have seen how this deist and Unitarian studied Locke at Harvard and was later to laud the influence upon him of Locke and Algernon Sidney. In early 1750, Mayhew delivered his most celebrated political sermon, significantly as a centennial celebration of the execution of Charles I: *A Discourse Concerning Unlimited Submission and Non-Resistance to the Higher Powers*.

This sermon, which has been called the “warning gun of the [American] Revolution,” was the first expression in eighteenth-century America of the sacred right of resistance to tyrannical government. Reason, said Mayhew, dictates the usefulness of obedience to government for social protection; but when government becomes oppressive, when it robs and ruins the public, then “they immediately cease to be the ordinance and ministers of God, and no more deserve that glorious character than common pirates and highwaymen. Rulers,” continued Mayhew, “have no authority from God to do mischief, and citizens have the right to disobey ‘unlawful’ authority,” and “in cases of very great and general oppression . . . to vindicate their natural and legal rights, to break the yoke of tyranny, and free themselves and posterity from inglorious servitude and ruin.” Following Locke and “Cato,” Mayhew pointed out that there was little danger of revolution for trivial causes, for “mankind in general have a disposition to be . . . submissive and passive and tame under government.”

Mayhew also stressed every man’s right and duty of “private judgment,” basing this in turn on the nature of man: his capacity for reason and freedom of will to choose his course of action. And as criteria for choice, the individual had available to him knowledge of truth and rightness rooted eternally in the “nature of things.”

The 1744 pamphlet of the Reverend Elisha Williams of Massachusetts, *The Essential Rights and Liberties . . .*, was also frankly Lockean throughout. Writes Williams:

As reason tells us, all are born thus naturally equal, i.e. with an equal right to their persons; so also with an equal right to their preservation . . . and every man having a property in his own person, the Labour of his body and the work of his hands are properly his own, to which no one has right but himself; it will therefore follow that when he removes anything out of the state that nature has provided and left it in, he has his Labour with it, and joined something to it that is his own, and thereby makes it his property. . . . Thus every man having a natural right to [or being proprietor of] his own person and his actions and Labour, which we call property; it certainly follows, that no man can have a right to the person or property of another. And if every man has a right to his person and property; he has also a right to defend them . . . and so has a right of punishing all insults upon his person and property.

Consequently, a law violating natural and constitutional rights is no true law and requires no obedience. The natural right of private judgment was also upheld by the Reverend William Rand of Massachusetts in 1757, and by the Reverend Joseph Fish of Connecticut three years later.

During this period, many of the New Light ministers, under pressure of establishment persecution in several colonies, began to move towards a libertarian position. Elisha Williams was a New Light. The Reverend Samuel Davies, leader of the Southern New Side Presbyterians, declared in 1751 that people had a “legal as well as natural right to follow their own judgment,” and to gauge governmental authority against the great principles of natural justice. Davies’ focus, of course, was on religious aspects of liberty. Princeton, the training ground of the New Lights, soon developed as a libertarian center. Davies, president of Princeton from 1759 to 1761, lauded the English Puritan Revolution and exhorted his listeners to fight if need be for their liberties. His predecessor, the Reverend Aaron Burr, was noted as a “great friend of liberty, both civil and religious,” in state and church.

“Separates”—New Lights in Massachusetts and Connecticut who insisted on clear-cut separation from the state establishment—petitioned extensively for religious liberty and exemption from church taxes, even though the petitions were almost always spurned by the government. Daniel Hovey, of Mansfield, was imprisoned in 1747 for refusing to pay the church tax, and petitioned

for relief on the ground that liberty of conscience was “the unalienable right of every rational creature.” The Separates of Canterbury went beyond this to include the right of liberty and property. In their petition of 1749, they asserted that God’s law strictly limited the functions of government to “defense of everyone in the free enjoyment and improvement of life, liberty, and property from the force, violence and fraud of others; their different opinions in ecclesiastical affairs notwithstanding.” The Canterbury Separates also insisted on the natural right of parishioners to dissent and to separate from *them*—a welcome consistency for that or indeed for any era. Another leading libertarian petition came in 1743–44 from Exeter, Massachusetts. The petition asked: “Is not liberty equally every man’s right . . . ?” The Exeter Separates asserted the right of private judgment, the right to separate, and the right to be free of taxes for a religious establishment. And though it was rejected, they petitioned again eleven years later.

While England was the great fountainhead of intellectual influence in eighteenth-century America, France also was important, even in the first half of the century, more so than has been generally believed. By far the most widely read French writer in the colonies was the great French liberal and deist, Francois Voltaire. Despite the enormous prejudice in America against Roman Catholicism and against France, Voltaire was able to make his way as a representative of deist and optimist thought, and especially as an avowed disciple of John Locke. For liberalism in eighteenth-century France was a heritage of seventeenth-century liberalism in England, and especially of John Locke. The young Voltaire spent three years of exile in England, in the late 1720s, and there became a firm advocate of religious liberty and of freedom of speech and press, and of Locke as their philosophical groundwork. Voltaire’s libertarian views were therefore English by inspiration and in content.

Voltaire conveyed this liberalism to France with his *Philosophical Letters on the English*, published in English in 1733 and then in French in 1734. In the *Letters* he spread the Lockean message to the Continent. He also praised the Quakers for their condemnation of war. His English exile also influenced Voltaire to write modern European history. His popular *History of Charles XII* was published so that people would “be cured of the folly of conquest.”

It is the curious belief of many writers that whereas English liberalism was moderate, pragmatic, and cautious, French liberalism was destructive, absolutist, and revolutionary. The truth is almost the reverse. Liberalism

emerged as a coherent doctrine and as a full and powerful force in seventeenth-century England, and a thoroughgoing revolutionary force at that. French liberalism in the following century was frankly taken from England, albeit at a time when English liberal thought had been all but stifled by the Whig “settlement.” But French liberals despaired of the odds of fomenting revolution against the might of French feudalism and royal absolutism, which were far more rigidly fastened upon France than upon England. The eighteenth-century French liberals therefore remained content with the futile cause of urging liberty upon the royal power as a free gift to the people. A vain hope. When in history has a ruling elite voluntarily surrendered its power and rule as a free gift, unpressured by severe and persistent opposition from below?

Chapter 4

Patrick Henry: Give Me Liberty or Give Me Death

Patrick Henry (1736–1799) was a Virginia lawyer who later became governor of Virginia.

No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the House. But different men often see the same subject in different lights; and, therefore, I hope it will not be thought disrespectful to those gentlemen if, entertaining as I do opinions of a character very opposite to theirs, I shall speak forth my sentiments freely and without reserve. This is no time for ceremony. The question before the house is one of awful moment to this country. For my own part, I consider it as nothing less than a question of freedom or slavery; and in proportion to the magnitude of the subject ought to be the freedom of the debate. It is only in this way that we can hope to arrive at the truth, and fulfill the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time, through fear of giving offense, I should consider myself as guilty of treason towards my country, and of an act of disloyalty toward the majesty of Heaven, which I revere above all earthly kings.

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth, and listen to the song of that siren till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the numbers of those who, having eyes, see not, and, having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth, to know the worst, and to provide for it.

I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging of the future but by the past. And

Patrick Henry, speech given to the Virginia House of Burgesses on March 23, 1775, excerpted from William Wirt's *Sketches of the Life and Character of Patrick Henry* (Philadelphia: James Webster, 1816), 119–123.

judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years to justify those hopes with which gentlemen have been pleased to solace themselves and the House. Is it that insidious smile with which our petition has been lately received?

Trust it not, Sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with those warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlemen assign any other possible motive for it? Has Great Britain any enemy, in this quarter of the world, to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us: they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British ministry have been so long forging. And what have we to oppose to them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we anything new to offer upon the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves. Sir, we have done everything that could be done to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne! In vain, after these things, may we indulge the fond hope of peace and reconciliation.

There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained—

we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of hosts is all that is left us! They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak if we make a proper use of those means which the God of nature has placed in our power. The millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come.

It is in vain, sir, to extenuate the matter. Gentlemen may cry, “Peace, peace”—but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!

Chapter 5

Thomas Paine: Common Sense

Thomas Paine (1737–1809) arrived in America when he was 37 and soon became an influential writer and publicist, as well as an anti-slavery advocate.

Of the Origin and Design of Government in General, With Concise Remarks on the English Constitution

Some writers have so confounded society with government as to leave little or no distinction between them; whereas they are not only different, but have different origins. Society is produced by our wants, and government by our wickedness; the former promotes our happiness *positively* by uniting our affections, the latter *negatively* by restraining our vices. The one encourages intercourse, the other creates distinctions. The first is a patron, the last a punisher.

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

In order to gain a clear and just idea of the design and end of government,

let us suppose a small number of persons settled in some sequestered part of the earth, unconnected with the rest; they will then represent the first peopling of any country, or of the world. In this state of natural liberty, society will be their first thought. A thousand motives will excite them thereto; the strength of one man is so unequal to his wants, and his mind so unfitted for perpetual solitude, that he is soon obliged to seek assistance and relief of another, who in his turn requires the same. Four or five united would be able to raise a tolerable dwelling in the midst of a wilderness, but one man might labor out the common period of life without accomplishing any thing; when he had felled his timber he could not remove it, nor erect it after it was removed; hunger in the meantime would urge him from his work, and every different want call him a different way. Disease, nay even misfortune would be death, for though neither might be mortal, yet either would disable him from living, and reduce him to a state in which he might rather be said to perish than to die.

Thus necessity, like a gravitating power, would soon form our newly arrived emigrants into society, the reciprocal blessings of which would supersede and render the obligations of law and government unnecessary while they remained perfectly just to each other; but as nothing but Heaven is impregnable to vice, it will unavoidably happen that in proportion as they surmount the first difficulties of emigration, which bound them together in a common cause, they will begin to relax in their duty and attachment to each other; and this remissness will point out the necessity of establishing some form of government to supply the defect of moral virtue.

Some convenient tree will afford them a State House, under the branches of which the whole colony may assemble to deliberate on public matters. It is more than probable that their first laws will have the title only of regulations and be enforced by no other penalty than public disesteem. In this first parliament every man by natural right will have a seat.

But as the colony increases, the public concerns will increase likewise, and the distance at which the members may be separated will render it too inconvenient for all of them to meet on every occasion as at first, when their number was small, their habitations near, and the public concerns few and trifling. This will point out the convenience of their consenting to leave the legislative part to be managed by a select number chosen from the whole body, who are supposed to have the same concerns at stake which those have who appointed them, and who will act in the same manner as the whole body

would act were they present. If the colony continue increasing, it will become necessary to augment the number of the representatives, and that the interest of every part of the colony may be attended to, it will be found best to divide the whole into convenient parts, each part sending its proper number; and that the elected might never form to themselves an interest separate from the electors, prudence will point out the propriety of having elections often: because as the elected might by that means return and mix again with the general body of the electors in a few months, their fidelity to the public will be secured by the prudent reflection of not making a rod for themselves. And as this frequent interchange will establish a common interest with every part of the community, they will mutually and naturally support each other, and on this (not on the unmeaning name of king) depends the strength of government, and the happiness of the governed.

Here, then, is the origin and rise of government; namely, a mode rendered necessary by the inability of moral virtue to govern the world; here, too, is the design and end of government, *viz.*, freedom and security. And however our eyes may be dazzled with snow, or our ears deceived by sound; however prejudice may warp our wills, or interest darken our understanding, the simple voice of nature and of reason will say, 'tis right.

I draw my idea of the form of government from a principle in nature which no art can overturn, *viz.*, that the more simple any thing is, the less liable it is to be disordered, and the easier repaired when disordered; and with this maxim in view, I offer a few remarks on the so much boasted constitution of England. That it was noble for the dark and slavish times in which it was erected, is granted. When the world was overrun with tyranny the least therefrom was a glorious rescue. But that it is imperfect, subject to convulsions, and incapable of producing what it seems to promise is easily demonstrated.

Absolute governments (though the disgrace of human nature) have this advantage with them, that they are simple; if the people suffer, they know the head from which their suffering springs; know likewise the remedy; and are not bewildered by a variety of causes and cures. But the constitution of England is so exceedingly complex that the nation may suffer for years together without being able to discover in which part the fault lies; some will say in one and some in another, and every political physician will advise a different medicine.

I know it is difficult to get over local or longstanding prejudices, yet if we will suffer ourselves to examine the component parts of the English

constitution, we shall find them to be the base remains of two ancient tyrannies, compounded with some new republican materials.

First—The remains of monarchical tyranny in the person of the king.

Secondly—The remains of aristocratical tyranny in the persons of the Peers.

Thirdly—The new republican materials, in the persons of the Commons, on whose virtue depends the freedom of England.

The two first, by being hereditary, are independent of the people; wherefore in a constitutional sense they contribute nothing towards the freedom of the state.

To say that the constitution of England is a union of three powers reciprocally checking each other is farcical; either the words have no meaning, or they are flat contradictions.

To say that the Commons is a check upon the king presupposes two things.

First—That the king is not to be trusted without being looked after; or in other words, that a thirst for absolute power is the natural disease of monarchy.

Secondly—That the Commons, by being appointed for that purpose, are either wiser or more worthy of confidence than the crown.

But as the same constitution which gives the Commons a power to check the king by withholding the supplies, gives afterwards the king a power to check the Commons, by empowering him to reject their other bills; it again supposes that the king is wiser than those whom it has already supposed to be wiser than him. A mere absurdity!

There is something exceedingly ridiculous in the composition of monarchy; it first excludes a man from the means of information, yet empowers him to act in cases where the highest judgment is required. The state of a king shuts him from the world, yet the business of a king requires him to know it thoroughly; wherefore the different parts, by unnaturally opposing and destroying each other, prove the whole character to be absurd and useless.

Some writers have explained the English constitution thus: the king, say they, is one, the people another; the Peers are a house in behalf of the king; the Commons in behalf of the people; but this hath all the distinctions of a house divided against itself; and though the expressions be pleasantly arranged, yet when examined they appear idle and ambiguous; and it will always happen that the nicest construction that words are capable of, when

applied to the description of something which either cannot exist, or is too incomprehensible to be within the compass of description, will be words of sound only, and though they may amuse the ear, they cannot inform the mind: for this explanation includes a previous question, *viz.* how came the king by a power which the people are afraid to trust, and always obliged to check? Such a power could not be the gift of a wise people, neither can any power, which needs checking, be from God; yet the provision which the constitution makes supposes such a power to exist.

But the provision is unequal to the task; the means either cannot or will not accomplish the end, and the whole affair is a *felo de se**: for as the greater weight will always carry up the less, and as all the wheels of a machine are put in motion by one, it only remains to know which power in the constitution has the most weight, for that will govern: and tho' the others, or a part of them, may clog, or, as the phrase is, check the rapidity of its motion, yet so long as they cannot stop it, their endeavors will be ineffectual: the first moving power will at last have its way, and what it wants in speed is supplied by time.

That the crown is this overbearing part in the English constitution needs not be mentioned, and that it derives its whole consequence merely from being the giver of places and pensions is self-evident; wherefore, though we have and wise enough to shut and lock a door against absolute monarchy, we at the same time have been foolish enough to put the crown in possession of the key.

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

Wherefore, laying aside all national pride and prejudice in favor of modes and forms, the plain truth is that it is wholly owing to the constitution of the people, and not to the constitution of the government that the crown is not as oppressive in England as in Turkey.

An inquiry into the constitutional errors in the English form of government is at this time highly necessary; for as we are never in a proper condition of

* "Felon of himself."

doing justice to others, while we continue under the influence of some leading partiality, so neither are we capable of doing it to ourselves while we remain fettered by any obstinate prejudice. And as a man who is attached to a prostitute is unfitted to choose or judge of a wife, so any prepossession in favor of a rotten constitution of government will disable us from discerning a good one.

Of Monarchy and Hereditary Succession

Mankind being originally equals in the order of creation, the equality could only be destroyed by some subsequent circumstance; the distinctions of rich, and poor, may in a great measure be accounted for, and that without having recourse to the harsh, ill-sounding names of oppression and avarice. Oppression is often the consequence, but seldom or never the means of riches; and tho' avarice will preserve a man from being necessitously poor, it generally makes him too timorous to be wealthy.

But there is another and greater distinction for which no truly natural or religious reason can be assigned, and that is the distinction of men into **KINGS** and **SUBJECTS**. Male and female are the distinctions of nature, good and bad the distinctions of Heaven; but how a race of men came into the world so exalted above the rest, and distinguished like some new species, is worth enquiring into, and whether they are the means of happiness or of misery to mankind.

In the early ages of the world, according to the scripture chronology, there were no kings; the consequence of which was, there were no wars; it is the pride of kings which throw mankind into confusion. Holland without a king hath enjoyed more peace for this last century than any of the monarchial governments in Europe. Antiquity favors the same remark; for the quiet and rural lives of the first Patriarchs hath a happy something in them, which vanishes away when we come to the history of Jewish royalty.

Government by kings was first introduced into the world by the heathens, from whom the children of Israel copied the custom. It was the most prosperous invention the Devil ever set on foot for the promotion of idolatry. The heathens paid divine honors to their deceased kings, and the Christian world hath improved on the plan by doing the same to their living ones. How impious is the title of sacred majesty applied to a worm, who in the midst of his splendor is crumbling into dust!

As the exalting one man so greatly above the rest cannot be justified on

the equal rights of nature, so neither can it be defended on the authority of scripture; for the will of the Almighty as declared by Gideon and the prophet Samuel expressly disapproves of government by kings. All anti-monarchical parts of scripture have been very smoothly glossed over in monarchical governments, but they undoubtedly merit the attention of countries which have their governments yet to form. "Render unto Cesar the things which are Cesar's" is the scriptural doctrine of courts, yet it is no support of monarchical government, for the Jews at that time were without a king, and in a state of vassalage to the Romans.

Near three thousand years passed away from the Mosaic account of the creation, till the Jews under a national delusion requested a king. Till then their form of government (except in extraordinary cases, where the Almighty interposed) was a kind of republic, administered by a judge and the elders of the tribes. Kings they had none, and it was held sinful to acknowledge any being under that title but the Lord of Hosts. And when a man seriously reflects on the idolatrous homage which is paid to the persons of kings, he need not wonder that the Almighty, ever jealous of his honor, should disapprove of a form of government which so impiously invades the prerogative of Heaven.

Monarchy is ranked in scripture as one of the sins of the Jews, for which a curse in reserve is denounced against them. The history of that transaction is worth attending to.

The children of Israel being oppressed by the Midianites, Gideon marched against them with a small army, and victory, through the divine interposition, decided in his favor. The Jews, elate with success, and attributing it to the generalship of Gideon, proposed making him a king, saying, "Rule thou over us, thou and thy son and thy son's son." Here was temptation in its fullest extent; not a kingdom only, but an hereditary one; but Gideon in the piety of his soul replied, "I will not rule over you, neither shall my son rule over you. The Lord shall rule over you." Words need not be more explicit; Gideon doth not decline the honor but denieth their right to give it; neither doth he compliment them with invented declarations of his thanks, but in the positive style of a prophet charges them with disaffection to their proper sovereign, the King of Heaven.

About one hundred and thirty years after this, they fell again into the same error. The hankering which the Jews had for the idolatrous customs of the heathens is something exceedingly unaccountable; but so it was, that laying

hold of the misconduct of Samuel's two sons, who were entrusted with some secular concerns, they came in an abrupt and clamorous manner to Samuel, saying, "Behold thou art old, and thy sons walk not in thy ways, now make us a king to judge us like all the other nations." And here we cannot but observe that their motives were bad, *viz.*, that they might be like unto other nations, i.e., the heathen, whereas their true glory laid in being as much unlike them as possible. "But the thing displeased Samuel when they said, give us a king to judge us; and Samuel prayed unto the Lord, and the Lord said unto Samuel, hearken unto the voice of the people in all that they say unto thee, for they have not rejected thee, but they have rejected me, that I should not reign over them. According to all the works which they have done since the day that I brought them up out of Egypt even unto this day, wherewith they have forsaken me and served other Gods: so do they also unto thee. Now therefore hearken unto their voice, howbeit, protest solemnly unto them and show them the manner of the king that shall reign over them," i.e., not of any particular king, but the general manner of the kings of the earth whom Israel was so eagerly copying after. And notwithstanding the great distance of time and difference of manners, the character is still in fashion.

And Samuel told all the words of the Lord unto the people, that asked of him a king. And he said this shall be the manner of the king that shall reign over you. He will take your sons and appoint them for himself for his chariots and to be his horsemen, and some shall run before his chariots (this description agrees with the present mode of impressing men) and he will appoint him captains over thousands and captains over fifties, will set them to clear his ground and to reap his harvest, and to make his instruments of war, and instruments of his chariots. And he will take your daughters to be confectionaries and to be cooks and to be bakers (this describes the expense and luxury as well as the oppression of kings) and he will take your fields and your vineyards, and your olive yards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your vineyards, and give them to his officers and to his servants. (By which we see that bribery, corruption, and favoritism, are the standing vices of kings.) And he will take the tenth of your men servants, and your maid servants, and your goodliest young men, and your asses, and put them to his work: and he will take the tenth of your sheep, and ye shall be his servants, and ye shall cry out in that day because of your king which ye shall have chosen, and the Lord will not hear you in that day.

This accounts for the continuation of monarchy; neither do the characters of the few good kings which have lived since, either sanctify the title, or blot out the sinfulness of the origin; the high encomium given of David takes no notice of him officially as a king, but only as a man after God's own heart. "Nevertheless the people refused to obey the voice of Samuel, and they said, Nay, but we will have a king over us, that we may be like all the nations, and that our king may judge us, and go out before us and fight our battles." Samuel continued to reason with them, but to no purpose; he set before them their ingratitude, but all would not avail; and seeing them fully bent on their folly, he cried out, "I will call unto the Lord, and he shall sent thunder and rain (which then was a punishment, being in the time of wheat harvest) that ye may perceive and see that your wickedness is great which ye have done in the sight of the Lord, in asking you a king." So Samuel called unto the Lord, and the Lord sent thunder and rain that day, and all the people greatly feared the Lord and Samuel. And all the people said unto Samuel, "Pray for thy servants unto the Lord thy God that we die not, for we have added unto our sins this evil, to ask a king." These portions of scripture are direct and positive. They admit of no equivocal construction. That the Almighty hath here entered his protest against monarchial government is true, or the scripture is false. And a man hath good reason to believe that there is as much of kingcraft as priestcraft in withholding the scripture from the public in popish countries. For monarchy in every instance is the popery of government.

To the evil of monarchy we have added that of hereditary succession; and as the first is a degradation and lessening of ourselves, so the second, claimed as a matter of right, is an insult and an imposition on posterity. For all men being originally equals, no one by birth could have a right to set up his own family in perpetual preference to all others for ever, and tho' himself might deserve some decent degree of honors of his contemporaries, yet his descendants might be far too unworthy to inherit them. One of the strongest natural proofs of the folly of hereditary right in kings, is that nature disapproves it, otherwise she would not so frequently turn it into ridicule by giving mankind an ass for a lion.

Secondly, as no man at first could possess any other public honors than were bestowed upon him, so the givers of those honors could have no power to give away the right of posterity, and though they might say, "We choose you for our head," they could not, without manifest injustice to their children say, "that your children and your children's children shall reign over ours for

ever.” Because such an unwise, unjust, unnatural compact might (perhaps) in the next succession put them under the government of a rogue or a fool. Most wise men in their private sentiments have ever treated hereditary right with contempt; yet it is one of those evils which when once established is not easily removed: many submit from fear, others from superstition, and the more powerful part shares with the king the plunder of the rest.

This is supposing the present race of kings in the world to have had an honorable origin: whereas it is more than probable, that could we take off the dark covering of antiquity and trace them to their first rise that we should find the first of them nothing better than the principal ruffian of some restless gang, whose savage manners of pre-eminence in subtlety obtained him the title of chief among plunderers; and who by increasing in power and extending his depredations, overawed the quiet and defenseless to purchase their safety by frequent contributions. Yet his electors could have no idea of giving hereditary right to his descendants, because such a perpetual exclusion of themselves was incompatible with the free and unrestrained principles they professed to live by. Wherefore, hereditary succession in the early ages of monarchy could not take place as a matter of claim, but as something casual or complemental; but as few or no records were extant in those days, and traditionary history stuffed with fables, it was very easy, after the lapse of a few generations, to trump up some superstitious tale conveniently timed, Mahomet* like, to cram hereditary right down the throats of the vulgar. Perhaps the disorders which threatened, or seemed to threaten on the decease of a leader and the choice of a new one (for elections among ruffians could not be very orderly) induced many at first to favor hereditary pretensions; by which means it happened, as it hath happened since, that what at first was submitted to as a convenience was afterwards claimed as a right.

England since the conquest hath known some few good monarchs, but groaned beneath a much larger number of bad ones: yet no man in his senses can say that their claim under William the Conqueror is a very honorable one. A French bastard landing with an armed banditti and establishing himself king of England against the consent of the natives, is in plain terms a very paltry rascally original. It certainly hath no divinity in it. However, it is needless to spend much time in exposing the folly of hereditary right; if there are any so weak as to believe it, let them promiscuously worship the ass and lion, and

* Variation of “Muhammed.”

welcome. I shall neither copy their humility, nor disturb their devotion.

Yet I should be glad to ask how they suppose kings came at first. The question admits but of three answers, *viz.*, either by lot, by election, or by usurpation. If the first king was taken by lot, it establishes a precedent for the next, which excludes hereditary succession. Saul was by lot, yet the succession was not hereditary, neither does it appear from that transaction there was any intention it ever should. If the first king of any country was by election, that likewise establishes a precedent for the next; for to say, that the right of all future generations is taken away, by the act of the first electors, in their choice not only of a king, but of a family of kings for ever, hath no parallel in or out of scripture but the doctrine of original sin, which supposes the free will of all men lost in Adam; and from such comparison, and it will admit of no other, hereditary succession can derive no glory. For as in Adam all sinned, and as in the first electors all men obeyed; as in the one all mankind were subjected to Satan, and in the other to sovereignty; as our innocence was lost in the first, and our authority in the last; and as both disable us from reassuming some former state and privilege, it unanswerably follows that original sin and hereditary succession are parallels. Dishonorable rank! Inglorious connection! Yet the most subtle sophist cannot produce a juster simile.

As to usurpation, no man will be so hardy as to defend it; and that William the Conqueror was an usurper is a fact not to be contradicted. The plain truth is that the antiquity of English monarchy will not bear looking into.

But it is not so much the absurdity as the evil of hereditary succession which concerns mankind. Did it ensure a race of good and wise men it would have the seal of divine authority, but as it opens a door to the foolish, the wicked, and the improper, it hath in it the nature of oppression. Men who look upon themselves born to reign, and others to obey, soon grow insolent—selected from the rest of mankind their minds are early poisoned by importance; and the world they act in differs so materially from the world at large that they have but little opportunity of knowing its true interests, and when they succeed to the government are frequently the most ignorant and unfit of any throughout the dominions.

Another evil which attends hereditary succession is that the throne is subject to be possessed by a minor at any age; all which time the regency, acting under the cover of a king have every opportunity and inducement to betray their trust. The same national misfortune happens when a king worn

out with age and infirmity enters the last stage of human weakness. In both these cases the public becomes a prey to every miscreant who can tamper successfully with the follies either of age or infancy.

The most plausible plea which hath ever been offered in favor of hereditary succession is that it preserves a nation from civil wars; and were this true, it would be weighty; whereas it is the most barefaced falsity ever imposed upon mankind. The whole history of England disowns the fact. Thirty kings and two minors have reigned in that distracted kingdom since the conquest, in which time there has been (including the revolution) no less than eight civil wars and nineteen rebellions. Wherefore instead of making for peace, it makes against it, and destroys the very foundation it seems to stand on.

The contest for monarchy and succession, between the houses of York and Lancaster, laid England in a scene of blood for many years. Twelve pitched battles besides skirmishes and sieges were fought between Henry and Edward. Twice was Henry prisoner to Edward, who in his turn was prisoner to Henry. And so uncertain is the fate of war and the temper of a nation, when nothing but personal matters are the ground of a quarrel, that Henry was taken in triumph from a prison to a palace, and Edward obliged to fly from a palace to a foreign land; yet, as sudden transitions of temper are seldom lasting, Henry in his turn was driven from the throne, and Edward recalled to succeed him. The Parliament always following the strongest side.

This contest began in the reign of Henry the Sixth, and was not entirely extinguished till Henry the Seventh, in whom the families were united. Including a period of 67 years, *viz.*, from 1422 to 1489.

In short, monarchy and succession have laid (not this or that kingdom only) but the world in blood and ashes. 'Tis a form of government which the word of God bears testimony against, and blood will attend it.

If we inquire into the business of a king, we shall find that in some countries they have none; and after sauntering away their lives without pleasure to themselves or advantage to the nation, withdraw from the scene, and leave their successors to tread the same idle round. In absolute monarchies the whole weight of business civil and military lies on the king; the children of Israel in their request for a king, urged this plea "that he may judge us, and go out before us and fight our battles." But in countries where he is neither a judge nor a general, as in England, a man would be puzzled to know what is his business.

The nearer any government approaches to a republic, the less business there is for a king. It is somewhat difficult to find a proper name for the government of England. Sir William Meredith calls it a republic; but in its present state it is unworthy of the name, because the corrupt influence of the crown, by having all the places in its disposal, hath so effectually swallowed up the power, and eaten out the virtue of the House of Commons (the republican part in the constitution) that the government of England is nearly as monarchical as that of France or Spain. Men fall out with names without understanding them. For 'tis the republican and not the monarchical part of the constitution of England which Englishmen glory in, *viz.*, the liberty of choosing a House of Commons from out of their own body—and it is easy to see that when the republican virtue fails, slavery ensues. Why is the constitution of England sickly, but because monarchy hath poisoned the republic, the crown hath engrossed the Commons?

In England a king hath little more to do than to make war and give away places; which in plain terms, is to impoverish the nation and set it together by the ears. A pretty business indeed for a man to be allowed eight hundred thousand sterling a year for, and worshipped into the bargain! Of more worth is one honest man to society, and in the sight of God, than all the crowned ruffians that ever lived.

Thoughts of the Present State of American Affairs

In the following pages I offer nothing more than simple facts, plain arguments, and common sense: and have no other preliminaries to settle with the reader, than that he will divest himself of prejudice and prepossession, and suffer his reason and his feelings to determine for themselves: that he will put on, or rather that he will not put off the true character of a man, and generously enlarge his views beyond the present day.

Volumes have been written on the subject of the struggle between England and America. Men of all ranks have embarked in the controversy, from different motives, and with various designs; but all have been ineffectual, and the period of debate is closed. Arms as the last resource, decide the contest; the appeal was the choice of the king, and the continent hath accepted the challenge.

It hath been reported of the late Mr. Pelham (who tho' an able minister was not without his faults) that on his being attacked in the House of Commons on the score, that his measures were only of a temporary kind, replied, "they will last my time." Should a thought so fatal and unmanly possess the colonies

in the present contest, the name of ancestors will be remembered by future generations with detestation.

The sun never shined on a cause of greater worth. 'Tis not the affair of a city, a country, a province, or a kingdom; but of a continent—of at least one-eighth part of the habitable globe. 'Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now. Now is the seed time of continental union, faith and honor. The least fracture now will be like a name engraved with the point of a pin on the tender rind of a young oak; the wound will enlarge with the tree, and posterity read it in full grown characters.

By referring the matter from argument to arms, a new area for politics is struck—a new method of thinking hath arisen. All plans, proposals, etc., prior to the nineteenth of April, i.e., to the commencement of hostilities, are like the almanacs of the last year; which, tho' proper then, are superseded and useless now. Whatever was advanced by the advocates on either side of the question then, terminated in one and the same point, *viz.*, a union with Great Britain; the only difference between the parties was the method of effecting it; the one proposing force, the other friendship; but it hath so far happened that the first hath failed, and the second hath withdrawn her influence.

As much hath been said of the advantages of reconciliation, which, like an agreeable dream, hath passed away and left us as we were, it is but right that we should examine the contrary side of the argument, and inquire into some of the many material injuries which these colonies sustain, and always will sustain, by being connected with, and dependant on Great Britain. To examine that connection and dependence, on the principles of nature and common sense, to see what we have to trust to, if separated, and what we are to expect, if dependent.

I have heard it asserted by some that as America hath flourished under her former connection with Great Britain, that the same connection is necessary towards her future happiness, and will always have the same effect. Nothing can be more fallacious than this kind of argument. We may as well assert that because a child has thrived upon milk, that it is never to have meat, or that the first twenty years of our lives is to become a precedent for the next twenty. But even this is admitting more than is true; for I answer roundly that America would have flourished as much, and probably much more, had no European power taken any notice of her. The commerce by which she hath enriched

herself are the necessaries of life, and will always have a market while eating is the custom of Europe.

But she has protected us, say some. That she hath engrossed us is true, and defended the continent at our expense as well as her own, is admitted; and she would have defended Turkey from the same motive, *viz.*—the sake of trade and dominion.

Alas! We have been long led away by ancient prejudices and made large sacrifices to superstition. We have boasted the protection of Great Britain, without considering that her motive was interest not attachment; that she did not protect us from our enemies on our account, but from her enemies on her own account, from those who had no quarrel with us on any other account, and who will always be our enemies on the same account. Let Britain waive her pretensions to the continent, or the continent throw off the dependence, and we should be at peace with France and Spain, were they at war with Britain. The miseries of Hanover last war ought to warn us against connections.

It hath lately been asserted in parliament that the colonies have no relation to each other but through the parent country, i.e., that Pennsylvania and the Jerseys and so on for the rest, are sister colonies by the way of England; this is certainly a very roundabout way of proving relationship, but it is the nearest and only true way of proving enmity (or enemyship, if I may so call it). France and Spain never were, nor perhaps ever will be our enemies as Americans, but as our being the subjects of Great Britain.

But Britain is the parent country, say some. Then the more shame upon her conduct. Even brutes do not devour their young, nor savages make war upon their families; wherefore the assertion, if true, turns to her reproach; but it happens not to be true, or only partly so, and the phrase parent or mother country hath been jesuitically adopted by the king and his parasites, with a low papistical design of gaining an unfair bias on the credulous weakness of our minds. Europe, and not England, is the parent country of America. This new world hath been the asylum for the persecuted lovers of civil and religious liberty from every part of Europe. Hither have they fled, not from the tender embraces of the mother, but from the cruelty of the monster; and it is so far true of England, that the same tyranny which drove the first emigrants from home pursues their descendants still.

In this extensive quarter of the globe, we forget the narrow limits of three hundred and sixty miles (the extent of England) and carry our friendship

on a larger scale; we claim brotherhood with every European Christian, and triumph in the generosity of the sentiment.

It is pleasant to observe by what regular gradations we surmount the force of local prejudice, as we enlarge our acquaintance with the world. A man born in any town in England divided into parishes, will naturally associate most with his fellow parishioners (because their interests in many cases will be common) and distinguish him by the name of neighbor; if he meet him but a few miles from home, he drops the narrow idea of a street, and salutes him by the name of townsman; if he travels out of the county and meet him in any other, he forgets the minor divisions of street and town, and calls him countryman; i.e., county-man; but if in their foreign excursions they should associate in France, or any other part of Europe, their local remembrance would be enlarged into that of Englishmen. And by a just parity of reasoning, all Europeans meeting in America, or any other quarter of the globe, are countrymen; for England, Holland, Germany, or Sweden, when compared with the whole, stand in the same places on the larger scale, which the divisions of street, town, and county do on the smaller ones; distinctions too limited for continental minds. Not one-third of the inhabitants, even of this province,* are of English descent. Wherefore, I reprobate the phrase of parent or mother country applied to England only, as being false, selfish, narrow and ungenerous.

But admitting that we were all of English descent, what does it amount to? Nothing. Britain, being now an open enemy, extinguishes every other name and title: and to say that reconciliation is our duty, is truly farcical. The first king of England, of the present line (William the Conqueror) was a Frenchman, and half the peers of England are descendants from the same country; wherefore by the same method of reasoning, England ought to be governed by France.

Much hath been said of the united strength of Britain and the colonies, that in conjunction they might bid defiance to the world. But this is mere presumption; the fate of war is uncertain, neither do the expressions mean anything; for this continent would never suffer itself to be drained of inhabitants, to support the British arms in either Asia, Africa, or Europe.

Besides, what have we to do with setting the world at defiance? Our plan is commerce, and that, well attended to, will secure us the peace and friendship

* Pennsylvania.

of all Europe; because it is the interest of all Europe to have America a free port. Her trade will always be a protection, and her barrenness of gold and silver secure her from invaders.

I challenge the warmest advocate for reconciliation, to show a single advantage that this continent can reap by being connected with Great Britain. I repeat the challenge; not a single advantage is derived. Our corn will fetch its price in any market in Europe, and our imported goods must be paid for by them where we will.

But the injuries and disadvantages we sustain by that connection are without number; and our duty to mankind at large, as well as to ourselves, instruct us to renounce the alliance: Because, any submission to, or dependence on, Great Britain tends directly to involve this continent in European wars and quarrels, and sets us at variance with nations, who would otherwise seek our friendship, and against whom we have neither anger nor complaint. As Europe is our market for trade, we ought to form no partial connection with any part of it. It is the true interest of America to steer clear of European contentions, which she never can do, while by her dependence on Britain, she is made the make-weight in the scale of British politics.

Europe is too thickly planted with kingdoms to be long at peace, and whenever a war breaks out between England and any foreign power, the trade of America goes to ruin, because of her connection with Britain. The next war may not turn out like the last, and should it not, the advocates for reconciliation now will be wishing for separation then, because neutrality in that case would be a safer convoy than a man-of-war. Every thing that is right or natural pleads for separation. The blood of the slain, the weeping voice of nature cries, 'TIS TIME TO PART. Even the distance at which the Almighty hath placed England and America is a strong and natural proof that the authority of the one, over the other, was never the design of Heaven. The time likewise at which the continent was discovered adds weight to the argument, and the manner in which it was peopled increases the force of it. The Reformation was preceded by the discovery of America: As if the Almighty graciously meant to open a sanctuary to the persecuted in future years, when home should afford neither friendship nor safety.

The authority of Great Britain over this continent is a form of government, which sooner or later must have an end: And a serious mind can draw no true pleasure by looking forward, under the painful and positive conviction, that

what he calls “the present constitution” is merely temporary. As parents, we can have no joy, knowing that this government is not sufficiently lasting to ensure any thing which we may bequeath to posterity: And by a plain method of argument, as we are running the next generation into debt, we ought to do the work of it, otherwise we use them meanly and pitifully. In order to discover the line of our duty rightly, we should take our children in our hand, and fix our station a few years farther into life; that eminence will present a prospect which a few present fears and prejudices conceal from our sight.

Though I would carefully avoid giving unnecessary offence, yet I am inclined to believe that all those who espouse the doctrine of reconciliation, may be included within the following descriptions: Interested men, who are not to be trusted; weak men who cannot see; prejudiced men who will not see; and a certain set of moderate men who think better of the European world than it deserves; and this last class by an ill-judged deliberation will be the cause of more calamities to this continent than all the other three.

It is the good fortune of many to live distant from the scene of sorrow; the evil is not sufficiently brought to their doors to make them feel the precariousness with which all American property is possessed. But let our imaginations transport us for a few moments to Boston; that seat of wretchedness will teach us wisdom, and instruct us for ever to renounce a power in whom we can have no trust. The inhabitants of that unfortunate city, who but a few months ago were in ease and affluence, have now no other alternative than to stay and starve, or turn out to beg. Endangered by the fire of their friends if they continue within the city, and plundered by government if they leave it. In their present condition they are prisoners without the hope of redemption, and in a general attack for their relief, they would be exposed to the fury of both armies.

Men of passive tempers look somewhat lightly over the offenses of Britain, and, still hoping for the best, are apt to call out, “Come, come, we shall be friends again for all this.” But examine the passions and feelings of mankind: bring the doctrine of reconciliation to the touchstone of nature, and then tell me, whether you can hereafter love, honor, and faithfully serve the power that hath carried fire and sword into your land? If you cannot do all these, then are you only deceiving yourselves, and by your delay bringing ruin upon posterity. Your future connection with Britain, whom you can neither love nor honor, will be forced and unnatural, and being formed only on the plan of present convenience, will in a little time fall into a relapse more wretched than the first.

But if you say, you can still pass the violations over, then I ask, hath your house been burnt? Hath your property been destroyed before your face? Are your wife and children destitute of a bed to lie on, or bread to live on? Have you lost a parent or a child by their hands, and yourself the ruined and wretched survivor? If you have not, then are you not a judge of those who have. But if you have, and can still shake hands with the murderers, then are you unworthy the name of husband, father, friend, or lover, and whatever may be your rank or title in life, you have the heart of a coward, and the spirit of a sycophant.

This is not inflaming or exaggerating matters, but trying them by those feelings and affections which nature justifies, and without which, we should be incapable of discharging the social duties of life, or enjoying the felicities of it. I mean not to exhibit horror for the purpose of provoking revenge, but to awaken us from fatal and unmanly slumbers, that we may pursue determinately some fixed object. 'Tis not in the power of Britain or of Europe to conquer America, if she do not conquer herself by delay and timidity. The present winter is worth an age if rightly employed, but if lost or neglected, the whole continent will partake of the misfortune; and there is no punishment which that man will not deserve, be he who, or what, or where he will, that may be the means of sacrificing a season so precious and useful.

It is repugnant to reason, to the universal order of things, to all examples from the former ages, to suppose that this continent can longer remain subject to any external power. The most sanguine in Britain does not think so. The utmost stretch of human wisdom cannot at this time compass a plan short of separation, which can promise the continent even a year's security. Reconciliation is now a fallacious dream. Nature hath deserted the connection, and Art cannot supply her place. For, as Milton* wisely expresses, "never can true reconcilment grow where wounds of deadly hate have pierced so deep."

Every quiet method for peace hath been ineffectual. Our prayers have been rejected with disdain; and only tended to convince us that nothing flatters vanity, or confirms obstinacy in kings more than repeated petitioning—and nothing hath contributed more than that very measure to make the kings of Europe absolute: Witness Denmark and Sweden. Wherefore, since nothing but blows will do, for God's sake, let us come to a final separation, and not leave the next generation to be cutting throats, under the violated unmeaning names of parent and child.

* John Milton, *Paradise Lost* (1667).

To say, they will never attempt it again is idle and visionary, we thought so at the repeal of the Stamp Act, yet a year or two undeceived us; as well may we suppose that nations, which have been once defeated, will never renew the quarrel.

As to government matters, it is not in the powers of Britain to do this continent justice: The business of it will soon be too weighty, and intricate, to be managed with any tolerable degree of convenience, by a power, so distant from us, and so very ignorant of us; for if they cannot conquer us, they cannot govern us. To be always running three or four thousand miles with a tale or a petition, waiting four or five months for an answer, which when obtained requires five or six more to explain it in, will in a few years be looked upon as folly and childishness. There was a time when it was proper, and there is a proper time for it to cease.

Small islands not capable of protecting themselves are the proper objects for kingdoms to take under their care; but there is something very absurd in supposing a continent to be perpetually governed by an island. In no instance hath nature made the satellite larger than its primary planet, and as England and America, with respect to each other, reverse the common order of nature, it is evident they belong to different systems: England to Europe, America to itself.

I am not induced by motives of pride, party, or resentment to espouse the doctrine of separation and independence; I am clearly, positively, and conscientiously persuaded that 'tis the true interest of this continent to be so; that every thing short of that is mere patchwork, that it can afford no lasting felicity—that it is leaving the sword to our children, and shrinking back at a time, when, a little more, a little farther, would have rendered this continent the glory of the earth.

As Britain hath not manifested the least inclination towards a compromise, we may be assured that no terms can be obtained worthy the acceptance of the continent, or any ways equal to the expense of blood and treasure we have been already put to.

The object contended for, ought always to bear some just proportion to the expense. The removal of the North, or the whole detestable junto, is a matter unworthy the millions we have expended. A temporary stoppage of trade was an inconvenience, which would have sufficiently balanced the repeal of all the acts complained of, had such repeals been obtained; but if the whole continent must take up arms, if every man must be a soldier, it is scarcely worth our while to fight against a contemptible ministry only. Dearly, dearly, do we pay

for the repeal of the acts, if that is all we fight for; for in a just estimation, it is as great a folly to pay a Bunker-hill price for law, as for land. As I have always considered the independency of this continent as an event, which sooner or later must arrive, so from the late rapid progress of the continent to maturity, the event could not be far off. Wherefore, on the breaking out of hostilities, it was not worth the while to have disputed a matter, which time would have finally redressed, unless we meant to be in earnest; otherwise, it is like wasting an estate of a suit at law, to regulate the trespasses of a tenant, whose lease is just expiring. No man was a warmer wisher for reconciliation than myself, before the fatal nineteenth of April, 1775,* but the moment the event of that day was made known, I rejected the hardened, sullen tempered Pharaoh of England for ever; and disdain the wretch, that with the pretended title of father of his people, can unfeelingly hear of their slaughter, and composedly sleep with their blood upon his soul.

But admitting that matters were now made up, what would be the event? I answer, the ruin of the continent. And that for several reasons.

First—The powers of governing still remaining in the hands of the king, he will have a negative over the whole legislation of this continent. And as he hath shown himself such an inveterate enemy to liberty, and discovered such a thirst for arbitrary power; is he, or is he not, a proper man to say to these colonies, “You shall make no laws but what I please?” And is there any inhabitant in America so ignorant, as not to know that according to what is called the present constitution, that this continent can make no laws but what the king gives leave to; and is there any man so unwise, as not to see that (considering what has happened) he will suffer no law to be made here, but such as suit his purpose? We may be as effectually enslaved by the want of laws in America, as by submitting to laws made for us in England. After matters are made up (as it is called) can there be any doubt, but the whole power of the crown will be exerted to keep this continent as low and humble as possible? Instead of going forward we shall go backward, or be perpetually quarrelling or ridiculously petitioning. We are already greater than the king wishes us to be, and will he not hereafter endeavor to make us less? To bring the matter to one point. Is the power who is jealous of our prosperity, a proper power to govern us? Whoever says no to this question is an independent, for independency means no more, than, whether we shall make our own laws, or

* The Lexington Massacre.

whether the king, the greatest enemy this continent hath, or can have, shall tell us, “there shall be no laws but such as I like.”

But the king, you’ll say, hath a negative in England; the people there can make no laws without his consent. In point of right and good order, there is something very ridiculous, that a youth of twenty-one (which hath often happened) shall say to several millions of people, older and wiser than himself, I forbid this or that act of yours to be law. But in this place I decline this sort of reply, though I will never cease to expose the absurdity of it, and only answer that England being the king’s residence, and America not so, make quite another case. The king’s negative here is ten times more dangerous and fatal than it can be in England, for there he will scarcely refuse his consent to a bill for putting England into as strong a state of defense as possible, and in America he would never suffer such a bill to be passed.

America is only a secondary object in the system of British politics. England consults the good of this country, no farther than it answers her own purpose. Wherefore, her own interest leads her to suppress the growth of ours in every case which doth not promote her advantage, or in the least interfere with it. A pretty state we should soon be in under such a second-hand government, considering what has happened! Men do not change from enemies to friends by the alteration of a name: And in order to show that reconciliation now is a dangerous doctrine, I affirm that it would be policy in the kingdom at this time, to repeal the acts for the sake of reinstating himself in the government of the provinces; in order that he may accomplish by craft and subtlety, in the long run, what he cannot do by force and violence in the short one. Reconciliation and ruin are nearly related.

Secondly—That as even the best terms, which we can expect to obtain, can amount to no more than a temporary expedient, or a kind of government by guardianship, which can last no longer than till the colonies come of age, so the general face and state of things, in the interim, will be unsettled and unpromising. Emigrants of property will not choose to come to a country whose form of government hangs but by a thread, and who is every day tottering on the brink of commotion and disturbance; and numbers of the present inhabitants would lay hold of the interval, to dispose of their effects, and quit the continent.

But the most powerful of all arguments, is that nothing but independence, i.e., a continental form of government, can keep the peace of the continent

and preserve it inviolate from civil wars. I dread the event of a reconciliation with Britain now, as it is more than probable that it will be followed by a revolt somewhere or other, the consequences of which may be far more fatal than all the malice of Britain.

Thousands are already ruined by British barbarity; (thousands more will probably suffer the same fate). Those men have other feelings than us who have nothing suffered. All they now possess is liberty, what they before enjoyed is sacrificed to its service, and having nothing more to lose, they disdain submission. Besides, the general temper of the colonies, towards a British government, will be like that of a youth, who is nearly out of his time; they will care very little about her. And a government which cannot preserve the peace is no government at all, and in that case we pay our money for nothing; and pray what is it that Britain can do, whose power will be wholly on paper, should a civil tumult break out the very day after reconciliation? I have heard some men say, many of whom I believe spoke without thinking, that they dreaded an independence, fearing that it would produce civil wars. It is but seldom that our first thoughts are truly correct, and that is the case here; for there are ten times more to dread from a patched up connection than from independence. I make the sufferers case my own, and I protest, that were I driven from house and home, my property destroyed, and my circumstances ruined, that as man, sensible of injuries, I could never relish the doctrine of reconciliation, or consider myself bound thereby.

The colonies have manifested such a spirit of good order and obedience to continental government, as is sufficient to make every reasonable person easy and happy on that head. No man can assign the least pretence for his fears, on any other grounds, than such as are truly childish and ridiculous, *viz.*, that one colony will be striving for superiority over another.

Where there are no distinctions there can be no superiority, perfect equality affords no temptation. The republics of Europe are all (and we may say always) in peace. Holland and Switzerland are without wars, foreign or domestic; monarchical governments, it is true, are never long at rest; the crown itself is a temptation to enterprising ruffians at home; and that degree of pride and insolence ever attendant on regal authority, swells into a rupture with foreign powers, in instances where a republican government, by being formed on more natural principles, would negotiate the mistake. . . .

Ye that tell us of harmony and reconciliation, can ye restore to us the time

that is past? Can ye give to prostitution its former innocence? Neither can ye reconcile Britain and America. The last cord now is broken, the people of England are presenting addresses against us. There are injuries which nature cannot forgive; she would cease to be nature if she did. As well can the lover forgive the ravisher of his mistress, as the continent forgive the murders of Britain. The Almighty hath implanted in us these inextinguishable feelings for good and wise purposes. They are the guardians of his image in our hearts. They distinguish us from the herd of common animals. The social compact would dissolve, and justice be extirpated the earth, or have only a casual existence were we callous to the touches of affection. The robber and the murderer would often escape unpunished, did not the injuries which our tempers sustain, provoke us into justice.

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

Chapter 6

Lord Acton: The Principles Underlying the American Revolution

Lord John Dalberg-Acton (1834–1902) was a British historian.

The American Revolution

The rational and humanitarian enlightenment of the eighteenth century did much for the welfare of mankind, but little to promote the securities of freedom. Power was better employed than formerly, but it did not abdicate.

In England, politically the most advanced country, the impetus which the Revolution gave to progress was exhausted, and people began to say, now that the Jacobite peril was over, that no issue remained between parties which made it worthwhile for men to cut each others' throats. The development of the Whig philosophy was checked by the practical tendency to compromise. Compromise distinguished the Whig from the Roundhead, the man who succeeded from the man who failed, the man who was the teacher of politics to the civilized world from the man who left his head on Temple Bar.*

The Seven Years' War renewed the interrupted march by involving America in the concerns of Europe, and causing the colonies to react on the parent state. That was a consequence which followed the conquest of Canada and the accession of George III. The two events, occurring in quick succession, raised the American question. A traveler who visited America some years earlier reports that there was much discontent, and that separation was expected before very long. That discontent was inoperative while a great military power held Canada. Two considerations reconciled the colonists to the disadvantages attending the connection with England. The English fleet guarded the sea against pirates; the English army guarded the land against the French.

Lord Acton, excerpted from *Lectures on Modern History* (London: The Macmillan Company, 1906), chap. 19.

* A stone gateway leading into London, where the heads of traitors were displayed on iron stakes.

The former was desirable; the latter was essential to their existence. When the danger on the French side disappeared, it might become very uncertain whether the patrol of the Atlantic was worth the price that America had to pay for it. Therefore Montcalm* foretold that the English, if they conquered the French colonies, would lose their own. Many Frenchmen saw this, with satisfaction; and the probability was so manifest that Englishmen saw it too. It was their interest to strengthen their position with new securities, in the place of that one supreme security which they had lost by their victory at Quebec. That victory, with the vast acquisition of territory that followed, would be no increase of imperial power if it loosened the hold on Atlantic colonies. Therefore, the policy of the hour was to enforce the existing claims and to obtain unequivocal recognition of English sovereignty. The most profitable method of doing it was in the shape of heavier taxation; but taxes were a small matter in comparison with the establishment of undisputed authority and unquestioning submission. The tax might be nominal, if the principle was safe. Ways and means would not be wanting in an empire which extended from Hudson's Bay to the Gulf of Mexico. For the moment the need was not money but allegiance. The problem was new, for the age of expansion had come suddenly, in East and West, by the action of Pitt; ** and Pitt was no longer in office, to find the solution.

Among the Whigs, who were a failing and discredited party, there were men who already knew the policy by which since then the empire has been reared—Adam Smith, Dean Tucker, Edmund Burke. But the great mass went with the times, and held that the object of politics is power, and that the more dominion is extended, the more it must be retained by force. The reason why free trade is better than dominion was a secret obscurely buried in the breast of economists.

Whilst the expulsion of the French from their transatlantic empire governed the situation, the immediate difficulty was brought on by the new reign. The right of searching houses and ships for contraband was conveyed by certain warrants called Writs of Assistance, which required no specified designation, no oath or evidence, and enabled the surprise visit to be paid by

* Louis-Joseph de Montcalm, commander of the French forces in North America during the French and Indian (Seven Years') War.

** William Pitt the elder, First Earl of Chatham, British Secretary of State for part of the Seven Years' War.

day or night. They were introduced under Charles II, and had to be renewed within six months of the demise of the crown. The last renewal had been at the death of George II; and it was now intended that they should be efficacious, and should protect the revenue from smugglers. Between 1717 and 1761 many things had changed, and the colonies had grown to be richer, more confident, more self-respecting. They claimed to extend to the Mississippi, and had no French or Spaniards on their borders. Practically, there was no neighbor but England, and they had a patrimony such as no Englishman had dreamt of. The letter of the law, the practice of the last generation, were no argument with the heirs of unbounded wealth and power, and did not convince them that they ought to lose by the aid which they had given against France. The American jurists argued that this was good by English law, but could not justly be applied to America, where the same constitutional safeguards did not exist—where the cases would be tried by judges without a jury, by judges who could be dismissed at pleasure, by judges who were paid by fees which increased with the amount of the property confiscated, and were interested in deciding against the American importer, and in favor of the revenue. That was a technical and pedestrian argument which every lawyer could understand, without passing the limits of accustomed thought.

Then James Otis spoke, and lifted the question to a different level, in one of the memorable speeches in political history. Assuming, but not admitting, that the Boston custom-house officers were acting legally, and within the statute, then, he said, the statute was wrong. Their action might be authorized by parliament; but if so, parliament had exceeded its authority, like Charles with his ship money, and James with the dispensing power. There are principles which override precedents. The laws of England may be a very good thing, but there is such a thing as a higher law.

The court decided in favor of the validity of the writs; and John Adams, who heard the judgment, wrote long after that in that hour the child Independence was born. The English view triumphed for the time, and the governor wrote home that the murmurs soon ceased. The states, and ultimately the United States, rejected general warrants; and since 1817 they are in agreement with the law of England. On that point, therefore, the colonies were in the right.

Then came the larger question of taxation. Regulation of external traffic was admitted. England patrolled the sea and protected America from the smuggler and the pirate. Some remuneration might be reasonably claimed;

but it ought to be obtained in such a way as not to hamper and prohibit the increase of wealth. The restrictions on industry and trade were, however, contrived for the benefit of England and to the injury of her colonies. They demanded that the arrangement should be made for their mutual advantage. They did not go so far as to affirm that it ought to be to their advantage only, irrespective of ours, which is our policy with our colonies at the present time. The claim was not originally excessive. It is the basis of the imputation that the dispute, on both sides, was an affair of sordid interest. We shall find it more just to say that the motive was empire on one side and self-government on the other. It was a question between liberty and authority, government by consent and government by force, the control of the subject by the State, and the control of the State by the subject. The issue had never been so definitely raised. In England it had long been settled. It had been settled that the legislature could, without breach of any ethical or constitutional law, without forfeiting its authority or exposing itself to just revolt, make laws injurious to the subject for the benefit of English religion or English trade. If that principle was abandoned in America it could not well be maintained in Ireland, and the green flag might fly on Dublin Castle.

This was no survival of the dark ages. Both the oppression of Ireland and the oppression of America was the work of the modern school, of men who executed one king and expelled another. It was the work of parliament, of the parliaments of Cromwell and of William III. And the parliament would not consent to renounce its own specific policy, its right of imposing taxes. The crown, the clergy, the aristocrat, were hostile to the Americans; but the real enemy was the House of Commons. The old European securities for good government were found insufficient protection against parliamentary oppression. The nation itself, acting by its representatives, had to be subjected to control. The political problem raised by the New World was more complicated than the simple issues dealt with hitherto in the Old. It had become necessary to turn back the current of the development of politics, to bind and limit and confine the State, which it was the pride of the moderns to exalt. It was a new phase of political history. The American Revolution innovated upon the English Revolution, as the English Revolution innovated on the politics of Bacon or of Hobbes. There was no tyranny to be resented. The colonists were in many ways more completely their own masters than Englishmen at home. They were not roused by the sense of intolerable wrong.

The point at issue was a very subtle and refined one, and it required a great deal of mismanagement to make the quarrel irreconcilable.

Successive English governments shifted their ground. They tried the Stamp Act; then the duty on tea and several other articles; then the tea duty alone; and at last something even less than the tea duty. In one thing they were consistent: they never abandoned the right of raising taxes. When the colonists, instigated by Patrick Henry, resisted the use of stamps, and Pitt rejoiced that they had resisted, parliament gave way on that particular measure, declaring that it retained the disputed right. Townshend* carried a series of taxes on imports, which produced about three hundred pounds, and were dropped by Lord North.** Then an ingenious plan was devised, which would enforce the right of taxation, but which would not be felt by American pockets, and would, indeed, put money into them, in the shape of a bribe. East Indiamen were allowed to carry tea to American ports without paying toll in England. The Navigation Laws were suspended, that people in New England might drink cheap tea, without smuggling. The duty in England was a shilling a pound. The duty in America was threepence a pound. The shilling was remitted, so that the colonies had only a duty of threepence to pay instead of a duty of fifteenpence. The tea-drinker at Boston got his tea cheaper than the tea-drinker at Bristol. The revenue made a sacrifice, it incurred a loss, in order to gratify the discontented colonials. If it was a grievance to pay more for a commodity, how could it be a grievance to pay less for the same commodity? To gild the pill still further, it was proposed that the threepence should be levied at the British ports, so that the Americans should perceive nothing but the gift, nothing but the welcome fact that their tea was cheaper, and should be spared entirely the taste of the bitterness within. That would have upset the entire scheme. The government would not hear of it. America was to have cheap tea, but was to admit the tax. The sordid purpose was surrendered on our side, and only the constitutional motive was retained, in the belief that the sordid element alone prevailed in the colonies.

That threepence broke up the British empire. Twelve years of renewed contention, ever coming up in altered shape under different ministers, made it clear that the mind of the great parent State was made up, and that all variations of party were illusory. The Americans grew more and more obstinate

* Charles Townshend, British politician.

** Lord Frederick North, British Prime Minister (1770–1782).

as they purged the sordid question of interest with which they had begun. At first they had consented to the restrictions imposed under the Navigation Laws. They now rejected them. One of the tea ships in Boston harbor was boarded at night, and the tea chests were flung into the Atlantic. That was the mild beginning of the greatest Revolution that had ever broken out among civilized men. The dispute had been reduced to its simplest expression, and had become a mere question of principle. The argument from the charters, the argument from the constitution, was discarded. The case was fought out on the ground of the law of nature, more properly speaking, of divine right. On that evening of 16 December 1773, it became, for the first time, the reigning force in history. By the rules of right, which had been obeyed till then, England had the better cause. By the principle which was then inaugurated, England was in the wrong, and the future belonged to the colonies.

The revolutionary spirit had been handed down from the seventeenth century sects, through the colonial charters. As early as 1638 a Connecticut preacher said, "The choice of public magistrates belongs unto the people, by God's own allowance. They who have the power to appoint officers and magistrates, it is in their power, also, to set the bounds and limitations of the power and place unto which they call them." In Rhode Island, where the royal charter was so liberal that it lasted until 1842, all power reverted annually to the people, and the authorities had to undergo re-election. Connecticut possessed so finished a system of self-government in the towns, that it served as a model for the federal Constitution. The Quakers of Pennsylvania managed their affairs without privilege, or intolerance, or slavery, or oppression. It was not to imitate England that they went into the desert. Several colonies were in various ways far ahead of the mother country; and the most advanced statesman of the Commonwealth, Vane,* had his training in New England.

After the outrage on board the *Dartmouth* in Boston harbor the government resolved to coerce Massachusetts, and a continental Congress met to devise means for its protection. The king's troops were sent to destroy military stores that had been collected at Concord; and at Lexington, on the outward march, as well as all the way back, they were assailed by militia. The affair at Lexington, 19 April 1775, was the beginning of the War of Independence, which opened with the siege of Boston. Two months later the first action was fought at Bried's Hill, or Bunker Hill, which are low heights overlooking the

* Henry Vane the younger, British statesman.

town, and the colonials were repulsed with very little loss.

The war that followed, and lasted six years, is not illustrious in military annals, and interests us chiefly by the result. After the first battle the colonies declared themselves independent. Virginia, acting for herself only, led the way. Then the great revolutionist, who was the Virginian leader, Jefferson, drew up the Declaration of Independence, which was adopted by the remaining states. It was too rhetorical to be scientific; but it recited the series of ideas which the controversy had carried to the front.

Thirty thousand German soldiers, most of them from Hesse Cassel, were sent out, and were at first partially successful; for they were supported by the fleet, which the estuaries carried far inland. Where the European army had not that advantage things went badly. The Americans attacked Canada, expecting to be welcomed by the French inhabitants who had been so recently turned into British subjects. The attack failed dramatically by the death of General [Richard] Montgomery, under the walls of Quebec, and the French colonists remained loyal. But an expedition sent from Canada against New York, under [John] Burgoyne, miscarried. Burgoyne had scarcely reached the Hudson when he was forced to surrender at Saratoga. The Congress of the States, which feebly directed operations, wished that the terms of surrender should not be observed, and that the 5,000 English and German prisoners, instead of being sent home, should be detained until they could be exchanged. Washington and his officers made known that if this was done they would resign.

The British defeat at Saratoga is the event which determined the issue of the conflict. It put an end to the vacillation of France. The French government had to recover the position it had lost in the last war, and watched the course of events for evidence that American resistance was not about to collapse. At the end of 1777 the victory of Saratoga supplied the requisite proof. Volunteers had been allowed to go over, and much war material was furnished through the agency of a comic poet. Now a treaty of alliance was concluded, a small army was sent to sea, and in March 1778 England was informed that France was at war with her. France was followed by Spain, afterwards by Holland.

It was evident from the first that the combination was more than England could hope to meet. Lord North at once gave way. He offered to satisfy the American demands, and he asked that Chatham should take office. From the moment that his old enemy, France, appeared on the scene, Chatham was passionately warlike. The king agreed that he should be asked to join the

ministry, but refused to see him. America declined the English overtures, in fulfillment of her treaty with France. The negotiation with Chatham became impossible. That was no misfortune, for he died a few weeks later, denouncing the government and the opposition.

Then came that phase of war during which the navy of France, under d'Orvilliers in the Channel, under Suffren in the east, under d'Estaing and De Grasse in the west, proved itself equal to the navy of England. It is by the fleet, not by the land forces, that American independence was gained. But it is by the army officers that American ideas, sufficient to subvert every European state, were transplanted into France. When De Grasse drove the English fleet away from Virginian waters, Cornwallis surrendered the army of the south at Yorktown, as Burgoyne had surrendered with the northern army at Saratoga.

The Whigs came in and recognized the independence of the colonies, as North would have done four years earlier, when France intervened. Terms of peace with European powers were made more favorable by the final success of Rodney at Dominica and of Elliot at Gibraltar; but the warlike repute of England fell lower than at any time since the Revolution.

The Americans proceeded to give themselves a Constitution which should hold them together more effectively than the Congress which carried them through the war, and they held a Convention for the purpose at Philadelphia during the summer of 1787. The difficulty was to find terms of union between the three great states—Virginia, Pennsylvania, Massachusetts—and the smaller ones, which included New York. The great states would not allow equal power to the others; the small ones would not allow themselves to be swamped by mere numbers. Therefore one chamber was given to population, and the other, the Senate, to the states on equal terms. Every citizen was made subject to the federal government as well as to that of his own state. The powers of the states were limited. The powers of the federal government were actually enumerated, and thus the states and the union were a check on each other. That principle of division was the most efficacious restraint on democracy that has been devised; for the temper of the Constitutional Convention was as conservative as the Declaration of Independence was revolutionary.

The federal Constitution did not deal with the question of religious liberty. The rules for the election of the president and for that of the vice president proved a failure. Slavery was deplored, was denounced, and was retained. The absence of a definition of state rights led to the most sanguinary civil war

of modern times. Weighed in the scales of Liberalism the instrument, as it stood, was a monstrous fraud. And yet, by the development of the principle of Federalism, it has produced a community more powerful, more prosperous, more intelligent, and more free than any other which the world has seen.

The Influence of America*

The several structures of political thought that arose in France, and clashed in the process of revolution, were not directly responsible for the outbreak. The doctrines hung like a cloud upon the heights, and at critical moments in the reign of Louis XV, men felt that a catastrophe was impending. It befell when there was less provocation, under his successor; and the spark that changed thought into action was supplied by the Declaration of American Independence. It was the system of an international extraterritorial universal Whig, far transcending the English model by its simplicity and rigor. It surpassed in force all the speculations of Paris and Geneva, for it had undergone the test of experiment, and its triumph was the most memorable thing that had been seen by men.

The expectation that the American colonies would separate was an old one. A century before, Harrington** had written: "They are yet babes, that cannot live without sucking the breasts of their mother-cities; but such as I mistake if, when they come of age, they do not wean themselves; which causes me to wonder at princes that like to be exhausted in that way." When, in 1759, the elder Mirabeau*** announced it, he meant that the conquest of Canada involved the loss of America, as the colonists would cling to England as long as the French were behind them, and no longer. He came very near to the truth, for the war in Canada gave the signal. The English colonies had meditated the annexation of the French, and they resented that the king's government undertook the expedition, to deprive them of the opportunity for united action. Fifty years later President Adams said that the treatment of American officers by the British made his blood boil.

The agitation began in 1761, and by the innovating ideas which it flung abroad it is as important as the Declaration itself, or the great constitutional

* Lord Acton, excerpted from *Lectures on the French Revolution* (London: Macmillan & Co., 1910), chap. 2.

** James Harrington, English author and political philosopher.

*** Victor de Riqueti, marquis de Mirabeau, French economist.

debate. The colonies were more advanced than Great Britain in the way of free institutions, and existed only that they might escape the vices of the mother country. They had no remnants of feudalism to cherish or resist. They possessed written constitutions, some of them remarkably original, fit roots of an immense development. George III thought it strange that he should be the sovereign of a democracy like Rhode Island, where all power reverted annually to the people, and the authorities had to be elected anew. Connecticut received from the Stuarts so liberal a charter, and worked out so finished a scheme of local self-government, that it served as a basis for the federal Constitution. The Quakers had a plan founded on equality of power, without oppression, or privilege, or intolerance, or slavery. They declared that their holy experiment would not have been worth attempting if it did not offer some very real advantage over England. It was to enjoy freedom, liberty of conscience, and the right to tax themselves, that they went into the desert. There were points on which these men anticipated the doctrines of a more unrestrained democracy, for they established their government not on conventions, but on divine right, and they claimed to be infallible. A Connecticut preacher said in 1638: "The choice of public magistrates belongs unto the people, by God's own allowance. They who have the power to appoint officers and magistrates, it is in their power, also, to set the bounds and limitations of the power and place unto which they call them." The following words, written in 1736, appear in the works of Franklin: "The judgment of a whole people, especially of a free people, is looked upon to be infallible. And this is universally true, while they remain in their proper sphere, unbiased by faction, undeluded by the tricks of designing men. A body of people thus circumstanced cannot be supposed to judge amiss on any essential points; for if they decide in favor of themselves, which is extremely natural, their decision is just, inasmuch as whatever contributes to their benefit is a general benefit, and advances the real public good." A commentator adds that this notion of the infallible perception by the people of their true interest, and their unerring pursuit of it, was very prevalent in the provinces, and for a time in the states after the establishment of American independence.

In spite of their democratic spirit, these communities consented to have their trade regulated and restricted, to their own detriment and the advantage of English merchants. They had protested, but they had ended by yielding. Now Adam Smith says that to prohibit a great people from making all they

can of every part of their own produce, or from employing their stock and industry in the way that they judge most advantageous for themselves, is a manifest violation of the most sacred rights of mankind. There was a latent sense of injury which broke out when, in addition to interference with the freedom of trade, England exercised the right of taxation. An American lately wrote: "The real foundation of the discontent which led to the Revolution was the effort of Great Britain, beginning in 1750, to prevent diversity of occupation, to attack the growth of manufactures and the mechanic arts, and the final cause before the attempt to tax without representation was the effort to enforce the navigation laws." When England argued that the hardship of regulation might be greater than the hardship of taxation, and that those who submitted to the one submitted, in principle, to the other, Franklin replied that the Americans had not taken that view, but that, when it was put before them, they would be willing to reject both one and the other. He knew, however, that the ground taken up by his countrymen was too narrow. He wrote to the French economist, Morellet: "Nothing can be better expressed than your sentiments are on this point, where you prefer liberty of trading, cultivating, manufacturing, etc., even to civil liberty, this being affected but rarely, the other every hour."

These early authors of American independence were generally enthusiasts for the British Constitution, and preceded Burke in the tendency to canonize it, and to magnify it as an ideal exemplar for nations. John Adams said, in 1766: "Here lies the difference between the British Constitution and other forms of government, namely, that liberty is its end, its use, its designation, drift and scope, as much as grinding corn is the use of a mill." Another celebrated Bostonian identified the Constitution with the law of nature, as Montesquieu called the civil law, written reason. He said: "It is the glory of the British prince and the happiness of all his subjects, that their constitution hath its foundation in the immutable laws of nature; and as the supreme legislative, as well as the supreme executive, derives its authority from that constitution, it should seem that no laws can be made or executed that are repugnant to any essential law in nature." The writer of these words, James Otis, is the founder of the revolutionary doctrine. Describing one of his pamphlets, the second president says: "Look over the declaration of rights and wrongs issued by Congress in 1774; look into the Declaration of Independence in 1776; look into the writings of Dr. Price and Dr. Priestley; look into all the French constitutions

of government; and, to cap the climax, look into Mr. Thomas Paine's *Common Sense*, *Crisis*, and *Rights of Man*. What can you find that is not to be found in solid substance in this 'Vindication of the House of Representatives?' When these men found that the appeal to the law and the constitution did not avail them, that the king, by bribing the people's representatives with the people's money, was able to enforce his will, they sought a higher tribunal, and turned from the law of England to the law of nature, and from the king of England to the King of kings. Otis, in 1762, 1764, and 1765, says: "Most governments are, in fact, arbitrary, and consequently the curse and scandal of human nature; yet none are of right arbitrary. By the laws of God and nature, government must not raise taxes on the property of the people without the consent of the people or their deputies. There can be no prescription old enough to supersede the law of nature and the grant of God Almighty, who has given all men a right to be free. If a man has but little property to protect and defend, yet his life and liberty are things of some importance." About the same time Gadsden* wrote: "A confirmation of our essential and common rights as Englishmen may be pleaded from charters clearly enough; but any further dependence on them may be fatal. We should stand upon broad common ground of those natural rights that we all feel and know as men and as descendants of Englishmen."

The primitive fathers of the United States began by preferring abstract moral principle to the letter of the law and the spirit of the Constitution. But they went farther. Not only was their grievance difficult to substantiate at law, but it was trivial in extent. The claim of England was not evidently disproved, and even if it was unjust, the injustice practically was not hard to bear. The suffering that would be caused by submission was immeasurably less than the suffering that must follow resistance, and it was more uncertain and remote. The utilitarian argument was loud in favor of obedience and loyalty. But if interest was on one side, there was a manifest principle on the other—a principle so sacred and so clear as imperatively to demand the sacrifice of men's lives, of their families and their fortune. They resolved to give up everything, not to escape from actual oppression, but to honor a precept of unwritten law. That was the transatlantic discovery in the theory of political duty, the light that came over the ocean. It represented liberty not as a comparative release from tyranny, but as a thing so divine that the existence of society must be staked to prevent even the least

* Christopher Gadsden, American statesman.

constructive infraction of its sovereign right. “A free people,” said Dickinson,* “can never be too quick in observing nor too firm in opposing the beginnings of alteration either in form or reality, respecting institutions formed for their security. The first kind of alteration leads to the last. As violations of the rights of the governed are commonly not only specious, but small at the beginning, they spread over the multitude in such a manner as to touch individuals but slightly. Every free state should incessantly watch, and instantly take alarm at any addition being made to the power exercised over them.” Who are a free people? Not those over whom government is reasonably and equitably exercised; but those who live under a government so constitutionally checked and controlled that proper provision is made against its being otherwise exercised. The contest was plainly a contest of principle, and was conducted entirely on principle by both parties. “The amount of taxes proposed to be raised,” said Marshall,** the greatest of constitutional lawyers, “was too inconsiderate to interest the people of either country.” I will add the words of Daniel Webster, the great expounder of the Constitution, who is the most eloquent of the Americas, and stands, in politics, next to Burke: “The Parliament of Great Britain asserted a right to tax the colonies in all cases whatsoever; and it was precisely on this question that they made the Revolution turn. The amount of taxation was trifling, but the claim itself was inconsistent with liberty, and that was in their eyes enough. It was against the recital of an act of Parliament, rather than against any suffering under its enactment, that they took up arms. They went to war against a preamble. They fought seven years against a declaration. They saw in the claim of the British Parliament a seminal principle of mischief, the germ of unjust power.”

The object of these men was liberty, not independence. Their feeling was expressed by Jay*** in his address to the people of Great Britain: “Permit us to be as free as yourselves, and we shall ever esteem a union with you to be our greatest glory and our greatest happiness.” Before 1775 there was no question of separation. During all the Revolution, Adams declared that he would have given everything to restore things as before with security; and both Jefferson and Madison admitted in the presence of the English minister that a few seats in both Houses would have set at rest the whole question.

In their appeal to the higher law, the Americans professed the purest

* John Dickinson, author, *Letters From a Farmer in Pennsylvania*.

** John Marshall, author, *The Life of George Washington*.

*** John Jay, Founding Father and first chief justice of the Supreme Court.

Whiggism, and they claimed that their resistance to the House of Commons and the jurisprudence of Westminster only carried forward the eternal conflict between Whig and Tory. By their closer analysis, and their fearlessness of logical consequences, they transformed the doctrine and modified the party. The uprooted Whig, detached from his parchments and precedents, his leading families and historic conditions, exhibited new qualities; and the era of compromise made way for an era of principle. Whilst French diplomacy traced the long hand of the English opposition in the tea riots at Boston, Chatham and Camden* were feeling the influence of Dickinson and Otis, without recognizing the difference. It appears in a passage of one of Chatham's speeches, in 1775:

This universal opposition to your arbitrary system of taxation might have been foreseen. It was obvious from the nature of things, and from the nature of man, and, above all, from the confirmed habits of thinking, from the spirit of Whiggism flourishing in America. The spirit which now pervades America is the same which formerly opposed loans, benevolences, and ship money in this country, is the same spirit which roused all England to action at the Revolution, and which established at a remote era your liberties, on the basis of that grand fundamental maxim of the Constitution, that no subject of England shall be taxed but by his own consent. To maintain this principle is the common cause of the Whigs on the other side of the Atlantic, and on this. It is the alliance of God and nature, immutable, eternal, fixed as the firmament of heaven. Resistance to your acts was necessary as it was just; and your vain declarations of the omnipotence of parliament, and your imperious doctrines of the necessity of submission will be found equally impotent to convince or enslave your fellow-subjects in America.

The most significant instance of the action of America on Europe is Edmund Burke. We think of him as a man who, in early life, rejected all generalities and abstract propositions, and who became the most strenuous and violent of conservatives. But there is an interval when, as the quarrel with the colonies went on, Burke was as revolutionary as Washington. The inconsistency is not as flagrant as it seems. He had been brought forward by the party of measured propriety and imperative moderation, of compromise and unfinished thought, who claimed the right of taxing, but refused to employ it. When he urged the differences in every situation and every problem, and

* Charles Pratt, First Earl Camden.

shrank from the common denominator and the underlying principle, he fell into step with his friends. As an Irishman, who had married into an Irish Catholic family, it was desirable that he should adopt no theories in America which would unsettle Ireland. He had learned to teach government by party as an almost sacred dogma, and party forbids revolt as a breach of the laws of the game. His scruples and his protests, and his defiance of theory, were the policy and the precaution of a man conscious of restraints, and not entirely free in the exertion of powers that lifted him far above his tamer surroundings. As the strife sharpened and the Americans made way, Burke was carried along, and developed views which he never utterly abandoned, but which are difficult to reconcile with much that he wrote when the Revolution had spread to France.

In his address to the colonists he says:

We do not know how to qualify millions of our countrymen, contending, with one heart, for an admission to privileges which we have ever thought our own happiness and honor, by odious and unworthy names. On the contrary, we highly revere the principles on which you act. We had much rather see you totally independent of this crown and kingdom, than joined to it by so unnatural a conjunction as that of freedom and servitude. We view the establishment of the English colonies on principles of liberty, as that which is to render this kingdom venerable to future ages. In comparison of this, we regard all the victories and conquests of our warlike ancestors, or of our own times, as barbarous, vulgar distinctions, in which many nations, whom we look upon with little respect or value, have equaled, if not far exceeded us. Those who have and who hold to that foundation of common liberty, whether on this or on your side of the ocean, we consider as the true and the only true Englishmen. Those who depart from it, whether there or here, are attained, corrupted in blood, and wholly fallen from their original rank and value. They are the real rebels to the fair constitution and just supremacy of England. A long course of war with the administration of this country may be but a prelude to a series of wars and contentions among yourselves, to end at length (as such scenes have too often ended) in a species of humiliating repose, which nothing but the preceding calamities would reconcile to the dispirited few who survived them. We allow that even this evil is worth the risk to men of honor when national liberty is at stake, as in the present case we confess and lament that it is.

At other times he spoke as follows:

Nothing less than a convulsion that will shake the globe to its centre

can ever restore the European nations to that liberty by which they were once so much distinguished. The Western world was the seat of freedom until another, more Western, was discovered; and that other will probably be its asylum when it is hunted down in every other part. Happy it is that the worst of times may have one refuge still left for humanity. If the Irish resisted King William, they resisted him on the very same principle that the English and Scotch resisted King James. The Irish Catholics must have been the very worst, and the most truly unnatural of rebels, if they had not supported a prince whom they had seen attacked, not for any designs against their religion or their liberties, but for an extreme partiality for their sect. Princes otherwise meritorious have violated the liberties of the people, and have been lawfully deposed for such violation. I know no human being exempt from the law. I consider Parliament as the proper judge of kings, and it is necessary that they should be amenable to it. There is no such thing as governing the whole body of the people contrary to their inclination. Whenever they have a feeling they commonly are in the right. Christ appeared in sympathy with the lowest of the people, and thereby made it a firm and ruling principle that their welfare was the object of all government.

In all forms of government the people is the true legislator. The remote and efficient cause is the consent of the people, either actual or implied, and such consent is absolutely essential to its validity. Whiggism did not consist in the support of the power of Parliament or of any other power, but of the rights of the people. If Parliament should become an instrument in invading them, it was no better in any respect, and much worse in some, than any other instrument of arbitrary power. They who call upon you to belong wholly to the people are those who wish you to belong to your proper home, to the sphere of your duty, to the post of your honor. Let the Commons in Parliament assembled be one and the same thing with the Commons at large. I see no other way for the preservation of a decent attention to public interest in the representatives, but the interposition of the body of the people itself, whenever, it shall appear by some flagrant and notorious act, by some capital innovation, that those representatives are going to overleap the fences of the law and to introduce an arbitrary power. This interposition is a most unpleasant remedy; but if it be legal remedy, it is intended on some occasion to be used—to be used then only when it is evident that nothing else can hold the Constitution to its true principles. It is not in Parliament alone that the remedy for parliamentary disorders can be completed; hardly, indeed, can it begin there. Popular origin cannot

therefore be the characteristic distinction of a popular representative. This belongs equally to all parts of government, and in all forms. The virtue, spirit, and essence of a House of Commons consists in its being the express image of the feelings of the nation. It was not instituted to be a control upon the people. It was designed as a control for the people. Privilege of the crown and privilege of Parliament are only privilege so long as they are exercised for the benefit of the people. The voice of the people is a voice that is to be heard, and not the votes and resolutions of the House of Commons. He would preserve thoroughly every privilege of the people, because it is a privilege known and written in the law of the land; and he would support it, not against the crown or the aristocratic party only, but against the representatives of the people themselves. This was not a government of balances. It would be a strange thing if two hundred peers should have it in their power to defeat by their negative what had been done by the people of England. I have taken my part in political connections and political quarrels for the purpose of advancing justice and the dominion of reason, and I hope I shall never prefer the means, or any feelings growing out of the use of those means, to the great and substantial end itself. Legislators can do what lawyers cannot, for they have no other rules to bind them but the great principles of reason and equity and the general sense of mankind. All human laws are, properly speaking, only declaratory; they may alter the mode and application, but have no power over the substance, of original justice. A conservation and secure enjoyment of our natural rights is the great and ultimate purpose of civil society.

The great inlet by which a color for oppression has entered into the world is by one man's pretending to determine concerning the happiness of another. I would give a full civil protection, in which I include an immunity from all disturbance of their public religious worship, and a power of teaching in schools as well as temples, to Jews, Mohammedans, and even pagans. The Christian religion itself arose without establishment, it arose even without toleration, and whilst its own principles were not tolerated, it conquered all the powers of darkness, it conquered all the powers of the world. The moment it began to depart from these principles, it converted the establishment into tyranny, it subverted its foundation from that very hour. It is the power of government to prevent much evil; it can do very little positive good in this, or perhaps in anything else. It is not only so of the State and statesman, but of all the classes and descriptions of the rich: they are the pensioners of the poor, and are maintained by their superfluity.

They are under an absolute, hereditary, and indefeasible dependence on those who labor and are miscalled the poor. That class of dependent pensioners called the rich is so extremely small that if all their throats were cut, and a distribution made of all they consume in a year, it would not give a bit of bread and cheese for one night's supper to those who labor, and who in reality feed both the pensioners and themselves. It is not in breaking the laws of commerce, which are the laws of nature and consequently the laws of God, that we are to place our hope of softening the divine displeasure. It is the law of nature, which is the law of God.

I cannot resist the inference from these passages that Burke, after 1770, underwent other influences than those of his reputed masters, the Whigs of 1688. And if we find that strain of unwonted thought in a man who afterwards gilded the old order of things and wavered as to toleration and the slave trade, we may expect that the same causes would operate in France.

When the *Letters of a Pennsylvanian Farmer* became known in Europe, Diderot* said that it was madness to allow Frenchmen to read such things, as they could not do it without becoming intoxicated and changed into different men. But France was impressed by the event more than by the literature that accompanied it. America had made herself independent under less provocation than had ever been a motive of revolt, and the French government had acknowledged that her cause was righteous and had gone to war for it. If the king was right in America, he was utterly wrong at home, and if the Americans acted rightly, the argument was stronger, the cause was a hundredfold better, in France itself. All that justified their independence condemned the government of their French allies. By the principle that taxation without representation is robbery, there was no authority so illegitimate as that of Louis XVI. The force of that demonstration was irresistible, and it produced its effect where the example of England failed. The English doctrine was repelled at the very earliest stage of the Revolution, and the American was adopted. What the French took from the Americans was their theory of revolution, not their theory of government—their cutting, not their sewing. Many French nobles served in the war, and came home republicans and even democrats by conviction. It was America that converted the aristocracy to the reforming policy, and gave leaders to the Revolution. “The American Revolution,” says Washington, “or the peculiar light of the age, seems to have opened the eyes of

* Denis Diderot, French philosopher and author.

almost every nation in Europe, and a spirit of equal liberty appears fast to be gaining ground everywhere.” When the French officers were leaving, Cooper,* of Boston, addressed them in the language of warning: “Do not let your hopes be inflamed by our triumphs on this virgin soil. You will carry our sentiments with you, but if you try to plant them in a country that has been corrupt for centuries, you will encounter obstacles more formidable than ours. Our liberty has been won with blood; you will have to shed it in torrents before liberty can take root in the old world.” Adams, after he had been president of the United States, bitterly regretted the Revolution which made them independent, because it had given the example to the French; although he also believed that they had not a single principle in common.

Nothing, on the contrary, is more certain than that American principles profoundly influenced France, and determined the course of the revolution. It is from America that Lafayette derived the saying that created a commotion at the time, that resistance is the most sacred of duties. There also was the theory that political power comes from those over whom it is exercised, and depends upon their will; that every authority not so constituted is illegitimate and precarious; that the past is more a warning than an example; that the earth belongs to those who are upon it, not to those who are underneath. These are characteristics common to both revolutions.

At one time also the French adopted and acclaimed the American notion that the end of government is liberty, not happiness, or prosperity, or power, or the preservation of an historic inheritance, or the adaptation of national law to national character, or the progress of enlightenment and the promotion of virtue; that the private individual should not feel the pressure of public authority, and should direct his life by the influences that are within him, not around him.

And there was another political doctrine which the Americans transmitted to the French. In old colonial days the executive and the judicial powers were derived from a foreign source, and the common purpose was to diminish them. The assemblies were popular in origin and character, and everything that added to their power seemed to add security to rights. James Wilson, one of the authors and commentators of the Constitution, informs us that “at the Revolution the same fond predilection, and the same jealous dislike, existed and prevailed. The executive, and the judicial as well as the legislative

* Samuel Cooper, American clergyman.

authority, was now the child of the people, but to the two former the people behaved like stepmothers. The legislature was still discriminated by excessive partiality.” This preference, historic but irrational, led up naturally to a single chamber. The people of America and their delegates in Congress were of opinion that a single assembly was every way adequate to the management of their federal concerns, and when the Senate was invented, Franklin strongly objected. “As to the two chambers,” he wrote, “I am of your opinion that one alone would be better; but, my dear friend, nothing in human affairs and schemes is perfect, and perhaps this is the case of our opinions.”

Alexander Hamilton was the ablest as well as the most conservative of the American statesmen. He longed for monarchy, and he desired to establish a national government and to annihilate state rights. The American spirit, as it penetrated France, cannot well be described better than it was by him: “I consider civil liberty, in a genuine, unadulterated sense, as the greatest of terrestrial blessings. I am convinced that the whole human race is entitled to it, and that it can be wrested from no part of them without the blackest and most aggravated guilt. The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power.”

But when we speak in the gross of the American Revolution we combine different and discordant things. From the first agitation in 1776 to the Declaration of Independence, and then to the end of the war in 1782, the Americans were aggressive, violent in their language, fond of abstractions, prolific of doctrines universally applicable and universally destructive. It is the ideas of those earlier days that roused the attention of France, and were imported by Lafayette, Noailles, Lameth,* and the leaders of the future revolution who had beheld the lowering of the British flag at Yorktown. The America of their experience was the America of James Otis, of Jefferson, of The Rights of Man.

A change followed in 1787, when the Convention drew up the Constitution. It was a period of construction, and every effort was made, every scheme was invented, to curb the inevitable democracy. The members of that assembly were, on the whole, eminently cautious and sensible men. They were not men of extraordinary parts, and the genius of Hamilton failed absolutely

* Louis Marc Antoine, vicomte de Noailles; and Alexandre Theodore Victor, comte de Lameth.

to impress them. Some of their most memorable contrivances proceeded from no design, but were merely half measures and mutual concessions. Seward* has pointed out this distinction between the revolutionary epoch and the constituent epoch that succeeded:

The rights asserted by our forefathers were not peculiar to themselves. They were the common rights of mankind. The basis of the Constitution was laid broader by far than the superstructure which the conflicting interests and prejudices of the day suffered to be erected. The Constitution and laws of the federal government did not practically extend those principles throughout the new system of government; but they were plainly promulgated in the Declaration of Independence.

Now, although France was deeply touched by the American Revolution, it was not affected by the American Constitution. It underwent the disturbing influence, not the conservative.

The Constitution, framed in the summer of 1787, came into operation in March 1789, and nobody knew how it worked, when the crisis came in France. The debates, which explain every intention and combination, remained long ridden from the world. Moreover, the Constitution has become something more than the original printed paper. Besides amendments, it has been interpreted by the courts, modified by opinion, developed in some directions, and tacitly altered in others. Some of its most valued provisions have been acquired in this way, and were not yet visible when the French so greatly needed the guiding lessons of other men's experience. Some of the restrictions on the governing power were not fully established at first.

The most important of these is the action of the Supreme Court in annulling unconstitutional laws. The Duke of Wellington said to Bunsen** that by this institution alone the United States made up for all the defects of their government. Since Chief Justice Marshall, the judiciary undoubtedly obtained immense authority, which Jefferson, and others besides, believed to be unconstitutional; for the Constitution itself gives no such power. The idea had grown up in the States, chiefly, I think, in Virginia. At Richmond, in 1781, Judge Wythe said:

Tyranny has been sapped, the departments kept within their own spheres, the citizens protected, and general liberty promoted. But this

* William Henry Seward, U.S. Secretary of State under Abraham Lincoln.

** Christian Charles Josias Bunsen, ambassador to England.

beneficial result attains to higher perfection when, those who hold the purse and the sword differing as to the powers which each may exercise, the tribunals, who hold neither, are called upon to declare the law impartially between them. If the whole legislature—an event to be deprecated—should attempt to overleap the boundaries prescribed to them by the people, I, in administering the justice of the country, will meet the united powers at my seat in this tribunal, and, pointing to the Constitution, will say to them: “Here is the limit of your authority; hither shall you go, but no further.”

The Virginian legislature gave way, and repealed the act.

After the federal Constitution was drawn up, Hamilton, in the seventy-eighth number of *The Federalist*, argued that the power belonged to the judiciary; but it was not constitutionally recognized until 1801. “This,” said Madison, “makes the judiciary department paramount, in fact, to the legislature, which was never intended, and can never be proper. In a government whose vital principle is responsibility, it never will be allowed that the legislative and executive departments should be completely subjected to the judiciary, in which that characteristic feature is so faintly seen.” Wilson, on the other hand, justified the practice on the principle of the higher law: “Parliament may, unquestionably, be controlled by natural or revealed law, proceeding from divine authority. Is not this superior authority binding upon the courts of justice? When the courts of justice obey the superior authority, it cannot be said with propriety that they control the inferior one; they only declare, as it is their duty to declare, that this inferior one is controlled by the other, which is superior. They do not repeal an act of Parliament; they pronounce it void, because contrary to an overruling law.” Thus the function of the judiciary to be a barrier against democracy, which, according to Tocqueville, it is destined to be, was not apparent. In the same manner religious liberty, which has become so much identified with the United States, is a thing which grew by degrees, and was not to be found imposed by the letter of the law.

The true natural check on absolute democracy is the federal system, which limits the central government by the powers reserved, and the state governments by the powers they have ceded. It is the one immortal tribute of America to political science, for state rights are at the same time the consummation and the guard of democracy. So much so that an officer wrote, a few months before Bull Run: “The people in the South are evidently unanimous in the opinion that slavery is endangered by the current of events, and it is useless

to attempt to alter that opinion. As our government is founded on the will of the people, when that will is fixed our government is powerless.” Those are the words of Sherman,^{*} the man who, by his march through Georgia, cut the Confederacy into two. Lincoln himself wrote, at the same time: “I declare that the maintenance inviolate of the rights of the states, and especially the right of each state to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of powers on which the perfection and endurance of our political fabric depend.” Such was the force with which state rights held the minds of abolitionists on the eve of the war that bore them down.

At the Revolution there were many Frenchmen who saw in federalism the only way to reconcile liberty and democracy, to establish government on contract, and to rescue the country from the crushing preponderance of Paris and the Parisian populace. I do not mean the Girondins, but men of opinions different from theirs, and, above all, Mirabeau. He planned to save the throne by detaching the provinces from the frenzy of the capital, and he declared that the federal system is alone capable of preserving freedom in any great empire. The idea did not grow up under American influence; for no man was more opposed to it than Lafayette; and the American witness of the Revolution, Morris,^{**} denounced federalism as a danger to France.

Apart from the Constitution, the political thought of America influenced the French next to their own. And it was not all speculation, but a system for which men died, which had proved entirely practical, and strong enough to conquer all resistance, with the sanction and encouragement of Europe. It displayed to France a finished model of revolution, both in thought and action, and showed that what seemed extreme and subversive in the old world, was compatible with good and wise government, with respect for social order, and the preservation of national character and custom. The ideas which captured and convulsed the French people were mostly ready-made for them, and much that is familiar to you now, much of that which I have put before you from other than French sources, will meet us again next week with the old faces, when we come to the States-General.

^{*} William Tecumseh Sherman, Civil War general.

^{**} Gouverneur Morris, U.S. ambassador to France.

Chapter 7

Murray N. Rothbard:

The Radicalism of the American Revolution

Especially since the early 1950s, America has been concerned with opposing revolutions throughout the world; in the process, it has generated a historiography that denies its own revolutionary past. This neoconservative view of the American Revolution, echoing the reactionary writer in the pay of the Austrian and English governments of the early nineteenth century, Friedrich von Gentz, tries to isolate the American Revolution from all the revolutions in the Western world that preceded it and followed it. The American Revolution, this view holds, was unique; it alone of all modern revolutions was not really revolutionary; instead, it was moderate, conservative, dedicated only to preserving existing institutions from British aggrandizement. Furthermore, like all else in America, it was marvelously harmonious and consensual. Unlike the wicked French and other revolutions in Europe, the American Revolution, then, did not upset or change anything. It was therefore not really a revolution at all; certainly, it was not radical.

Now this view, in the first place, displays an extreme naiveté on the nature of revolution. No revolution has ever sprung forth, fully blown and fully armed like Athena, from the brow of existing society; no revolution has ever emerged from a vacuum. No revolution has ever been born out of ideas alone, but only from a long chain of abuses and a long history of preparation, ideological and institutional. And no revolution, even the most radical, from the English Revolution of the seventeenth century to the many Third World revolutions of the twentieth, has ever come into being except in reaction to increased oppression by the existing State apparatus. All revolution is in that sense a reaction against worsening oppression; and in that sense, all revolutions may be called “conservative”; but that would make hash out of the meaning of ideological concepts. If the French and Russian revolutions may be called “conservative,” then so might the American. This same process was at work in

Bacon's Rebellion of the late seventeenth century and the American Revolution of the late eighteenth. As the Declaration of Independence (a good source for understanding the Revolution) rightly emphasized:

Prudence indeed will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations . . . evinces a design to reduce them under absolute Despotism, it is their right, it is their duty to throw off such Government.

It takes such a long train of abuses to persuade the mass of people to throw off their habitual customs and loyalties and to make revolution; hence the absurdity of singling out the American Revolution as “conservative” in that sense. Indeed, this very breakthrough against existing habits, the very act of revolution, is therefore *ipso facto* an extraordinarily radical act. All mass revolutions, indeed all revolutions as distinguished from mere *coup d'états*, by bringing the masses into violent action are therefore per se highly radical events. All revolutions are therefore radical.

But the deep-seated radicalism of the American Revolution goes far beyond this. It was inextricably linked both to the radical revolutions that went before and to the ones, particularly the French, that succeeded it. From the researches of Caroline Robbins and Bernard Bailyn, we have come to see the indispensable linkage of radical ideology in a straight line from the English republican revolutionaries of the seventeenth and eighteenth centuries, to the French and to the American revolutionaries. And this ideology of natural rights and individual liberty was to its very marrow revolutionary. As Lord Acton stressed of radical liberalism, in setting up “what ought to be” as a rigorous guidepost for judging “what is,” it virtually raised thereby a standard of revolution.

The Americans had always been intractable, rebellious, impatient of oppression, as witness the numerous rebellions of the late seventeenth century; they also had their own individualist and libertarian heritage, their Ann Hutchinsons and Rhode Island quasi-anarchists, some directly linked with the left wing of the English Revolution. Now, strengthened and guided by the developed libertarian natural rights ideology of the eighteenth century, and reacting to aggrandizement of the British imperial state in the economic,

constitutional, and religious spheres, the Americans, in escalated and radicalized confrontations with Great Britain, had made and won their Revolution. By doing so, this revolution, based on the growing libertarian idea pervading enlightened opinion in Europe, itself gave immeasurable impetus to the liberal revolutionary movement throughout the Old World, for here was living example of a liberal revolution that had taken its daring chance, against all odds and against the mightiest state in the world, and had actually succeeded. Here, indeed, was a beacon light to all the oppressed peoples of the world!

The American Revolution was radical in many other ways as well. It was the first successful war of national liberation against Western imperialism. A people's war, waged by the majority of Americans having the courage and the zeal to rise up against constituted "legitimate" government, actually threw off their "sovereign." A revolutionary war led by "fanatics" and zealots rejected the siren calls of compromise and easy adjustment to the existing system. As a people's war, it was victorious to the extent that guerrilla strategy and tactics were employed against the far more heavily armed and better-trained British army—a strategy and tactics of protracted conflict resting precisely on mass support. The tactics of harassment, mobility, surprise, and the wearing down and cutting off of supplies finally resulted in the encirclement of the enemy. Considering that the theory of guerrilla revolution had not yet been developed, it was remarkable that the Americans had the courage and initiative to employ it. As it was, all their victories were based on guerrilla-type concepts of revolutionary war, while all the American defeats came from stubborn insistence by such men as Washington on a conventional European type of open military confrontation.

Also, as in any people's war, the American Revolution did inevitably rend society in two. The Revolution was not a peaceful emanation of an American "consensus"; on the contrary, as we have seen, it was a civil war resulting in permanent expulsion of 100,000 Tories from the United States. Tories were hunted, persecuted, their property confiscated, and themselves sometimes killed; what could be more radical than that? Thus, the French Revolution was, as in so many other things, foreshadowed by the American. The inner contradiction of the goal of liberty and the struggle against the Tories during the Revolution showed that revolutions will be tempted to betray their own principles in the heat of battle. The American Revolution also prefigured the misguided use of paper money inflation, and of severe price and wage controls which proved

equally unworkable in America and in France. And, as constituted government was either ignored or overthrown, Americans found recourse in new quasi-anarchistic forms of government: spontaneous local committees. Indeed, the new state and eventual federal governments often emerged out of federations and alliances of local and county committees. Here again, “committees of inspection,” “committees of public safety,” etc., prefigured the French and other revolutionary paths. What this meant, as was most clearly illustrated in Pennsylvania, was the revolutionary innovation of *parallel institutions*, of dual power, that challenged and eventually simply replaced old and established governmental forms. Nothing in all of this picture of the American Revolution could have been more radical, more truly revolutionary.

But, it may be claimed, this was, after all, only an external revolution; even if the American Revolution was radical, it was only a radicalism directed against Great Britain. There was no radical upheaval at home, no “internal revolution.” Again, this view betrays a highly naïve concept of revolution and wars of national liberation. While the focus of the upheaval was, of course, Great Britain, the inevitable indirect consequence was radical change within the United States. In the first and most obvious place, the success of the revolution meant inevitably the overturn and displacement of the Tory elites, particularly of those internal oligarchs and members of governors’ councils who had been created and propped up by the British government. The freeing of trade and manufacture from British imperial shackles again meant a displacement of Tory favorites from positions of economic privilege. The confiscation of Tory estates, especially in feudalism-ridden New York State, had a sharply democratizing and liberalizing effect on the structure of land tenure in the United States. This process was also greatly advanced by the inevitable dispossession of the vast British proprietary landed estates in Pennsylvania, Maryland, Virginia, and North Carolina. The freakish acquisition of the territory west of the Appalachians by the peace treaty also opened vast quantities of virgin land to further liberalize the land structure, provided that the speculative land companies, as it increasingly appeared, would be kept at bay. Revolution also brought an inevitable upsurge of religious liberty with the freeing of many of the states, especially in the South, from the British-imposed Anglican establishment.

With these radical internal processes inevitably launched by the fact of revolution against Great Britain, it is also not surprising that this internal

revolutionary course would go further. To the attack on feudalism was added a drive against the remnants of entail and primogeniture; from the ideology of individual liberty—and from British participation in the slave trade—came a general attack on that trade, and, in the North, a successful governmental drive against slavery itself.

Another inevitable corollary of the Revolution, and one easily overlooked, was that the very fact of revolution—aside from Connecticut and Rhode Island, where no British government had existed before—necessarily dispossessed existing internal rule. Hence the sudden smashing of that rule inevitably threw government back into a fragmented, local, quasi-anarchistic form. When we consider also that the Revolution was consciously and radically directed against taxes and against central government power, the inevitable thrust of the Revolution for a radical transformation toward liberty becomes crystal clear. It is then not surprising that the thirteen revolted colonies were separate and decentralized, and that for several years even the separate state governments could not dare to impose taxes upon the populace. Furthermore, since royal control in the colonies had meant executive, judicial, and upper house control by royal appointees, the libertarian thrust of the Revolution was inevitably against these instruments of oligarchy and in favor of democratic forms responsive to, and easily checked by, the people. It is not a coincidence that the states where this type of internal revolution against oligarchy proceeded the furthest were the ones where the oligarchy was most reluctant to break with Great Britain. Hence, in Pennsylvania, the radical drive for independence meant that the reluctant oligarchy had to be pushed aside, and the process of that pushing led to the most liberal and most democratic constitution of all the states. (A highly liberal and democratic constitution also resulted from Vermont's necessity for rebelling internally against New York and New Hampshire's imperialism over Vermont's land.) On the other hand, Rhode Island and Connecticut, where no internal British rule existed, experienced no such internal cataclysm. Internal revolution was therefore a derivative of the external, but it happened nevertheless. Because of these inevitable internal libertarian effects, the drive for restoration of central government through taxation and mercantilism had to be a conscious and determined project on the part of conservatives—a drive against the natural consequences of the Revolution.

Since the Revolution was a people's war, the extent of mass participation in the militia and committees led necessarily to a democratizing of suffrage

in the new governments. Furthermore, the principle of “no taxation without representation” could readily be applied internally as could British restrictions upon the principle of one man, one vote. While recent researches have shown that colonial suffrage requirements were far more liberal than had been realized, it is still true that suffrage was significantly widened by the Revolution in half the states. This widening was helped everywhere by the depreciation of the monetary unit (and hence of existing property requirements) entailed by the inflation that helped finance the war. Chilton Williamson, the most thorough and judicious of recent historians of American suffrage, has concluded that

The Revolution probably operated to increase the size of that majority of adult males which had, generally speaking, been able to meet the old property and freehold tests before 1776. . . . The increase in the number of voters was probably not so significant as the fact that the Revolution had made explicit the basic idea that voting had little or nothing to do with real property and that this idea should be reflected accurately in the law. . . . The changes in suffrage made during the Revolution were the most important in the entire history of American suffrage reform. In retrospect it is clear that they committed the country to a democratic suffrage.

While many of the state constitutions, under the influence of conservative theorists, turned out to be conservative reactions against initial revolutionary conditions, the very act of making them was radical and revolutionary, for they meant that what the radical and Enlightenment thinkers had said was really true: men did not have to submit blindly to habit, to custom, to irrational “prescription.” After violently throwing off their prescribed government, they could sit down and consciously make over their polity by the use of reason. Here was radicalism indeed. Furthermore, in the Bill of Rights, the framers added a significant and consciously libertarian attempt to prevent government from invading the natural rights of the individual, rights which they had learned about from the great English libertarian tradition of the past century.

For all these reasons, for its mass violence, and for its libertarian goals, the American Revolution was ineluctably radical. Not the least demonstration of its radicalism was the impact of this revolution in inspiring and generating the admittedly radical revolutions in Europe, an international impact that has been most thoroughly studied by Robert Palmer and Jacques Godechot. Palmer has eloquently summed up the meaning that the American Revolution had for Europe:

The American Revolution coincided with the climax of the Age of Enlightenment. It was itself, in some degree, the product of this age. There were many in Europe, as there were in America, who saw in the American Revolution a lesson and an encouragement for mankind. It proved that the liberal ideas of the Enlightenment might be put into practice. It showed, or was assumed to show, that ideas of the rights of man and the social contract, of liberty and equality, of responsible citizenship and popular sovereignty, of religious freedom, freedom of thought and speech, separation of powers and deliberately contrived written constitutions, need not remain in the realm of speculation, among the writers of books; but could be made the actual fabric of public life among real people, in this world, now.

PART III

**SELF-, DECENTRALIZED, AND
LIMITED GOVERNMENT**

Chapter 8

James Madison: Responsive Governments

James Madison (1751–1836) became the fourth president of the United States.

Resuming the subject of the last paper, I proceed to inquire whether the federal government or the state governments will have the advantage with regard to the predilection and support of the people. Notwithstanding the different modes in which they are appointed, we must consider both of them as substantially dependent on the great body of the citizens of the United States. I assume this position here as it respects the first, reserving the proofs for another place. The federal and state governments are in fact but different agents and trustees of the people, constituted with different powers, and designed for different purposes. The adversaries of the Constitution seem to have lost sight of the people altogether in their reasonings on this subject, and to have viewed these different establishments, not only as mutual rivals and enemies, but as uncontrolled by any common superior in their efforts to usurp the authorities of each other. These gentlemen must here be reminded of their error. They must be told that the ultimate authority, wherever the derivative may be found, resides in the people alone, and that it will not depend merely on the comparative ambition or address of the different governments, whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expense of the other. Truth, no less than decency, requires that the event in every case should be supposed to depend on the sentiments and sanction of their common constituents.

Many considerations, besides those suggested on a former occasion, seem to place it beyond doubt that the first and most natural attachment of the people will be to the governments of their respective states. Into the administration of these a greater number of individuals will expect to rise. From the gift of these, a greater number of offices and emoluments will flow. By the superintending

care of these, all the more domestic and personal interests of the people will be regulated and provided for. With the affairs of these, the people will be more familiarly and minutely conversant; and with the members of these will a greater proportion of the people have the ties of personal acquaintance and friendship, and of family and party attachments; on the side of these, therefore, the popular bias may well be expected most strongly to incline.

Experience speaks the same language in this case. The federal administration, though hitherto very defective in comparison with what may be hoped under a better system, had, during the war, and particularly whilst the independent fund of paper emissions was in credit, an activity and importance as great as it can well have in any future circumstances whatever. It was engaged, too, in a course of measures which had for their object the protection of everything that was dear, and the acquisition of everything that could be desirable to the people at large. It was, nevertheless, invariably found, after the transient enthusiasm for the early Congresses was over, that the attention and attachment of the people were turned anew to their own particular governments; that the federal council was at no time the idol of popular favor; and that opposition to proposed enlargements of its powers and importance was the side usually taken by the men who wished to build their political consequence on the prepossessions of their fellow citizens.

If, therefore, as has been elsewhere remarked, the people should in future become more partial to the federal than to the state governments, the change can only result from such manifest and irresistible proofs of a better administration as will overcome all their antecedent propensities; and in that case, the people ought not surely to be precluded from giving most of their confidence where they may discover it to be most due; but even in that case the state governments could have little to apprehend, because it is only within a certain sphere that the federal power can, in the nature of things, be advantageously administered.

The remaining points on which I propose to compare the federal and state governments are the disposition and the faculty they may respectively possess, to resist and frustrate the measures of each other.

It has been already proved that the members of the federal will be more dependent on the members of the state governments than the latter will be on the former. It has appeared also that the prepossessions of the people, on whom both will depend, will be more on the side of the state governments than of the federal government. So far as the disposition of each towards the

other may be influenced by these causes, the state governments must clearly have the advantage; but in a distinct and very important point of view, the advantage will lie on the same side. The prepossessions which the members themselves will carry into the federal government will generally be favorable to the states; while it will rarely happen that the members of the state governments will carry into the public councils a bias in favor of the general government. A local spirit will infallibly prevail much more in the members of Congress than a national spirit will prevail in the legislatures of the particular states. Everyone knows that a great proportion of the errors committed by the state legislatures proceeds from the disposition of the members to sacrifice the comprehensive and permanent interest of the state to the particular and separate views of the counties or districts in which they reside. And if they do not sufficiently enlarge their policy to embrace the collective welfare of their particular state, how can it be imagined that they will make the aggregate prosperity of the Union, and the dignity and respectability of its government, the objects of their affections and consultations? For the same reason that the members of the state legislatures will be unlikely to attach themselves sufficiently to national objects, the members of the federal legislature will be likely to attach themselves too much to local objects. The states will be to the latter what counties and towns are to the former. Measures will too often be decided according to their probable effect, not on the national prosperity and happiness, but on the prejudices, interests, and pursuits of the governments and people of the individual states. What is the spirit that has in general characterized the proceedings of Congress? A perusal of their journals, as well as the candid acknowledgments of such as have had a seat in that assembly, will inform us that the members have but too frequently displayed the character rather of partisans of their respective states than of impartial guardians of a common interest; that where on one occasion improper sacrifices have been made of local considerations to the aggrandizement of the federal government, the great interests of the nation have suffered on a hundred, from an undue attention to the local prejudices, interests, and views of the particular states. I mean not by these reflections to insinuate that the new federal government will not embrace a more enlarged plan of policy than the existing government may have pursued; much less that its views will be as confined as those of the state legislatures; but only that it will partake sufficiently of the spirit of both, to be disinclined to invade the rights of the individual states or the prerogatives of their governments. The motives on the part of the state governments to

augment their prerogatives by defalcations from the federal government will be overruled by no reciprocal predispositions in the members.

Were it admitted, however, that the federal government may feel an equal disposition with the state governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such encroachments. If an act of a particular state, though unfriendly to the national government, be generally popular in that state, and should not too grossly violate the oaths of the state officers, it is executed immediately and, of course, by means on the spot and depending on the state alone. The opposition of the federal government, or the interposition of federal officers, would but inflame the zeal of all parties on the side of the state, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty. On the other hand, should an unwarrantable measure of the federal government be unpopular in particular states, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand. The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the state; the embarrassments created by legislative devices, which would often be added on such occasions—would oppose, in any state, difficulties not to be despised; would form, in a large state, very serious impediments; and where the sentiments of several adjoining states happened to be in unison, would present obstructions which the federal government would hardly be willing to encounter.

But ambitious encroachments of the federal government, on the authority of the state governments, would not excite the opposition of a single state, or of a few states only; they would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other. But what degree of madness could ever drive the federal government to such an extremity? In the contest with Great Britain, one part of the empire was employed against the other. The more numerous part invaded the rights of

the less numerous part. The attempt was unjust and unwise; but it was not in speculation absolutely chimerical. But what would be the contest in the case we are supposing? Who would be the parties? A few representatives of the people would be opposed to the people themselves; or rather one set of representatives would be contending against thirteen sets of representatives, with the whole body of their common constituents on the side of the latter.

The only refuge left for those who prophesy the downfall of the state governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose, indeed, if it could be necessary now to disprove the reality of this danger. That the people and the States should, for a sufficient period of time, elect an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the states should silently and patiently behold the gathering storm, and continue to supply the materials, until it should be prepared to burst on their own heads—must appear to every one more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism. Extravagant as the supposition is, let it, however, be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say that the state governments, with the people on their side, would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country does not exceed one-hundredth part of the whole number of souls; or one-twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the last successful resistance of this country against the British arms, will be most inclined to deny the possibility of it. Besides the advantage of being armed,

which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia, by these governments, and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it. Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment, by a blind and tame submission to the long train of insidious measures which must precede and produce it.

The argument under the present head may be put into a very concise form, which appears altogether conclusive. Either the mode in which the federal government is to be constructed will render it sufficiently dependent on the people, or it will not. On the first supposition, it will be restrained by that dependence from forming schemes obnoxious to their constituents. On the other supposition, it will not possess the confidence of the people, and its schemes of usurpation will be easily defeated by the state governments, who will be supported by the people.

On summing up the considerations stated in this and the last paper, they seem to amount to the most convincing evidence that the powers proposed to be lodged in the federal government are as little formidable to those reserved to the individual states, as they are indispensably necessary to accomplish the purposes of the Union; and that all those alarms which have been sounded, of a meditated and consequential annihilation of the state governments, must, on the most favorable interpretation, be ascribed to the chimerical fears of the authors of them.

Chapter 9

Alexis de Tocqueville: Local Administration

Alexis de Tocqueville (1805–1859) was a French political scientist.

Political Effects of Decentralized Administration in the United States

“Centralization” is a word in general and daily use, without any precise meaning being attached to it. Nevertheless, there exist two distinct kinds of centralization, which it is necessary to discriminate with accuracy.

Certain interests are common to all parts of a nation, such as the enactment of its general laws and the maintenance of its foreign relations. Other interests are peculiar to certain parts of the nation; such, for instance, as the business of the several townships. When the power which directs the former, or general interests, is concentrated in one place or in the same persons, it constitutes a centralized government. To concentrate in like manner into one place the direction of the latter, or local interests, constitutes what may be termed a centralized administration.

Upon some points, these two kinds of centralization coincide; but by classifying the objects which fall more particularly within the province of each, they may easily be distinguished.

It is evident that a centralized government acquires immense power when united to centralized administration. Thus combined, it accustoms men to set their own will habitually and completely aside; to submit, not only for once, or upon one point, but in every respect, and at all times. Not only, therefore, does this union of power subdue them compulsorily, but it affects their ordinary habits; it isolates them and then influences each separately.

These two kinds of centralization assist and attract each other; but they must not be supposed to be inseparable. It is impossible to imagine a more completely centralized government than that which existed in France under Louis XIV; when the same individual was the author and the interpreter of

the laws, and the representative of France at home and abroad, he was justified in asserting that he constituted the state. Nevertheless, the administration was much less centralized under Louis XIV than it is at the present day.

In England the centralization of the government is carried to great perfection; the state has the compact vigor of one man, and its will puts immense masses in motion and turns its whole power where it pleases. But England, which has done so great things for the last fifty years, has never centralized its administration. Indeed, I cannot conceive that a nation can live and prosper without a powerful centralization of government. But I am of opinion that a centralized administration is fit only to enervate the nations in which it exists, by incessantly diminishing their local spirit. Although such an administration can bring together at a given moment, on a given point, all the disposable resources of a people, it injures the renewal of those resources. It may ensure a victory in the hour of strife, but it gradually relaxes the sinews of strength. It may help admirably the transient greatness of a man, but not the durable prosperity of a nation.

Observe that whenever it is said that a state cannot act because it is not centralized, it is the centralization of the government that is spoken of. It is frequently asserted, and we assent to the proposition, that the German empire has never been able to bring all its powers into action. But the reason was that the state has never been able to enforce obedience to its general laws; the several members of that great body always claimed the right, or found the means, of refusing their cooperation to the representatives of the common authority, even in the affairs which concerned the mass of the people; in other words, there was no centralization of government. The same remark is applicable to the Middle Ages; the cause of all the miseries of feudal society was that the control, not only of administration, but of government, was divided amongst a thousand hands, and broken up in a thousand different ways. The want of a centralized government prevented the nations of Europe from advancing with energy in any straightforward course.

I have shown that in the United States there is no centralized administration and no hierarchy of public functionaries. Local authority has been carried farther than any European nation could endure without great inconvenience, and it has even produced some disadvantageous consequences in America. But in the United States, the centralization of the government is perfect; and it would be easy to prove that the national power is more concentrated there than it has ever been in the old nations of Europe. Not only is there but one legislative body in each state—not only does there exist but one source of political authority—

but numerous assemblies in districts or counties have not, in general, been multiplied, lest they should be tempted to leave their administrative duties and interfere with the government. In America, the legislature of each state is supreme; nothing can impede its authority—neither privileges, nor local immunities, nor personal influence, nor even the empire of reason, since it represents that majority which claims to be the sole organ of reason. Its own determination is, therefore, the only limit to its action. In juxtaposition with it, and under its immediate control, is the representative of the executive power, whose duty it is to constrain the refractory to submit by superior force. The only symptom of weakness lies in certain details of the action of the government. The American republics have no standing armies to intimidate a discontented minority; but as no minority has as yet been reduced to declare open war, the necessity of an army has not been felt. The state usually employs the officers of the township or the county to deal with the citizens. Thus, for instance, in New England the town assessor fixes the rate of taxes; the town collector receives them; the town treasurer transmits the amount to the public treasury; and the disputes that may arise are brought before the ordinary courts of justice. This method of collecting taxes is slow as well as inconvenient, and it would prove a perpetual hindrance to a government whose pecuniary demands were large. It is desirable that, in whatever materially affects its existence, the government should be served by officers of its own, appointed by itself, removable at its pleasure, and accustomed to rapid methods of proceeding. But it will always be easy for the central government, organized as it is in America, to introduce more energetic and efficacious modes of action according to its wants.

The want of a centralized government will not, then, as has often been asserted, prove the destruction of the republics of the New World; far from the American governments being not sufficiently centralized, I shall prove hereafter that they are too much so. The legislative bodies daily encroach upon the authority of the government, and their tendency, like that of the French Convention, is to appropriate it entirely to themselves. The social power thus centralized is constantly changing hands, because it is subordinate to the power of the people. It often forgets the maxims of wisdom and foresight in the consciousness of its strength. Hence arises its danger. Its vigor, and not its impotence, will probably be the cause of its ultimate destruction.

The system of decentralized administration produces several different effects in America. The Americans seem to me to have overstepped the limits

of sound policy in isolating the administration of the government: for order, even in secondary affairs, is a matter of national importance. As the state has no administrative functionaries of its own, stationed on different points of its territory, to whom it can give a common impulse, the consequence is that it rarely attempts to issue any general police regulations. The want of these regulations is severely felt and is frequently observed by Europeans. The appearance of disorder which prevails on the surface leads one at first to imagine that society is in a state of anarchy; nor does one perceive one's mistake till one has gone deeper into the subject. Certain undertakings are of importance to the whole state; but they cannot be put in execution, because there is no state administration to direct them. Abandoned to the exertions of the towns or counties, under the care of elected and temporary agents, they lead to no result, or at least to no durable benefit.

The partisans of centralization in Europe are wont to maintain that the government can administer the affairs of each locality better than the citizens can do it for themselves. This may be true when the central power is enlightened and the local authorities are ignorant; when it is alert and they are slow; when it is accustomed to act and they to obey. Indeed, it is evident that this double tendency must augment with the increase of centralization, and that the readiness of the one and the incapacity of the others must become more and more prominent. But I deny that it is so when the people are as enlightened, as awake to their interests, and as accustomed to reflect on them as the Americans are. I am persuaded, on the contrary, that in this case the collective strength of the citizens will always conduce more efficaciously to the public welfare than the authority of the government. I know it is difficult to point out with certainty the means of arousing a sleeping population and of giving it passions and knowledge which it does not possess; it is, I am well aware, an arduous task to persuade men to busy themselves about their own affairs. It would frequently be easier to interest them in the punctilios of court etiquette than in the repairs of their common dwelling. But whenever a central administration affects completely to supersede the persons most interested, I believe that it is either misled or desirous to mislead. However enlightened and skillful a central power may be, it cannot of itself embrace all the details of the life of a great nation. Such vigilance exceeds the powers of man. And when it attempts unaided to create and set in motion so many complicated springs, it must submit to a very imperfect result or exhaust itself in bootless efforts.

Centralization easily succeeds, indeed, in subjecting the external actions of men to a certain uniformity, which we come at last to love for its own sake, independently of the objects to which it is applied, like those devotees who worship the statue and forget the deity it represents. Centralization imparts without difficulty an admirable regularity to the routine of business; provides skillfully for the details of the social police; represses small disorders and petty misdemeanors; maintains society in a *status quo* alike secure from improvement and decline; and perpetuates a drowsy regularity in the conduct of affairs which the heads of the administration are wont to call good order and public tranquility; in short, it excels in prevention, but not in action. Its force deserts it when society is to be profoundly moved, or accelerated in its course; and if once the co-operation of private citizens is necessary to the furtherance of its measures, the secret of its impotence is disclosed. Even while the centralized power, in its despair, invokes the assistance of the citizens, it says to them: "You shall act just as I please, as much as I please, and in the direction which I please. You are to take charge of the details, without aspiring to guide the system; you are to work in darkness; and afterwards you may judge my work by its results." These are not the conditions on which the alliance of the human will is to be obtained; it must be free in its gait and responsible for its acts, or (such is the constitution of man) the citizen had rather remain a passive spectator than a dependent actor in schemes with which he is unacquainted.

It is undeniable that the want of those uniform regulations which control the conduct of every inhabitant of France is not infrequently felt in the United States. Gross instances of social indifference and neglect are to be met with; and from time to time, disgraceful blemishes are seen, in complete contrast with the surrounding civilization. Useful undertakings, which cannot succeed without perpetual attention and rigorous exactitude, are frequently abandoned; for in America, as well as in other countries, the people proceed by sudden impulses and momentary exertions. The European, accustomed to find a functionary always at hand to interfere with all he undertakes, reconciles himself with difficulty to the complex mechanism of the administration of the townships. In general, it may be affirmed that the lesser details of the police, which render life easy and comfortable, are neglected in America, but that the essential guarantees of man in society are as strong there as elsewhere. In America, the power that conducts the administration is far less regular, less enlightened, and less skillful, but a hundredfold greater than in Europe. In no country in the world do the citizens make such exertions for the

common weal. I know of no people who have established schools so numerous and efficacious, places of public worship better suited to the wants of the inhabitants, or roads kept in better repair. Uniformity or permanence of design, the minute arrangement of details, and the perfection of administrative system must not be sought for in the United States; what we find there is the presence of a power which, if it is somewhat wild, is at least robust, and an existence checkered with accidents, indeed, but full of animation and effort.

Granting, for an instant, that the villages and counties of the United States would be more usefully governed by a central authority which they had never seen than by functionaries taken from among them—admitting, for the sake of argument, that there would be more security in America, and the resources of society would be better employed there, if the whole administration centered in a single arm—still the *political* advantages which the Americans derive from their decentralized system would induce me to prefer it to the contrary plan. It profits me but little, after all, that a vigilant authority always protects the tranquility of my pleasures and constantly averts all dangers from my path, without my care or concern, if this same authority is the absolute master of my liberty and my life, and if it so monopolizes movement and life that when it languishes everything languishes around it; that when it sleeps, everything must sleep; and that when it dies the state itself must perish.

There are countries in Europe where the native considers himself as a kind of settler, indifferent to the fate of the spot which he inhabits. The greatest changes are effected there without his concurrence, and (unless chance may have apprised him of the event) without his knowledge; nay, more, the condition of his village, the police of his street, the repairs of the church or the parsonage, do not concern him; for he looks upon all these things as unconnected with himself and as the property of a powerful stranger whom he calls the government. He has only a life-interest in these possessions, without the spirit of ownership or any ideas of improvement. This want of interest in his own affairs goes so far that if his own safety or that of his children is at last endangered, instead of trying to avert the peril, he will fold his arms and wait till the whole nation comes to his aid. This man, who has so completely sacrificed his own free will, does not, more than any other person, love obedience; he cowers, it is true, before the pettiest officer, but he braves the law with the spirit of a conquered foe as soon as its superior force is withdrawn; he perpetually oscillates between servitude and license.

When a nation has arrived at this state, it must either change its customs and its laws, or perish; for the source of public virtues is dried up; and though it may contain subjects, it has no citizens. Such communities are a natural prey to foreign conquests; and if they do not wholly disappear from the scene, it is only because they are surrounded by other nations similar or inferior to themselves; it is because they still have an indefinable instinct of patriotism; and an involuntary pride in the name of their country, or a vague reminiscence of its bygone fame, suffices to give them an impulse of self-preservation.

Nor can the prodigious exertions made by certain nations to defend a country in which they had lived, so to speak, as strangers be adduced in favor of such a system; for it will be found that, in these cases, their main incitement was religion. The permanence, the glory, or the prosperity of the nation had become parts of their faith; and in defending their country, they defended also that Holy City of which they were all citizens. The Turkish tribes have never taken an active share in the conduct of their affairs, but they accomplished stupendous enterprises as long as the victories of the Sultan were triumphs of the Mohammedan faith. In the present age, they are in rapid decay because their religion is departing and despotism only remains. Montesquieu,* who attributed to absolute power an authority peculiar to itself, did it, as I conceive, an undeserved honor; for despotism, taken by itself, can maintain nothing durable. On close inspection, we shall find that religion, and not fear, has ever been the cause of the long-lived prosperity of an absolute government. Do what you may, there is no true power among men except in the free union of their will; and patriotism and religion are the only two motives in the world which can long urge all the people towards the same end.

Laws cannot rekindle an extinguished faith; but men may be interested by the laws in the fate of their country. It depends upon the laws to awaken and direct the vague impulse of patriotism, which never abandons the human heart; and if it be connected with the thoughts, the passions, and the daily habits of life, it may be consolidated into a durable and rational sentiment. Let it not be said that it is too late to make the experiment; for nations do not grow old as men do, and every fresh generation is a new people ready for the care of the legislator.

It is not the *administrative*, but the *political* effects of decentralization that I most admire in America. In the United States the interests of the country

* Charles-Louis de Secondat, baron de La Brède et de Montesquieu, French political philosopher.

are everywhere kept in view; they are an object of solicitude to the people of the whole Union, and every citizen is as warmly attached to them as if they were his own. He takes pride in the glory of his nation; he boasts of its success, to which he conceives himself to have contributed; and he rejoices in the general prosperity by which he profits. The feeling he entertains towards the state is analogous to that which unites him to his family, and it is by a kind of selfishness that he interests himself in the welfare of his country.

To the European, a public officer represents a superior force; to an American, he represents a right. In America, then, it may be said that no one renders obedience to man, but to justice and to law. If the opinion which the citizen entertains of himself is exaggerated, it is at least salutary; he unhesitatingly confides in his own powers, which appear to him to be all-sufficient. When a private individual meditates an undertaking, however directly connected it may be with the welfare of society, he never thinks of soliciting the co-operation of the government; but he publishes his plan, offers to execute it, courts the assistance of other individuals, and struggles manfully against all obstacles. Undoubtedly he is often less successful than the state might have been in his position; but in the end the sum of these private undertakings far exceeds all that the government could have done.

As the administrative authority is within the reach of the citizens, whom in some degree it represents, it excites neither their jealousy nor hatred; as its resources are limited, everyone feels that he must not rely solely on its aid. Thus, when the administration thinks fit to act within its own limits, it is not abandoned to itself, as in Europe; the duties of private citizens are not supposed to have lapsed because the state has come into action, but everyone is ready, on the contrary, to guide and support it. This action of individuals, joined to that of the public authorities, frequently accomplishes what the most energetic centralized administration would be unable to do.

It would be easy to adduce several facts in proof of what I advance, but I had rather give only one, with which I am best acquainted. In America, the means which the authorities have at their disposal for the discovery of crimes and the arrest of criminals are few. A state police does not exist, and passports are unknown. The criminal police of the United States cannot be compared with that of France; the magistrates and public agents are not numerous; they do not always initiate the measures for arresting the guilty; and the examinations of prisoners are rapid and oral. Yet I believe that in no country does crime more

rarely elude punishment. The reason is that everyone conceives himself to be interested in furnishing evidence of the crime and in seizing the delinquent. During my stay in the United States, I witnessed the spontaneous formation of committees in a county for the pursuit and prosecution of a man who had committed a great crime. In Europe, a criminal is an unhappy man who is struggling for his life against the agents of power, while the people are merely a spectator of the conflict; in America, he is looked upon as an enemy of the human race, and the whole of mankind is against him.

I believe that provincial institutions are useful to all nations, but nowhere do they appear to me to be more necessary than amongst a democratic people. In an aristocracy, order can always be maintained in the midst of liberty; and as the rulers have a great deal to lose, order is to them a matter of great interest. In like manner, an aristocracy protects the people from the excesses of despotism, because it always possesses an organized power ready to resist a despot. But a democracy without provincial institutions has no security against these evils. How can a populace unaccustomed to freedom in small concerns learn to use it temperately in great affairs? What resistance can be offered to tyranny in a country where each individual is weak and where the citizens are not united by any common interest? Those who dread the license of the mob and those who fear absolute power ought alike to desire the gradual development of provincial liberties.

I am also convinced that democratic nations are most likely to fall beneath the yoke of a centralized administration, for several reasons, among which is the following:

The constant tendency of these nations is to concentrate all the strength of the government in the hands of the only power which directly represents the people; because beyond the people, nothing is to be perceived but a mass of equal individuals. But when the same power already has all the attributes of government, it can scarcely refrain from penetrating into the details of the administration, and an opportunity of doing so is sure to present itself in the long run, as was the case in France. In the French Revolution, there were two impulses in opposite directions, which must never be confounded: the one was favorable to liberty, the other to despotism. Under the ancient monarchy, the king was the sole author of the laws; and below the power of the sovereign, certain vestiges of provincial institutions, half destroyed, were still distinguishable. These provincial institutions were incoherent, ill arranged,

and frequently absurd; in the hands of the aristocracy, they had sometimes been converted into instruments of oppression. The Revolution declared itself the enemy at once of royalty and of provincial institutions; it confounded in indiscriminate hatred all that had preceded it—despotic power and the checks to its abuses; and its tendency was at once to republicanize and to centralize. This double character of the French Revolution is a fact which has been adroitly handled by the friends of absolute power. Can they be accused of laboring in the cause of despotism when they are defending that centralized administration which was one of the great innovations of the Revolution? In this manner, popularity may be united with hostility to the rights of the people, and the secret slave of tyranny may be the professed lover of freedom.

I have visited the two nations in which the system of provincial liberty has been most perfectly established, and I have listened to the opinions of different parties in those countries. In America, I met with men who secretly aspired to destroy the democratic institutions of the Union; in England I found others who openly attacked the aristocracy; but I found no one who did not regard provincial independence as a great good. In both countries, I heard a thousand different causes assigned for the evils of the state; but the local system was never mentioned amongst them. I heard citizens attribute the power and prosperity of their country to a multitude of reasons; but they *all* placed the advantages of local institutions in the foremost rank.

Am I to suppose that when men, who are naturally so divided on religious opinions and on political theories, agree on one point (and that one which they can best judge, as it is one of which they have daily experience), they are all in error? The only nations which deny the utility of provincial liberties are those which have fewest of them; in other words, only those censure the institution who do not know it.

Absence of Centralized Administration*

I have already pointed out the distinction between a centralized government and a centralized administration. The former exists in America, but the latter is nearly unknown there. If the directing power of the American communities had both these instruments of government at its disposal, and united the habit of executing its commands to the right of commanding; if,

* Alexis de Tocqueville, *Democracy in America, Part I*, trans. Henry Revve (New York: The Colonial Press, 1899), chap. 14, without the footnotes.

after having established the general principles of government, it descended to the details of their application; and if, having regulated the great interests of the country, it could descend to the circle of individual interests, freedom would soon be banished from the New World.

But in the United States, the majority, which so frequently displays the tastes and the propensities of a despot, is still destitute of the most perfect instruments of tyranny.

In the American republics, the central government has never as yet busied itself except with a small number of objects, sufficiently prominent to attract its attention. The secondary affairs of society have never been regulated by its authority; and nothing has hitherto betrayed its desire of even interfering in them. The majority has become more and more absolute, but has not increased the prerogatives of the central government; those great prerogatives have been confined to a certain sphere; and although the despotism of the majority may be galling upon one point, it cannot be said to extend to all. However the predominant party in the nation may be carried away by its passions, however ardent it may be in the pursuit of its projects, it cannot oblige all the citizens to comply with its desires in the same manner and at the same time throughout the country. When the central government which represents that majority has issued a decree, it must entrust the execution of its will to agents over whom it frequently has no control and whom it cannot perpetually direct. The townships, municipal bodies, and counties form so many concealed breakwaters which check or part the tide of popular determination. If an oppressive law were passed, liberty would still be protected by the mode of executing that law; the majority cannot descend to the details and what may be called the puerilities of administrative tyranny. It does not even imagine that it can do so, for it has not a full consciousness of its authority. It knows only the extent of its natural powers, but is unacquainted with the art of increasing them.

This point deserves attention; for if a democratic republic, similar to that of the United States, were ever founded in a country where the power of one man had previously established a centralized administration and had sunk it deep into the habits and the laws of the people, I do not hesitate to assert that in such a republic, a more insufferable despotism would prevail than in any of the absolute monarchies of Europe; or, indeed, than any that could be found on this side of Asia.

Chapter 10

Alexis de Tocqueville: Democratic Despotism

I had remarked during my stay in the United States that a democratic state of society, similar to that of the Americans', might offer singular facilities for the establishment of despotism; and I perceived, upon my return to Europe, how much use had already been made, by most of our rulers, of the notions, the sentiments, and the wants created by this same social condition, for the purpose of extending the circle of their power. This led me to think that the nations of Christendom would perhaps eventually undergo some oppression like that which hung over several of the nations of the ancient world.

A more accurate examination of the subject, and five years of further meditation, have not diminished my fears, but have changed the object of them.

No sovereign ever lived in former ages so absolute or so powerful as to undertake to administer by his own agency, and without the assistance of intermediate powers, all the parts of a great empire; none ever attempted to subject all his subjects indiscriminately to strict uniformity of regulation and personally to tutor and direct every member of the community. The notion of such an undertaking never occurred to the human mind; and if any man had conceived it, the want of information, the imperfection of the administrative system, and, above all, the natural obstacles caused by the inequality of conditions would speedily have checked the execution of so vast a design.

When the Roman emperors were at the height of their power, the different nations of the empire still preserved manners and customs of great diversity; although they were subject to the same monarch, most of the provinces were separately administered; they abounded in powerful and active municipalities; and although the whole government of the empire was centered in the hands of the emperor alone, and he always remained, in case of need, the supreme arbiter in all matters, yet the details of social life and private occupations lay for the most part beyond his control. The emperors possessed, it is true,

an immense and unchecked power, which allowed them to gratify all their whimsical tastes and to employ for that purpose the whole strength of the state. They frequently abused that power arbitrarily to deprive their subjects of property or of life; their tyranny was extremely onerous to the few, but it did not reach the many; it was fixed to some few main objects and neglected the rest; it was violent, but its range was limited.

It would seem that if despotism were to be established amongst the democratic nations of our days, it might assume a different character; it would be more extensive and more mild; it would degrade men without tormenting them. I do not question that, in an age of instruction and equality like our own, sovereigns might more easily succeed in collecting all political power into their own hands and might interfere more habitually and decidedly with the circle of private interests than any sovereign of antiquity could ever do. But this same principle of equality which facilitates despotism tempers its rigor. We have seen how the customs of society become more humane and gentle in proportion as men become more equal and alike. When no member of the community has much power or much wealth, tyranny is, as it were, without opportunities and a field of action. As all fortunes are scanty, the passions of men are naturally circumscribed, their imagination limited, their pleasures simple. This universal moderation moderates the sovereign himself and checks within certain limits the inordinate stretch of his desires.

Independently of these reasons, drawn from the nature of the state of society itself, I might add many others arising from causes beyond my subject; but I shall keep within the limits I have laid down.

Democratic governments may become violent, and even cruel, at certain periods of extreme effervescence or of great danger, but these crises will be rare and brief. When I consider the petty passions of our contemporaries, the mildness of their manners, the extent of their education, the purity of their religion, the gentleness of their morality, their regular and industrious habits, and the restraint which they almost all observe in their vices no less than in their virtues, I have no fear that they will meet with tyrants in their rulers, but rather with guardians.

I think, then, that the species of oppression by which democratic nations are menaced is unlike anything which ever before existed in the world; our contemporaries will find no prototype of it in their memories. I seek in vain for an expression which will accurately convey the whole of the idea I have

formed of it; the old words despotism and tyranny are inappropriate: the thing itself is new, and since I cannot name it, I must attempt to define it.

I seek to trace the novel features under which despotism may appear in the world. The first thing that strikes the observation is an innumerable multitude of men, all equal and alike, incessantly endeavoring to procure the petty and paltry pleasures with which they glut their lives. Each of them, living apart, is as a stranger to the fate of all the rest; his children and his private friends constitute to him the whole of mankind. As for the rest of his fellow citizens, he is close to them, but he sees them not; he touches them, but he feels them not; he exists only in himself and for himself alone; and if his kindred still remain to him, he may be said at any rate to have lost his country.

Above this race of men stands an immense and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate. That power is absolute, minute, regular, provident, and mild. It would be like the authority of a parent if, like that authority, its object was to prepare men for manhood; but it seeks, on the contrary, to keep them in perpetual childhood: it is well content that the people should rejoice, provided they think of nothing but rejoicing. For their happiness such a government willingly labors, but it chooses to be the sole agent and the only arbiter of that happiness; it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of property, and subdivides their inheritances: what remains, but to spare them all the care of thinking and all the trouble of living?

Thus, it every day renders the exercise of the free agency of man less useful and less frequent; it circumscribes the will within a narrower range and gradually robs a man of all the uses of himself. The principle of equality has prepared men for these things; it has predisposed men to endure them and oftentimes to look on them as benefits.

After having thus successively taken each member of the community in its powerful grasp and fashioned him at will, the supreme power then extends its arm over the whole community. It covers the surface of society with a network of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd. The will of man is not shattered, but softened, bent, and guided; men are seldom forced by it to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does

not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd.

I have always thought that servitude of the regular, quiet, and gentle kind which I have just described might be combined more easily than is commonly believed with some of the outward forms of freedom, and that it might even establish itself under the wing of the sovereignty of the people.

Our contemporaries are constantly excited by two conflicting passions: they want to be led, and they wish to remain free. As they cannot destroy either the one or the other of these contrary propensities, they strive to satisfy them both at once. They devise a sole, tutelary, and all-powerful form of government, but elected by the people. They combine the principle of centralization and that of popular sovereignty; this gives them a respite: they console themselves for being in tutelage by the reflection that they have chosen their own guardians. Every man allows himself to be put in leading-strings, because he sees that it is not a person or a class of persons, but the people at large, who hold the end of his chain.

By this system, the people shake off their state of dependence just long enough to select their master and then relapse into it again. A great many persons at the present day are quite contented with this sort of compromise between administrative despotism and the sovereignty of the people; and they think they have done enough for the protection of individual freedom when they have surrendered it to the power of the nation at large. This does not satisfy me; the nature of him I am to obey signifies less to me than the fact of extorted obedience.

I do not, however, deny that a constitution of this kind appears to me to be infinitely preferable to one which, after having concentrated all the powers of government, should vest them in the hands of an irresponsible person or body of persons. Of all the forms that democratic despotism could assume, the latter would assuredly be the worst.

When the sovereign is elective, or narrowly watched by a legislature which is really elective and independent, the oppression which he exercises over individuals is sometimes greater, but it is always less degrading; because every man, when he is oppressed and disarmed, may still imagine that, while he yields obedience, it is to himself he yields it, and that it is to one of his own inclinations that all the rest give way. In like manner, I can understand that

when the sovereign represents the nation and is dependent upon the people, the rights and the power of which every citizen is deprived serve not only the head of the state, but the state itself; and that private persons derive some return from the sacrifice of their independence which they have made to the public. To create a representation of the people in every centralized country is, therefore, to diminish the evil which extreme centralization may produce, but not to get rid of it.

I admit that, by this means, room is left for the intervention of individuals in the more important affairs; but it is not the less suppressed in the smaller and more private ones. It must not be forgotten that it is especially dangerous to enslave men in the minor details of life. For my own part, I should be inclined to think freedom less necessary in great things than in little ones, if it were possible to be secure of the one without possessing the other.

Subjection in minor affairs breaks out every day and is felt by the whole community indiscriminately. It does not drive men to resistance, but it crosses them at every turn, till they are led to surrender the exercise of their own will. Thus their spirit is gradually broken and their character enervated; whereas that obedience which is exacted on a few important but rare occasions only exhibits servitude at certain intervals and throws the burden of it upon a small number of men. It is in vain to summon a people who have been rendered so dependent on the central power to choose from time to time the representatives of that power; this rare and brief exercise of their free choice, however important it may be, will not prevent them from gradually losing the faculties of thinking, feeling, and acting for themselves, and thus gradually falling below the level of humanity.

I add that they will soon become incapable of exercising the great and only privilege which remains to them. The democratic nations which have introduced freedom into their political constitution at the very time when they were augmenting the despotism of their administrative constitution have been led into strange paradoxes. To manage those minor affairs in which good sense is all that is wanted, the people are held to be unequal to the task; but when the government of the country is at stake, the people are invested with immense powers; they are alternately made the playthings of their ruler, and his masters—more than kings and less than men. After having exhausted all the different modes of election without finding one to suit their purpose, they are still amazed and still bent on seeking further; as if the evil they notice did not originate in the

constitution of the country far more than in that of the electoral body.

It is, indeed, difficult to conceive how men who have entirely given up the habit of self-government should succeed in making a proper choice of those by whom they are to be governed; and no one will ever believe that a liberal, wise, and energetic government can spring from the suffrages of a subservient people.

A constitution which should be republican in its head and ultra-monarchical in all its other parts has always appeared to me to be a short-lived monster. The vices of rulers and the inaptitude of the people would speedily bring about its ruin; and the nation, weary of its representatives and of itself, would create freer institutions or soon return to stretch itself at the feet of a single master.

Chapter 11

Alexis de Tocqueville: Voluntary Associations

I do not propose to speak of those political associations by the aid of which men endeavor to defend themselves against the despotic action of a majority or against the aggressions of regal power. That subject I have already treated. If each citizen did not learn, in proportion as he individually becomes more feeble and consequently more incapable of preserving his freedom single-handed, to combine with his fellow citizens for the purpose of defending it, it is clear that tyranny would unavoidably increase together with equality.

Those associations only which are formed in civil life, without reference to political objects, are here referred to. The political associations which exist in the United States are only a single feature in the midst of the immense assemblage of associations in that country. Americans of all ages, all conditions, and all dispositions constantly form associations. They have not only commercial and manufacturing companies, in which all take part, but associations of a thousand other kinds—religious, moral, serious, futile, general or restricted, enormous or diminutive. The Americans make associations to give entertainments, to found seminaries, to build inns, to construct churches, to diffuse books, to send missionaries to the antipodes; they found in this manner hospitals, prisons, and schools. If it is proposed to inculcate some truth or to foster some feeling by the encouragement of a great example, they form a society. Wherever at the head of some new undertaking you see the government in France, or a man of rank in England, in the United States you will be sure to find an association.

I met with several kinds of associations in America of which I confess I had no previous notion; and I have often admired the extreme skill with which the inhabitants of the United States succeed in proposing a common object for the exertions of a great many men and in inducing them voluntarily to pursue it.

I have since traveled over England, from which the Americans have taken some of their laws and many of their customs; and it seemed to me that the

principle of association was by no means so constantly or adroitly used in that country. The English often perform great things singly, whereas the Americans form associations for the smallest undertakings. It is evident that the former people consider association as a powerful means of action, but the latter seem to regard it as the only means they have of acting.

Thus, the most democratic country on the face of the earth is that in which men have, in our time, carried to the highest perfection the art of pursuing in common the object of their common desires, and have applied this new science to the greatest number of purposes. Is this the result of accident, or is there in reality any necessary connection between the principle of association and that of equality?

Aristocratic communities always contain, amongst a multitude of persons who by themselves are powerless, a small number of powerful and wealthy citizens, each of whom can achieve great undertakings single-handed. In aristocratic societies, men do not need to combine in order to act, because they are strongly held together. Every wealthy and powerful citizen constitutes the head of a permanent and compulsory association, composed of all those who are dependent upon him, or whom he makes subservient to the execution of his designs.

Amongst democratic nations, on the contrary, all the citizens are independent and feeble; they can do hardly anything by themselves, and none of them can oblige his fellow men to lend him their assistance. They all, therefore, become powerless if they do not learn voluntarily to help each other. If men living in democratic countries had no right and no inclination to associate for political purposes, their independence would be in great jeopardy; but they might long preserve their wealth and their cultivation: whereas if they never acquired the habit of forming associations in ordinary life, civilization itself would be endangered. A people amongst whom individuals lost the power of achieving great things single-handed, without acquiring the means of producing them by united exertions, would soon relapse into barbarism.

Unhappily, the same social condition which renders associations so necessary to democratic nations renders their formation more difficult amongst those nations than among stall others. When several members of an aristocracy agree to combine, they easily succeed in doing so; as each of them brings great strength to the partnership, the number of its members may be very limited; and when the members of an association are limited

in number, they may easily become mutually acquainted, understand each other, and establish fixed regulations. The same opportunities do not occur amongst democratic nations, where the associated members must always be very numerous for their association to have any power.

I am aware that many of my countrymen are not in the least embarrassed by this difficulty. They contend that the more enfeebled and incompetent the citizens become, the more able and active the government ought to be rendered, in order that society at large may execute what individuals can no longer accomplish. They believe this answers the whole difficulty, but I think they are mistaken.

A government might perform the part of some of the largest American companies; and several states, members of the Union, have already attempted it; but what political power could ever carry on the vast multitude of lesser undertakings which the American citizens perform every day, with the assistance of the principle of association? It is easy to foresee that the time is drawing near when man will be less and less able to produce, by himself alone, the commonest necessities of life. The task of the governing power will therefore perpetually increase, and its very efforts will extend it every day. The more it stands in the place of associations, the more will individuals, losing the notion of combining together, require its assistance: these are causes and effects which unceasingly create each other. Will the administration of the country ultimately assume the management of all the manufactures which no single citizen is able to carry on? And if a time at length arrives when, in consequence of the extreme subdivision of landed property, the soil is split into an infinite number of parcels, so that it can be cultivated only by companies of husbandmen, will it be necessary that the head of the government should leave the helm of state to follow the plow? The morals and the intelligence of a democratic people would be as much endangered as its business and manufactures if the government ever wholly usurped the place of private companies.

Feelings and opinions are recruited, the heart is enlarged, and the human mind is developed only by the reciprocal influence of men upon one another. I have shown that these influences are almost null in democratic countries; they must therefore be artificially created, and this can only be accomplished by associations.

When the members of an aristocratic community adopt a new opinion or conceive a new sentiment, they give it a station, as it were, beside themselves,

upon the lofty platform where they stand; and opinions or sentiments so conspicuous to the eyes of the multitude are easily introduced into the minds or hearts of all around. In democratic countries, the governing power alone is naturally in a condition to act in this manner; but it is easy to see that its action is always inadequate, and often dangerous. A government can no more be competent to keep alive and to renew the circulation of opinions and feelings amongst a great people than to manage all the speculations of productive industry. No sooner does a government attempt to go beyond its political sphere and to enter upon this new track than it exercises, even unintentionally, an insupportable tyranny; for a government can only dictate strict rules, the opinions which it favors are rigidly enforced, and it is never easy to discriminate between its advice and its commands. Worse still will be the case if the government really believes itself interested in preventing all circulation of ideas; it will then stand motionless and oppressed by the heaviness of voluntary torpor. Governments, therefore, should not be the only active powers; associations ought, in democratic nations, to stand in lieu of those powerful private individuals whom the equality of conditions has swept away.

As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance; and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar, whose actions serve for an example and whose language is listened to. The first time I heard in the United States that a hundred thousand men had bound themselves publicly to abstain from spirituous liquors, it appeared to me more like a joke than a serious engagement; and I did not at once perceive why these temperate citizens could not content themselves with drinking water by their own firesides. I at last understood that these hundred thousand Americans, alarmed by the progress of drunkenness around them, had made up their minds to patronize temperance. They acted in just the same way as a man of high rank who should dress very plainly in order to inspire the humbler orders with a contempt of luxury. It is probable that if these hundred thousand men had lived in France, each of them would singly have memorialized the government to watch the public houses all over the kingdom.

Nothing, in my opinion, is more deserving of our attention than the intellectual and moral associations of America. The political and industrial associations of that country strike us forcibly; but the others elude our

observation, or if we discover them, we understand them imperfectly, because we have hardly ever seen anything of the kind. It must, however, be acknowledged that they are as necessary to the American people as the former, and perhaps more so. In democratic countries, the science of association is the mother of science; the progress of all the rest depends upon the progress it has made.

Amongst the laws that rule human societies, there is one which seems to be more precise and clear than all others. If men are to remain civilized or to become so, the art of associating together must grow and improve in the same ratio in which the equality of conditions is increased.

PART IV

RELIGION

Chapter 12

Alexis de Tocqueville: Religion in America

After the birth of a human being, his early years are obscurely spent in the toils or pleasures of childhood. As he grows up, the world receives him when his manhood begins, and he enters into contact with his fellows. He is then studied for the first time, and it is imagined that the germ of the vices and the virtues of his maturer years is then formed.

This, if I am not mistaken, is a great error. We must begin higher up; we must watch the infant in his mother's arms; we must see the first images which the external world casts upon the dark mirror of his mind, the first occurrences that he witnesses; we must hear the first words which awaken the sleeping powers of thought, and stand by his earliest efforts if we would understand the prejudices, the habits, and the passions which will rule his life. The entire man is, so to speak, to be seen in the cradle of the child.

The growth of nations presents something analogous to this; they all bear some marks of their origin. The circumstances which accompanied their birth and contributed to their development affect the whole term of their being.

If we were able to go back to the elements of states and to examine the oldest monuments of their history, I doubt not that we should discover in them the primal cause of the prejudices, the habits, the ruling passions, and, in short, all that constitutes what is called the national character. We should there find the explanation of certain customs which now seem at variance with the prevailing manners; of such laws as conflict with established principles; and of such incoherent opinions as are here and there to be met with in society, like those fragments of broken chains which we sometimes see hanging from the vaults of an old edifice, and supporting nothing. This might explain the destinies of certain nations which seem borne on by an unknown force to ends of which they themselves are ignorant. But hitherto facts have been lacking for such a study: the spirit of inquiry has only come upon communities in their latter days;

and when they at length contemplated their origin, time had already obscured it, or ignorance and pride had adorned it with truth-concealing fables.

America is the only country in which it has been possible to witness the natural and tranquil growth of society, and where the influence exercised on the future condition of states by their origin is clearly distinguishable.

At the period when the peoples of Europe landed in the New World, their national characteristics were already completely formed; each of them had a physiognomy of its own; and as they had already attained that stage of civilization at which men are led to study themselves, they have transmitted to us a faithful picture of their opinions, their manners, and their laws. The men of the sixteenth century are almost as well known to us as our contemporaries. America, consequently, exhibits in the broad light of day the phenomena which the ignorance or rudeness of earlier ages conceals from our researches. Near enough to the time when the states of America were founded to be accurately acquainted with their elements, and sufficiently removed from that period to judge some of the results, the men of our day seem destined to see further than their predecessors into the series of human events. Providence has given us a torch which our forefathers did not possess, and has allowed us to discern fundamental causes in the history of the world which the obscurity of the past concealed from them.

If we carefully examine the social and political state of America, after having studied its history, we shall remain perfectly convinced that not an opinion, not a custom, not a law, I may even say not an event, is upon record which the origin of that people will not explain. The readers of this book will find in the present chapter the germ of all that is to follow and the key to almost the whole work.

The emigrants who came at different periods to occupy the territory now covered by the American Union differed from each other in many respects; their aim was not the same, and they governed themselves on different principles.

These men had, however, certain features in common, and they were all placed in an analogous situation. The tie of language is, perhaps, the strongest and the most durable that can unite mankind. All the emigrants spoke the same language; they were all offsets from the same people. Born in a country which had been agitated for centuries by the struggles of faction, and in which all parties had been obliged in their turn to place themselves under the protection of the laws, their political education had been perfected in this rude school;

and they were more conversant with the notions of right and the principles of true freedom than the greater part of their European contemporaries. At the period of the first emigrations, the township system, that fruitful germ of free institutions, was deeply rooted in the habits of the English; and with it the doctrine of the sovereignty of the people had been introduced into the very bosom of the monarchy of the house of Tudor.

The religious quarrels which have agitated the Christian world were then rife. England had plunged into the new order of things with headlong vehemence. The character of its inhabitants, which had always been sedate and reflective, became argumentative and austere. General information had been increased by intellectual contests, and the mind had received in them a deeper cultivation. While religion was the topic of discussion, the morals of the people became more pure. All these national features are more or less discoverable in the physiognomy of those Englishmen who came to seek a new home on the opposite shores of the Atlantic.

Another remark, to which we shall hereafter have occasion to recur, is applicable not only to the English, but to the French, the Spaniards, and all the Europeans who successively established themselves in the New World. All these European colonies contained the elements, if not the development, of a complete democracy. Two causes led to this result. It may be said generally that on leaving the mother country, the emigrants had, in general, no notion of superiority one over another. The happy and the powerful do not go into exile, and there are no surer guarantees of equality among men than poverty and misfortune. It happened, however, on several occasions, that persons of rank were driven to America by political and religious quarrels. Laws were made to establish a gradation of ranks; but it was soon found that the soil of America was opposed to a territorial aristocracy. To bring that refractory land into cultivation, the constant and self-interested exertions of the owner himself were necessary; and when the ground was prepared, its produce was found to be insufficient to enrich a proprietor and a farmer at the same time. The land was then naturally broken up into small portions, which the proprietor cultivated for himself. Land is the basis of an aristocracy, which clings to the soil that supports it; for it is not by privileges alone, nor by birth, but by landed property handed down from generation to generation that an aristocracy is constituted. A nation may present immense fortunes and extreme wretchedness; but unless those fortunes are territorial, there is no true

aristocracy, but simply the class of the rich and that of the poor.

All the British colonies had, then, a great degree of family likeness at the epoch of their settlement. All of them, from their beginning, seemed destined to witness the growth not of the aristocratic liberty of their mother country, but of that freedom of the middle and lower orders of which the history of the world had as yet furnished no complete example.

In this general uniformity, however, several striking differences were discernable, which it is necessary to point out. Two branches may be distinguished in the great Anglo-American family, which have hitherto grown up without entirely commingling; the one in the South, the other in the North.

Virginia received the first English colony; the emigrants took possession of it in 1607. The idea that mines of gold and silver are the sources of national wealth was at that time singularly prevalent in Europe; a fatal delusion, which has done more to impoverish the European nations who adopted it, and has cost more lives in America than the united influence of war and bad laws. The men sent to Virginia were seekers of gold, adventurers without resources and without character, whose turbulent and restless spirit endangered the infant colony and rendered its progress uncertain. Artisans and agriculturists arrived afterwards; and although they were a more moral and orderly race of men, they were hardly in any respect above the level of the inferior classes in England. No lofty views, no spiritual conception, presided over the foundation of these new settlements. The colony was scarcely established when slavery was introduced; this was the capital fact which was to exercise an immense influence on the character, the laws, and the whole future of the South. Slavery, as I shall afterwards show, dishonors labor; it introduces idleness into society, and with idleness, ignorance and pride, luxury and distress. It enervates the powers of the mind and benumbs the activity of man. The influence of slavery, united to the English character, explains the manners and the social condition of the Southern states.

In the North, the same English character as the ground received totally different colors. Here I may be allowed to enter into some details.

In the English colonies of the North, more generally known as the states of New England, the two or three main ideas which now constitute the basis of the social theory of the United States were first combined. The principles of New England spread at first to the neighboring states; they then passed successively to the more distant ones; and at last, if I may so speak, they *interpenetrated* the whole confederation. They now extend their influence

beyond its limits, over the whole American world. The civilization of New England has been like a beacon lit upon a hill, which, after it has diffused its warmth immediately around it, also tinges the distant horizon with its glow.

The foundation of New England was a novel spectacle, and all the circumstances attending it were singular and original. Nearly all colonies have been first inhabited either by men without education and without resources, driven by their poverty and their misconduct from the land which gave them birth, or by speculators and adventurers greedy of gain. Some settlements cannot even boast so honorable an origin: St. Domingo was founded by buccaneers; and at the present day, the criminal courts of England supply the population of Australia.

The settlers who established themselves on the shores of New England all belonged to the more independent classes of their native country. Their union on the soil of America at once presented the singular phenomenon of a society containing neither lords nor common people, and we may almost say, neither rich nor poor. These men possessed, in proportion to their number, a greater mass of intelligence than is to be found in any European nation of our own time. All, perhaps without a single exception, had received a good education, and many of them were known in Europe for their talents and their acquirements. The other colonies had been founded by adventurers without families; the emigrants of New England brought with them the best elements of order and morality; they landed on the desert coast accompanied by their wives and children. But what especially distinguished them from all others was the aim of their undertaking. They had not been obliged by necessity to leave their country; the social position they abandoned was one to be regretted, and their means of subsistence were certain. Nor did they cross the Atlantic to improve their situation or to increase their wealth; it was a purely intellectual craving, which called them from the comforts of their former homes; and in facing the inevitable sufferings of exile, their object was the triumph of an idea.

The emigrants, or, as, they deservedly styled themselves, the Pilgrims, belonged to that English sect the austerity of whose principles had acquired for them the name of Puritans. Puritanism was not merely a religious doctrine, but corresponded in many points with the most absolute democratic and republican theories. It was this tendency which had aroused its most dangerous adversaries. Persecuted by the government of the mother country, and disgusted by the habits of a society which the rigor of their own principles

condemned, the Puritans went forth to seek some rude and unfrequented part of the world where they could live according to their own opinions and worship God in freedom.

A few quotations will throw more light upon the spirit of these pious adventurers than all that we can say of them. Nathaniel Morton, the historian of the first years of the settlement, thus opens his subject:

Gentle Reader, I have for some length of time looked upon it as a duty incumbent especially on the immediate successors of those that have had so large experience of those many memorable and signal demonstrations of God's goodness, *viz.* the first beginners of this Plantation in New England, to commit to writing his gracious dispensations on that behalf; having so many inducements thereunto, not only otherwise, but so plentifully in the Sacred Scriptures: that so, what we have seen, and what our fathers have told us (Psalm lxxviii. 3, 4), we may not hide from our children, showing to the generations to come the praises of the Lord; that especially the seed of Abraham his servant, and the children of Jacob his chosen (Psalm cv. 5, 6), may remember his marvelous works in the beginning and progress of the planting of New England, his wonders and the judgments of his mouth; how that God brought a vine into this wilderness; that he cast out the heathen, and planted it; that he made room for it and caused it to take deep root; and it filled the land (Psalm lxxx. 8, 9). And not only so, but also that he hath guided his people by his strength to his holy habitation, and planted them in the mountain of his inheritance in respect of precious Gospel enjoyments: and that as especially God may have the glory of all unto whom it is most due; so also some rays of glory may reach the names of those blessed Saints, that were the main instruments and the beginning of this happy enterprise. . . .

The author continues, and thus describes the departure of the first Pilgrims:

So they left that goodly and pleasant city of Leyden, which had been their resting place for above eleven years; but they knew that they were pilgrims and strangers here below, and looked not much on these things, but lifted up their eyes to heaven, their dearest country, where God hath prepared for them a city (Heb. xi. 16), and therein quieted their spirits. When they came to Delfs-Haven, they found the ship and all things ready; and such of their friends as could not come with them followed after them, and sundry came from Amsterdam to see them shipt, and to take their leaves of them. One night was spent with little sleep with

the most, but with friendly entertainment and Christian discourse, and other real expressions of true Christian love. The next day they went on board, and their friends with them, where truly doleful was the sight of that sad and mournful parting, to hear what sighs and sobs and prayers did sound amongst them; what tears did gush from every eye, and pithy speeches pierced each other's heart, that sundry of the Dutch strangers that stood on the key* as spectators could not refrain from tears. But the tide (which stays for no man) calling them away, that were thus loath to depart, their Reverend Pastor, falling down on his knees, and they all with him, with watery cheeks commended them with most fervent prayers unto the Lord and his blessing; and then with mutual embraces and many tears they took their leaves one of another, which proved to be the last leave to many of them.

The emigrants were about 150 in number, including the women and the children. Their object was to plant a colony on the shores of the Hudson; but after having been driven about for some time in the Atlantic Ocean, they were forced to land on the arid coast of New England, at the spot which is now the town of Plymouth. The rock is still shown on which the Pilgrims disembarked.

“But before we pass on,” continues our historian,

let the reader with me make a pause, and seriously consider this poor people's present condition, the more to be raised up to admiration of God's goodness towards them in their preservation: for being now passed the vast ocean, and a sea of troubles before them in expectation, they had now no friends to welcome them, no inns to entertain or refresh them, no houses, or much less towns, to repair unto to seek for succor: and for the season it was winter, and they that know the winters of the country know them to be sharp and violent, subject to cruel and fierce storms, dangerous to travel to known places, much more to search unknown coasts. Besides, what could they see but a hideous and desolate wilderness, full of wild beasts, and wild men? And what multitudes of them there were, they then knew not: for which way so ever they turned their eyes (save upward to Heaven) they could have but little solace or content in respect of any outward object; for summer being ended, all things stand in appearance with a weather-beaten face, and the whole country, full of woods and thickets, represented a wild and savage hew; if they looked behind them, there was the mighty ocean which they had passed, and was now as a main

* Or “quay,” similar to a wharf.

bar or gulf to separate them from all the civil parts of the world.

It must not be imagined that the piety of the Puritans was merely speculative, or that it took no cognizance of the course of worldly affairs. Puritanism, as I have already remarked, was scarcely less a political than a religious doctrine. No sooner had the immigrants landed on the barren coast described by Nathaniel Morton than it was their first care to constitute a society, by subscribing the following Act:

IN THE NAME OF GOD, AMEN. We, whose names are underwritten, the loyal subjects of our dread Sovereign Lord King James, &c. &c., Having undertaken for the glory of God, and advancement of the Christian faith, and the honor of our King and country, a voyage to plant the first colony in the northern parts of Virginia; Do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick, for our better ordering and preservation, and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the general good of the Colony: unto which we promise all due submission and obedience, . . .

This happened in 1620, and from that time forwards, the emigration went on. The religious and political passion which ravaged the British empire during the whole reign of Charles I drove fresh crowds of sectarians every year to the shores of America. In England the stronghold of Puritanism continued to be in the middle classes; and it was from the middle classes that most of the emigrants came. The population of New England increased rapidly; and while the hierarchy of rank despotically classed the inhabitants of the mother country, the colony approximated more and more the novel spectacle of a community homogeneous in all its parts. A democracy, more perfect than antiquity had dared to dream of, started in full size and panoply from the midst of an ancient feudal society.

The English government was not dissatisfied with a large emigration which removed the elements of fresh discord and further revolutions. On the contrary, it did everything to encourage it and seemed to have no anxiety about the destiny of those who sought a shelter on the soil of America from the rigor of their laws. It appeared as if New England was a region given up to

the dreams of fancy and the unrestrained experiments of innovators.

The English colonies (and this is one of the main causes of their prosperity) have always enjoyed more internal freedom and more political independence than the colonies of other nations; and this principle of liberty was nowhere more extensively applied than in the states of New England.

It was generally allowed at that period that the territories of the New World belonged to that European nation which had been the first to discover them. Nearly the whole coast of North America thus became a British possession towards the end of the sixteenth century. The means used by the English government to people these new domains were of several kinds: the king sometimes appointed a governor of his own choice, who ruled a portion of the New World in the name and under the immediate orders of the crown; this is the colonial system adopted by the other countries of Europe. Sometimes, grants of certain tracts were made by the crown to an individual or to a company, in which case all the civil and political power fell into the hands of one or more persons, who, under the inspection and control of the crown, sold the lands and governed the inhabitants. Lastly, a third system consisted in allowing a certain number of emigrants to form themselves into a political society under the protection of the mother country and to govern themselves in whatever was not contrary to her laws. This mode of colonization, so favorable to liberty, was adopted only in New England.

In 1628, a charter of this kind was granted by Charles I to the emigrants who went to form the colony of Massachusetts. But, in general, charters were not given to the colonies of New England till their existence had become an established fact. Plymouth, Providence, New Haven, Connecticut, and Rhode Island were founded without the help, and almost without the knowledge, of the mother country. The new settlers did not derive their powers from the head of the empire, although they did not deny its supremacy; they constituted themselves into a society, and it was not till thirty or forty years afterwards, under Charles II, that their existence was legally recognized by a royal charter.

This frequently renders it difficult, in studying the earliest historical and legislative records of New England, to detect the link that connected the emigrants with the land of their forefathers. They continually exercised the rights of sovereignty; they named their magistrates, concluded peace or declared war, made police regulations, and enacted laws as if their allegiance was due only to God. Nothing can be more curious and at the same time more

instructive than the legislation of that period; it is there that the solution of the great social problem which the United States now present to the world is to be found.

Amongst these documents we shall notice as especially characteristic the code of laws promulgated by the little state of Connecticut in 1650.

The legislators of Connecticut begin with the penal laws, and, strange to say, they borrow their provisions from the text of Holy Writ.

“Whosoever shall worship any other God than the Lord,” says the preamble of the Code, “shall surely be put to death.” This is followed by ten or twelve enactments of the same kind, copied verbatim from the books of Exodus, Leviticus, and Deuteronomy. Blasphemy, sorcery, adultery, and rape were punished with death; an outrage offered by a son to his parents was to be expiated by the same penalty. The legislation of a rude and half-civilized people was thus applied to an enlightened and moral community. The consequence was that the punishment of death was never more frequently prescribed by statute, and never more rarely enforced.

The chief care of the legislators in this body of penal laws was the maintenance of orderly conduct and good morals in the community; thus they constantly invaded the domain of conscience, and there was scarcely a sin which was not subject to magisterial censure. The reader is aware of the rigor with which these laws punished rape and adultery; intercourse between unmarried persons was likewise severely repressed. The judge was empowered to inflict either a pecuniary penalty, a whipping, or marriage on the misdemeanants, and if the records of the old courts of New Haven may be believed, prosecutions of this kind were not infrequent. We find a sentence, bearing the date of May 1, 1660, inflicting a fine and reprimand on a young woman who was accused of using improper language and of allowing herself to be kissed. The Code of 1650 abounds in preventive measures. It punishes idleness and drunkenness with severity. Innkeepers were forbidden to furnish more than a certain quantity of liquor to each consumer; and simple lying, whenever it may be injurious, is checked by a fine or a flogging. In other places, the legislator, entirely forgetting the great principles of religious toleration which he had himself demanded in Europe, makes attendance on divine service compulsory, and goes so far as to visit with severe punishment, and even with death, Christians who chose to worship God according to a ritual differing from his own. Sometimes, indeed, the zeal for regulation induces

him to descend to the most frivolous particulars: thus a law is to be found in the same Code which prohibits the use of tobacco. It must not be forgotten that these fantastic and vexatious laws were not imposed by authority, but that they were freely voted by all the persons interested in them, and that the manners of the community were even more austere and puritanical than the laws. In 1649, a solemn association was formed in Boston to check the worldly luxury of long hair.

These errors are no doubt discreditable to human reason; they attest the inferiority of our nature, which is incapable of laying firm hold upon what is true and just and is often reduced to the alternative of two excesses. In strict connection with this penal legislation, which bears such striking marks of a narrow, sectarian spirit, and of those religious passions which had been warmed by persecution and were still fermenting among the people, a body of political laws is to be found which, though written two hundred years ago, is still in advance of the liberties of our age.

The general principles which are the groundwork of modern constitutions—principles which, in the seventeenth century, were imperfectly known in Europe, and not completely triumphant even in Great Britain—were all recognized and established by the laws of New England: the intervention of the people in public affairs, the free voting of taxes, the responsibility of the agents of power, personal liberty, and trial by jury were all positively established without discussion.

These fruitful principles were there applied and developed to an extent such as no nation in Europe has yet ventured to attempt.

In Connecticut, the electoral body consisted, from its origin, of the whole number of citizens; and this is readily to be understood when we recollect that in this young community there was an almost perfect equality of fortune, and a still greater uniformity of opinions. In Connecticut at this period, all the executive officials were elected, including the governor of the state. The citizens above the age of sixteen were obliged to bear arms; they formed a national militia, which appointed its own officers, and was to hold itself at all times in readiness to march for the defense of the country.

In the laws of Connecticut, as well as in all those of New England, we find the germ and gradual development of that township independence, which is the life and mainspring of American liberty at the present day. The political existence of the majority of the nations of Europe commenced in the superior

ranks of society and was gradually and imperfectly communicated to the different members of the social body. In America, on the contrary, it may be said that the township was organized before the county, the county before the state, the state before the Union.

In New England, townships were completely and definitely constituted as early as 1650. The independence of the township was the nucleus round which the local interests, passions, rights, and duties collected and clung. It gave scope to the activity of a real political life, thoroughly democratic and republican. The colonies still recognized the supremacy of the mother country; monarchy was still the law of the state; but the republic was already established in every township.

The towns named their own magistrates of every kind, rated themselves, and levied their own taxes. In the New England town, the law of representation was not adopted; but the affairs of the community were discussed, as at Athens, in the marketplace, by a general assembly of the citizens.

In studying the laws which were promulgated at this early era of the American republics, it is impossible not to be struck by the remarkable acquaintance with the science of government and the advanced of legislation which they display. The ideas there formed of the duties of society towards its members are evidently much loftier and more comprehensive than those of European legislators at that time; obligations were there imposed upon it which it elsewhere slighted. In the states of New England, from the first, the condition of the poor was provided for; strict measures were taken for the maintenance of roads, and surveyors were appointed to attend to them; records were established in every town, in which the results of public deliberations and the births, deaths, and marriages of the citizens were entered; clerks were directed to keep these records; officers were charged with the administration of vacant inheritances, and with the arbitration of litigated landmarks; and many others were created whose chief functions were the maintenance of public order in the community. The law enters into a thousand various details to anticipate and satisfy a crowd of social wants that are even now very inadequately felt in France.

But it is by the mandates relating to public education that the original character of American civilization is at once placed in the clearest light. "It being," says the law, "one chief project of that old deluder, Satan, to keep men from the knowledge of the Scripture by persuading them from the use of tongues, to the

end that learning may not be buried in the graves of our forefathers, in church and commonwealth, the Lord assisting our endeavors.” Here follow clauses establishing schools in every township and obliging the inhabitants, under pain of heavy fines, to support them. Schools of a superior kind were founded in the same manner in the more populous districts. The municipal authorities were bound to enforce the sending of children to school by their parents; they were empowered to inflict fines upon all who refused compliance; and in cases of continued resistance, society assumed the place of the parent, took possession of the child, and deprived the father of those natural rights which he used to so bad a purpose. The reader will undoubtedly have remarked the preamble of these enactments: in America, religion is the road to knowledge, and the observance of the divine laws leads man to civil freedom.

If, after having cast a rapid glance over the state of American society in 1650, we turn to the condition of Europe, and more especially to that of the Continent, at the same period, we cannot fail to be struck with astonishment. On the continent of Europe, at the beginning of the seventeenth century, absolute monarchy had everywhere triumphed over the ruins of the oligarchical and feudal liberties of the Middle Ages. Never perhaps were the ideas of right more completely overlooked than in the midst of the splendor and literature of Europe; never was there less political activity among the people; never were the principles of true freedom less widely circulated; and at that very time, those principles, which were scorned or unknown by the nations of Europe, were proclaimed in the deserts of the New World and were accepted as the future creed of a great people. The boldest theories of the human mind were reduced to practice by a community so humble that not a statesman condescended to attend to it; and a system of legislation without a precedent was produced offhand by the natural originality of men’s imaginations. In the bosom of this obscure democracy, which had as yet brought forth neither generals, nor philosophers, nor authors, a man might stand up in the face of a free people, and pronounce with general applause the following fine definition of liberty:

Concerning liberty, I observe a great mistake in the country about that. There is a twofold liberty, natural (I mean as our nature is now corrupt) and civil or federal. The first is common to man with beasts and other creatures. By this, man, as he stands in relation to man simply, has liberty to do what he lists; it is a liberty to evil as well as to good. This liberty is incompatible and inconsistent with authority, and cannot endure the least restraint of the most just authority. The exercise and maintaining

of this liberty makes men grow more evil, and in time to be worse than brute beasts: *omnes sumus licentiâ deteriores*.^{*} This is that great enemy of truth and peace, that wild beast, which all the ordinances of God are bent against, to restrain and subdue it. The other kind of liberty I call civil or federal; it may also be termed moral, in reference to the covenant between God and man, in the moral law, and the politic covenants and constitutions, amongst men themselves. This liberty is the proper end and object of authority, and cannot subsist without it; and it is a liberty to that only which is good, just, and honest. This liberty you are to stand for, with the hazard not only of your goods, but of your lives, if need be. Whatsoever crosseth this, is not authority, but a distemper thereof. This liberty is maintained and exercised in a way of subjection to authority; it is of the same kind of liberty where with Christ hath made us free.

I have said enough to put the character of Anglo-American civilization in its true light. It is the result (and this should be constantly kept in mind) of two distinct elements, which in other places have been in frequent hostility, but which in America have been admirably incorporated and combine with one another. I allude to the *spirit of religion* and the *spirit of liberty*.

The settlers of New England were at the same time ardent sectarians and daring innovators. Narrow as the limits of some of their religious opinions were, they were free from all political prejudices.

Hence arose two tendencies, distinct but not opposite, which are everywhere discernible in the manners as well as the laws of the country.

One would think that men who had sacrificed their friends, their family, and their native land to a religious conviction would be wholly absorbed in the pursuit of the treasure which they had just purchased at so high a price. And yet we find them seeking with nearly equal zeal for material wealth and moral good—for well-being and freedom on earth, and salvation in heaven. They molded and altered at pleasure all political principles, and all human laws and institutions; they broke down the barriers of the society in which they were born; they disregarded the old principles which had governed the world for ages; a career without bounds, a field without a horizons, was opened before them; they precipitate themselves into it, and traverse it in every direction. But having reached the limits of the political world, they stop of their own accord, and lay aside with awe the use of their most formidable faculties; they

^{*} "Too much freedom debases us."

no longer doubt or innovate; they abstain from raising even the veil of the sanctuary and bow with submissive respect before truths which they admit without discussion.

Thus, in the moral world, everything is classified, systematized, foreseen, and decided beforehand; in the political world, everything is agitated, disputed, and uncertain. In the one is a passive though a voluntary obedience; in the other, an independence scornful of experience, and jealous of all authority. These two tendencies, apparently so discrepant, are far from conflicting; they advance together and mutually support each other.

Religion perceives that civil liberty affords a noble exercise to the faculties of man and that the political world is a field prepared by the Creator for the efforts of mind. Free and powerful in its own sphere, satisfied with the place reserved for it, religion never more surely establishes its empire than when it reigns in the hearts of men unsupported by aught beside its native strength.

Liberty regards religion as its companion in all its battles and its triumphs, as the cradle of its infancy and the divine source of its claims. It considers religion as the safeguard of morality, and morality as the best security of law and the surest pledge of the duration of freedom.

Indirect Influence of Religious Opinions Upon Political Society in the United States*

I have just shown what the direct influence of religion upon politics is in the United States; but its indirect influence appears to me to be still more considerable, and it never instructs the Americans more fully in the art of being free than when it says nothing of freedom.

The sects that exist in the United States are innumerable. They all differ in respect to the worship which is due to the Creator; but they all agree in respect to the duties which are due from man to man. Each sect adores the Deity in its own peculiar manner, but all sects preach the same moral law in the name of God. If it be of the highest importance to man, as an individual, that his religion should be true, it is not so to society. Society has no future life to hope for or to fear; and provided the citizens profess a religion, the peculiar tenets of that religion are of little importance to its interests. Moreover, all the sects

* Alexis de Tocqueville, *Democracy in America, Part I*, trans. Henry Revue (New York: The Colonial Press, 1899), chap. 17, without the footnotes.

of the United States are comprised within the great unity of Christianity, and Christian morality is everywhere the same.

It may fairly be believed that a certain number of Americans pursue a peculiar form of worship from habit more than from conviction. In the United States, the sovereign authority is religious, and consequently hypocrisy must be common; but there is no country in the world where the Christian religion retains a greater influence over the souls of men than in America; and there can be no greater proof of its utility and of its conformity to human nature than that its influence is powerfully felt over the most enlightened and free nation of the earth.

I have remarked that the American clergy in general, without even excepting those who do not admit religious liberty, are all in favor of civil freedom; but they do not support any particular political system. They keep aloof from parties and from public affairs. In the United States, religion exercises but little influence upon the laws and upon the details of public opinion; but it directs the customs of the community, and, by regulating domestic life, it regulates the state.

I do not question that the great austerity of manners that is observable in the United States arises, in the first instance, from religious faith. Religion is often unable to restrain man from the numberless temptations which chance offers; nor can it check that passion for gain which everything contributes to arouse; but its influence over the mind of woman is supreme, and women are the protectors of morals. There is certainly no country in the world where the tie of marriage is more respected than in America or where conjugal happiness is more highly or worthily appreciated. In Europe, almost all the disturbances of society arise from the irregularities of domestic life. To despise the natural bonds and legitimate pleasures of home is to contract a taste for excesses, a restlessness of heart, and fluctuating desires. Agitated by the tumultuous passions which frequently disturb his dwelling, the European is galled by the obedience which the legislative powers of the state exact. But when the American retires from the turmoil of public life to the bosom of his family, he finds in it the image of order and of peace. There his pleasures are simple and natural, his joys are innocent and calm; and as he finds that an orderly life is the surest path to happiness, he accustoms himself easily to moderate his opinions as well as his tastes. While the European endeavors to forget his domestic troubles by agitating society, the American derives from his own

home that love of order which he afterwards carries with him into public affairs.

In the United States, the influence of religion is not confined to the manners, but it extends to the intelligence, of the people. Amongst the Anglo-Americans, some profess the doctrines of Christianity from a sincere belief in them, and others do the same because they fear to be suspected of unbelief. Christianity, therefore, reigns without obstacle, by universal consent; the consequence is, as I have before observed, that every principle of the moral world is fixed and determinate, although the political world is abandoned to the debates and the experiments of men. Thus the human mind is never left to wander over a boundless field; and whatever may be its pretensions, it is checked from time to time by barriers which it cannot surmount. Before it can innovate, certain primary principles are laid down, and the boldest conceptions are subjected to certain forms which retard and stop their completion.

The imagination of the Americans, even in its greatest flights, is circumspect and undecided; its impulses are checked and its works unfinished. These habits of restraint recur in political society and are singularly favorable both to the tranquility of the people and to the durability of the institutions they have established. Nature and circumstances have made the inhabitants of the United States bold, as is sufficiently attested by the enterprising spirit with which they seek for fortune. If the mind of the Americans were free from all hindrances, they would shortly become the most daring innovators and the most persistent disputants in the world. But the revolutionists of America are obliged to profess an ostensible respect for Christian morality and equity, which does not permit them to violate wantonly the laws that oppose their designs; nor would they find it easy to surmount the scruples of their partisans, even if they were able to get over their own. Hitherto, no one in the United States has dared to advance the maxim that everything is permissible for the interests of society—an impious adage, which seems to have been invented in an age of freedom to shelter all future tyrants. Thus, while the law permits the Americans to do what they please, religion prevents them from conceiving, and forbids them to commit, what is rash or unjust.

Religion in America takes no direct part in the government of society, but it must be regarded as the first of their political institutions; for if it does not impart a taste for freedom, it facilitates the use of it. Indeed, it is in this same point of view that the inhabitants of the United States themselves look upon religious belief. I do not know whether all Americans have a sincere faith in

their religion—for who can search the human heart?—but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This opinion is not peculiar to a class of citizens or to a party, but it belongs to the whole nation and to every rank of society.

In the United States, if a politician attacks a sect, this may not prevent the partisans of that very sect from supporting him; but if he attacks all the sects together, everyone abandons him, and he remains alone.

While I was in America, a witness who happened to be called at the Sessions of the county of Chester (state of New York) declared that he did not believe in the existence of God or in the immortality of the soul. The judge refused to admit his evidence, on the ground that the witness had destroyed beforehand all the confidence of the court in what he was about to say. The newspapers related the fact without any further comment.

The Americans combine the notions of Christianity and of liberty so intimately in their minds that it is impossible to make them conceive the one without the other; and with them, this conviction does not spring from that barren, traditionary faith which seems to vegetate rather than to live in the soul.

I have known of societies formed by Americans to send out ministers of the Gospel into the new Western states, to found schools and churches there, lest religion should be suffered to die away in those remote settlements, and the rising states be less fitted to enjoy free institutions than the people from whom they came. I met with wealthy New Englanders who abandoned the country in which they were born in order to lay the foundations of Christianity and of freedom on the banks of the Missouri or in the prairies of Illinois. Thus, religious zeal is perpetually warmed in the United States by the fire of patriotism. These men do not act exclusively from a consideration of a future life; eternity is only one motive of their devotion to the cause. If you converse with these missionaries of Christian civilization, you will be surprised to hear them speak so often of the goods of this world, and to meet a politician where you expected to find a priest. They will tell you that “all the American republics are collectively involved with each other; if the republics of the West were to fall into anarchy, or to be mastered by a despot, the republican institutions which now flourish upon the shores of the Atlantic Ocean would be in great peril. It is therefore our interest that the new states should be religious, in order that they may permit us to remain free.”

Such are the opinions of the Americans; and if any hold that the religious

spirit which I admire is the very thing most amiss in America, and that the only element wanting to the freedom and happiness of the human race on the other side of the ocean is to believe with Spinoza in the eternity of the world, or with Cabanis* that thought is secreted by the brain, I can only reply that those who hold this language have never been in America, and that they have never seen a religious or a free nation. When they return from a visit to that country, we shall hear what they have to say.

There are persons in France who look upon republican institutions only as a means of obtaining grandeur; they measure the immense space which separates their vices and misery from power and riches, and they aim to fill up this gulf with ruins, that they may pass over it. These men are the *condottieri*** of liberty, and fight for their own advantage, whatever the colors they wear. The republic will stand long enough, they think, to draw them up out of their present degradation. It is not to these that I address myself. But there are others who look forward to a republican form of government as a tranquil and lasting state, towards which modern society is daily impelled by the ideas and manners of the time, and who sincerely desire to prepare men to be free. When these men attack religious opinions, they obey the dictates of their passions and not of their interests. Despotism may govern without faith, but liberty cannot. Religion is much more necessary in the republic which they set forth in glowing colors than in the monarchy which they attack; it is more needed in democratic republics than in any others. How is it possible that society should escape destruction if the moral tie is not strengthened in proportion as the political tie is relaxed? And what can be done with a people who are their own masters if they are not submissive to the Deity?

Principal Causes Which Render Religion Powerful in America

The philosophers of the eighteenth century explained in a very simple manner the gradual decay of religious faith. Religious zeal, said they, must necessarily fail the more generally liberty is established and knowledge diffused. Unfortunately, the facts by no means accord with their theory. There are certain populations in Europe whose unbelief is only equaled by their ignorance and debasement; while in America, one of the freest and most enlightened nations in the world, the people fulfill with fervor all the

* Baruch Pinoza, religious philosopher, and Pierre Jean George Cabanis, materialist philosopher.

** Captains of Italian mercenary armies.

outward duties of religion.

On my arrival in the United States, the religious aspect of the country was the first thing that struck my attention; and the longer I stayed there, the more I perceived the great political consequences resulting from this new state of things. In France, I had almost always seen the spirit of religion and the spirit of freedom marching in opposite directions. But in America, I found they were intimately united and that they reigned in common over the same country. My desire to discover the causes of this phenomenon increased from day to day. In order to satisfy it, I questioned the members of all the different sects; I sought especially the society of the clergy, who are the depositaries of the different creeds and are especially interested in their duration. As a member of the Roman Catholic Church, I was more particularly brought into contact with several of its priests, with whom I became intimately acquainted. To each of these men I expressed my astonishment and explained my doubts: I found that they differed upon matters of detail alone, and that they all attributed the peaceful dominion of religion in their country mainly to the separation of church and state. I do not hesitate to affirm that during my stay in America, I did not meet a single individual, of the clergy or the laity, who was not of the same opinion on this point.

This led me to examine more attentively than I had hitherto done the station which the American clergy occupy in political society. I learned with surprise that they filled no public appointments; I did not see one of them in the administration, and they are not even represented in the legislative assemblies. In several states, the law excludes them from political life; public opinion excludes them in all. And when I came to inquire into the prevailing spirit of the clergy, I found that most of its members seemed to retire of their own accord from the exercise of power, and that they made it the pride of their profession to abstain from politics.

I heard them inveigh against ambition and deceit, under whatever political opinions these vices might chance to lurk; but I learned from their discourses that men are not guilty in the eye of God for any opinions concerning political government which they may profess with sincerity, any more than they are for their mistakes in building a house or in driving a furrow. I perceived that these ministers of the Gospel eschewed all parties, with the anxiety attendant upon personal interest. These facts convinced me that what I had been told was true; and it then became my object to investigate their causes and to inquire

how it happened that the real authority of religion was increased by a state of things which diminished its apparent force. These causes did not long escape my researches.

The short space of threescore years can never content the imagination of man; nor can the imperfect joys of this world satisfy his heart. Man alone, of all created beings, displays a natural contempt of existence, and yet a boundless desire to exist; he scorns life, but he dreads annihilation. These different feelings incessantly urge his soul to the contemplation of a future state, and religion directs his musings thither. Religion, then, is simply another form of hope; and it is no less natural to the human heart than hope itself. Men cannot abandon their religious faith without a kind of aberration of intellect and a sort of violent distortion of their true nature; they are invincibly brought back to more pious sentiments. Unbelief is an accident, and faith is the only permanent state of mankind. If we consider religious institutions merely in a human point of view, they may be said to derive an inexhaustible element of strength from man himself, since they belong to one of the constituent principles of human nature.

I am aware that, at certain times, religion may strengthen this influence, which originates in itself, by the artificial power of the laws and by the support of those temporal institutions which direct society. Religions intimately united with the governments of the earth have been known to exercise sovereign power founded on terror and faith; but when a religion contracts an alliance of this nature, I do not hesitate to affirm that it commits the same error as a man who should sacrifice his future to his present welfare; and in obtaining a power to which it has no claim, it risks that authority which is rightfully its own. When a religion founds its empire only upon the desire of immortality that lives in every human heart, it may aspire to universal dominion; but when it connects itself with a government, it must adopt maxims which are applicable only to certain nations. Thus, in forming an alliance with a political power, religion augments its authority over a few and forfeits the hope of reigning over all.

As long as a religion rests only upon those sentiments which are the consolation of all affliction, it may attract the affections of all mankind. But if it be mixed up with the bitter passions of the world, it may be constrained to defend allies whom its interests, and not the principle of love, have given to it; or to repel as antagonists men who are still attached to it, however opposed they may be to the powers with which it is allied. The church cannot share

the temporal power of the state without being the object of a portion of that animosity which the latter excites.

The political powers which seem to be most firmly established have frequently no better guarantee for their duration than the opinions of a generation, the interests of the time, or the life of an individual. A law may modify the social condition which seems to be most fixed and determinate; and with the social condition, everything else must change. The powers of society are more or less fugitive, like the years that we spend upon earth; they succeed each other with rapidity, like the fleeting cares of life; and no government has ever yet been founded upon an invariable disposition of the human heart or upon an imperishable interest.

As long as a religion is sustained by those feelings, propensities, and passions which are found to occur under the same forms at all periods of history, it may defy the efforts of time; or at least it can be destroyed only by another religion. But when religion clings to the interests of the world, it becomes almost as fragile a thing as the powers of earth. It is the only one of them all which can hope for immortality; but if it be connected with their ephemeral power, it shares their fortunes and may fall with those transient passions which alone supported them. The alliance which religion contracts with political powers must needs be onerous to itself, since it does not require their assistance to live, and by giving them its assistance it may be exposed to decay.

The danger which I have just pointed out always exists, but it is not always equally visible. In some ages, governments seem to be imperishable; in others, the existence of society appears to be more precarious than the life of man. Some constitutions plunge the citizens into a lethargic somnolence, and others rouse them to feverish excitement. When governments seem so strong and laws so stable, men do not perceive the dangers that may accrue from a union of church and state. When governments appear weak and laws inconstant, the danger is self-evident, but it is no longer possible to avoid it. We must therefore learn how to perceive it from afar.

In proportion, as a nation assumes a democratic condition of society and as communities display democratic propensities, it becomes more and more dangerous to connect religion with political institutions; for the time is coming when authority will be bandied from hand to hand, when political theories will succeed one another, and when men, laws, and constitutions will disappear or be modified from day to day, and this not for a season only, but

unceasingly. Agitation and mutability are inherent in the nature of democratic republics, just as stagnation and sleepiness are the law of absolute monarchies.

If the Americans, who change the head of the government once in four years, who elect new legislators every two years, and renew the state officers every twelve months; if the Americans, who have given up the political world to the attempts of innovators, had not placed religion beyond their reach, where could it take firm hold in the ebb and flow of human opinions? Where would be that respect which belongs to it, amidst the struggles of faction? And what would become of its immortality, in the midst of universal decay? The American clergy were the first to perceive this truth and to act in conformity with it. They saw that they must renounce their religious influence if they were to strive for political power; and they chose to give up the support of the state rather than to share its vicissitudes.

In America, religion is perhaps less powerful than it has been at certain periods and among certain nations; but its influence is more lasting. It restricts itself to its own resources, but of these none can deprive it; its circle is limited, but it pervades it and holds it under undisputed control.

On every side in Europe, we hear voices complaining of the absence of religious faith and inquiring the means of restoring to religion some remnant of its former authority. It seems to me that we must first attentively consider what ought to be *the natural state* of men with regard to religion at the present time; and when we know what we have to hope and to fear, we may discern the end to which our efforts ought to be directed.

The two great dangers which threaten the existence of religion are schism and indifference. In ages of fervent devotion, men sometimes abandon their religion, but they only shake one off in order to adopt another. Their faith changes its objects, but suffers no decline. The old religion then excites enthusiastic attachment or bitter enmity in either party; some leave it with anger, others cling to it with increased devotedness, and although persuasions differ, irreligion is unknown. Such, however, is not the case when a religious belief is secretly undermined by doctrines which may be termed negative, since they deny the truth of one religion without affirming that of any other. Prodigious revolutions then take place in the human mind, without the apparent cooperation of the passions of man, and almost without his knowledge. Men lose the objects of their fondest hopes, as if through forgetfulness. They are carried away by an imperceptible current, which they have not the courage to

stem, but which they follow with regret, since it bears them away from a faith they love to a skepticism that plunges them into despair.

In ages which answer to this description, men desert their religious opinions from lukewarmness rather than from dislike; they are not rejected, but they fall away. But if the unbeliever does not admit religion to be true, he still considers it useful. Regarding religious institutions in a human point of view, he acknowledges their influence upon manners and legislation. He admits that they may serve to make men live in peace and prepare them gently for the hour of death. He regrets the faith which he has lost; and as he is deprived of a treasure of which he knows the value, he fears to take it away from those who still possess it.

On the other hand, those who continue to believe are not afraid openly to avow their faith. They look upon those who do not share their persuasion as more worthy of pity than of opposition; and they are aware that to acquire the esteem of the unbelieving, they are not obliged to follow their example. They are not hostile, then, to anyone in the world; and as they do not consider the society in which they live as an arena in which religion is bound to face its thousand deadly foes, they love their contemporaries while they condemn their weaknesses and lament their errors.

As those who do not believe conceal their incredulity, and as those who believe display their faith, public opinion pronounces itself in favor of religion: love, support, and honor are bestowed upon it, and it is only by searching the human soul that we can detect the wounds which it has received. The mass of mankind, who are never without the feeling of religion, do not perceive anything at variance with the established faith. The instinctive desire of a future life brings the crowd about the altar and opens the hearts of men to the precepts and consolations of religion.

But this picture is not applicable to us, for there are men amongst us who have ceased to believe in Christianity, without adopting any other religion; others who are in the perplexities of doubt and who already affect not to believe; and others, again, who are afraid to avow that Christian faith which they still cherish in secret.

Amid these lukewarm partisans and ardent antagonists, a small number of believers exists who are ready to brave all obstacles and to scorn all dangers in defense of their faith. They have done violence to human weakness in order to rise superior to public opinion. Excited by the effort they have made, they

scarcely know where to stop; and as they know that the first use which the French made of independence was to attack religion, they look upon their contemporaries with dread, and recoil in alarm from the liberty which their fellow citizens are seeking to obtain. As unbelief appears to them to be a novelty, they comprise all that is new in one indiscriminate animosity. They are at war with their age and country, and they look upon every opinion that is put forth there as the necessary enemy of faith.

Such is not the natural state of men with regard to religion at the present day; and some extraordinary or incidental cause must be at work in France to prevent the human mind from following its original propensities and to drive it beyond the limits at which it ought naturally to stop.

I am intimately convinced that this extraordinary and incidental cause is the close connection of politics and religion. The unbelievers of Europe attack the Christians as their political opponents rather than as their religious adversaries; they hate the Christian religion as the opinion of a party much more than as an error of belief; and they reject the clergy less because they are the representatives of the Deity than because they are the allies of authority.

In Europe, Christianity has been intimately united to the powers of the earth. Those powers are now in decay, and it is, as it were, buried under their ruins. The living body of religion has been bound down to the dead corpse of superannuated polity; cut but the bonds which restrain it, and it will rise once more. I do not know what could restore the Christian church of Europe to the energy of its earlier days; that power belongs to God alone; but it may be for human policy to leave to faith the full exercise of the strength which it still retains.

PART V

SELF-RELIANCE AND CHARACTER

Chapter 13

J. Hector St. John Crevecoeur: What Is an American?

J. Hector St. John Crevecoeur (1753–1813) was a Frenchman who immigrated to the United States, and became a farmer and author.

I wish I could be acquainted with the feelings and thoughts which must agitate the heart and present themselves to the mind of an enlightened Englishman, when he first lands on this continent. He must greatly rejoice that he lived at a time to see this fair country discovered and settled; he must necessarily feel a share of national pride when he views the chain of settlements which embellishes these extended shores.

When he says to himself, this is the work of my countrymen, who, when convulsed by factions, afflicted by a variety of miseries and wants, restless and impatient, took refuge here. They brought along with them their national genius, to which they principally owe what liberty they enjoy, and what substance they possess. Here he sees the industry of his native country displayed in a new manner, and traces in their works the embryos of all the arts, sciences, and ingenuity which flourish in Europe. Here he beholds fair cities, substantial villages, extensive fields, an immense country filled with decent houses, good roads, orchards, meadows, and bridges, where a hundred years ago all was wild, woody and uncultivated!

What a train of pleasing ideas this fair spectacle must suggest; it is a prospect which must inspire a good citizen with the most heartfelt pleasure. The difficulty consists in the manner of viewing so extensive a scene. He is arrived on a new continent; a modern society offers itself to his contemplation, different from what he had hitherto seen. It is not composed, as in Europe, of great lords who possess every thing and of a herd of people who have nothing. Here are no aristocratical families, no courts, no kings, no bishops, no ecclesiastical dominion, no invisible power giving to a few a very visible one; no great manufacturers employing thousands, no great refinements of luxury. The

rich and the poor are not so far removed from each other as they are in Europe.

Some few towns excepted, we are all tillers of the earth, from Nova Scotia to West Florida. We are a people of cultivators, scattered over an immense territory, communicating with each other by means of good roads and navigable rivers, united by the silken bands of mild government, all respecting the laws, without dreading their power, because they are equitable. We are all animated with the spirit of an industry which is unfettered and unrestrained, because each person works for himself. If he travels through our rural districts, he views not the hostile castle and the haughty mansion contrasted with the clay-built hut and miserable cabin, where cattle and men help to keep each other warm, and dwell in meanness, smoke, and indigence.

A pleasing uniformity of decent competence appears throughout our habitations. The meanest of our log houses is a dry and comfortable habitation. Lawyer or merchant are the fairest titles our towns afford; that of a farmer is the only appellation of the rural inhabitants of our country. It must take some time ere he can reconcile himself to our dictionary, which is but short in words of dignity and names of honor. There, on a Sunday, he sees a congregation of respectable farmers and their wives, all clad in neat homespun, well mounted, or riding in their own humble wagons. There is not among them an esquire, saving the unlettered magistrate. There he sees a parson as simple as his flock, a farmer who does not riot on the labor of others. We have no princes for whom we toil, starve, and bleed: we are the most perfect society now existing in the world.

Here, man is free as he ought to be; nor is this pleasing equality so transitory as many others are. Many ages will not see the shores of our great lakes replenished with inland nations, nor the unknown bounds of North America entirely peopled. Who can tell how far it extends? Who can tell the millions of men whom it will feed and contain? For no European foot has as yet travelled half the extent of this mighty continent!

The next wish of this traveler will be to know whence came all these people. They are mixture of English, Scotch, Irish, French, Dutch, Germans, and Swedes. From this promiscuous breed, that race now called Americans have arisen. The eastern provinces must indeed be excepted, as being the unmixed descendants of Englishmen. I have heard many wish that they had been more intermixed also: for my part, I am no wisher, and think it much better as it has happened. They exhibit a most conspicuous figure in this great and variegated

picture; they, too, enter for a great share in the pleasing perspective displayed in these thirteen provinces.

I know it is fashionable to reflect on them, but I respect them for what they have done; for the accuracy and wisdom with which they have settled their territory; for the decency of their manners; for their early love of letters; their ancient college, the first in this hemisphere; for their industry; which to me who am but a farmer, is the criterion of everything. There never was a people, situated as they are, who with so ungrateful a soil have done more in so short a time. Do you think that the monarchical ingredients which are more prevalent in other governments have purged them from all foul stains? Their histories assert the contrary.

In this great American asylum, the poor of Europe have by some means met together, and in consequence of various causes; to what purpose should they ask one another what countrymen they are? Alas, two-thirds of them had no country. Can a wretch who wanders about, who works and starves, whose life is a continual scene of sore affliction or pinching penury; can that man call England or any other kingdom his country? A country that had no bread for him, whose fields procured him no harvest, who met with nothing but the frowns of the rich, the severity of the laws, with jails and punishments; who owned not a single foot of the extensive surface of this planet? No!

Urged by a variety of motives, here they came. Every thing has tended to regenerate them; new laws, a new mode of living, a new social system; here they are become men: in Europe, they were as so many useless plants, wanting vegetative mould and refreshing showers; they withered, and were mowed down by want, hunger, and war; but now by the power of transplantation, like all other plants, they have taken root and flourished! Formerly they were not numbered in any civil lists of their country, except in those of the poor; here they rank as citizens. By what invisible power has this surprising metamorphosis been performed? By that of the laws and that of their industry. The laws, the indulgent laws, protect them as they arrive, stamping on them the symbol of adoption; they receive ample rewards for their labors; these accumulated rewards procure them lands; those lands confer on them the title of freemen, and to that title every benefit is affixed which men can possibly require.

This is the great operation daily performed by our laws. From whence proceed these laws? From our government. Whence the government? It is derived from the original genius and strong desire of the people ratified and

confirmed by the crown. This is the great chain which links us all; this is the picture which every province exhibits, Nova Scotia excepted. There the crown has done all; either there were no people who had genius, or it was not much attended to: the consequence is that the province is very thinly inhabited indeed; the power of the crown in conjunction with the mosquitoes has prevented men from settling there. Yet some parts of it flourished once, and it contained a mild harmless set of people. But for the fault of a few leaders, the whole were banished. The greatest political error the crown ever committed in America was to cut off men from a country which wanted nothing but men!

What attachment can a poor European emigrant have for a country where he had nothing? The knowledge of the language, the love of a few kindred as poor as himself, were the only cords that tied him: his country is now that which gives him land, bread, protection, and consequence: *Ubi panis ibi patria*,* is the motto of all emigrants.

What, then, is the American, this new man? He is either a European, or the descendant of a European, hence that strange mixture of blood, which you will find in no other country. I could point out to you a family whose grandfather was an Englishman, whose wife was Dutch, whose son married a French woman, and whose present four sons have now four wives of different nations.

He is an American, who leaving behind him all his ancient prejudices and manners, receives new ones from the new mode of life he has embraced, the new government he obeys, and the new rank he holds. He becomes an American by being received in the broad lap of our great Alma Mater. Here individuals of all nations are melted into a new race of men, whose labors and posterity will one day cause great changes in the world. Americans are the Western pilgrims, who are carrying along with them that great mass of arts, sciences, vigor, and industry which began long since in the east; they will finish the great circle.

The Americans were once scattered all over Europe; here they are incorporated into one of the finest systems of population which has ever appeared, and which will hereafter become distinct by the power of the different climates they inhabit. The American ought therefore to love this country much better than that wherein either he or his forefathers were born. Here the rewards of his industry follow with equal steps the progress of his

* Where there is bread, there is (my) country.

labor; his labor is founded on the basis of nature, *self-interest*; can it want a stronger allurements? Wives and children, who before in vain demanded of him a morsel of bread, now, fat and frolicsome, gladly help their father to clear those fields whence exuberant crops are to arise to feed and to clothe them all; without any part being claimed, either by a despotic prince, a rich abbot, or a mighty lord. Here religion demands but little of him; a small voluntary salary to the minister, and gratitude to God; can he refuse these?

The American is a new man, who acts upon new principles; he must therefore entertain new ideas and form new opinions. From involuntary idleness, servile dependence, penury, and useless labor, he has passed to toils of a very different nature, rewarded by ample subsistence. This is an American.

British America is divided into many provinces, forming a large association, scattered along a coast 1,500 miles extent and about 200 wide. This society I would fain examine, at least such as it appears in the middle provinces; if it does not afford that variety of tinges and gradations which may be observed in Europe, we have colors peculiar to ourselves. For instance, it is natural to conceive that those who live near the sea must be very different from those who live in the woods; the intermediate space will afford a separate and distinct class.

Men are like plants; the goodness and flavor of the fruit proceeds from the peculiar soil and exposition in which they grow. We are nothing but what we derive from the air we breathe, the climate we inhabit, the government we obey, the system of religion we profess, and the nature of our employment. Here you will find but few crimes; these have acquired as yet no root among us. I wish I were able to trace all my ideas; if my ignorance prevents me from describing them properly, I hope I shall be able to delineate a few of the outlines, which are all I propose.

Those who live near the sea feed more on fish than on flesh, and often encounter that boisterous element. This renders them more bold and enterprising; this leads them to neglect the confined occupations of the land. They see and converse with a variety of people; their intercourse with mankind becomes extensive. The sea inspires them with a love of traffic, a desire of transporting produce from one place to another; and leads them to a variety of resources which supply the place of labor.

Those who inhabit the middle settlements, by far the most numerous, must be very different; the simple cultivation of the earth purifies them, but

the indulgences of the government, the soft remonstrances of religion, the rank of independent freeholders, must necessarily inspire them with sentiments very little known in Europe among people of the same class. What do I say? Europe has no such class of men; the early knowledge they acquire, the early bargains they make, give them a great degree of sagacity. As freemen they will be litigious; pride and obstinacy are often the cause of lawsuits; the nature of our laws and governments may be another.

As citizens, it is easy to imagine that they will carefully read the newspapers, enter into every political disquisition, freely blame or censure governors and others. As farmers, they will be careful and anxious to get as much as they can, because what they get is their own. As Northern men, they will love the cheerful cup. As Christians, religion curbs them not in their opinions; the general indulgence leaves every one to think for themselves in spiritual matters; the laws inspect our actions, our thoughts are left to God. Industry, good living, selfishness, litigiousness, country politics, the pride of freemen, religious indifference are their characteristics.

If you recede still farther from the sea, you will come into more modern settlements; they exhibit the same strong lineaments, in a ruder appearance. Religion seems to have still less influence, and their manners are less improved.

Now we arrive near the great woods, near the last inhabited districts; there men seem to be placed still farther beyond the reach of government, which in some measure leaves them to themselves. How can it pervade every corner; as they were driven there by misfortunes, necessity of beginnings, desire of acquiring large tracks of land, idleness, frequent want of economy, ancient debts; the reunion of such people does not afford a very pleasing spectacle. When discord, want of unity and friendship; when either drunkenness or idleness prevail in such remote districts; contention, inactivity, and wretchedness must ensue. There are not the same remedies to these evils as in a long-established community. The few magistrates they have are, in general, little better than the rest; they are often in a perfect state of war; that of man against man, sometimes decided by blows, sometimes by means of the law; that of man against every wild inhabitant of these venerable woods, of which they are come to dispossess them. There men appear to be no better than carnivorous animals of a superior rank, living on the flesh of wild animals when they can catch them, and when they are not able, they subsist on grain.

He who wish to see America in its proper light, and have a true idea of

its feeble beginnings and barbarous rudiments, must visit our extended line of frontiers where the last settlers dwell, and where he may see the first labors of settlement, the mode of clearing the earth, in their different appearances; where men are wholly left dependent on their native tempers, and on the spur of uncertain industry, which often fails when not sanctified by the efficacy of a few moral rules. There, remote from the power of example and check of shame, many families exhibit the most hideous parts of our society. They are a kind of forlorn hope, preceding by ten or twelve years the most respectable army of veterans which come after them. In that space, prosperity will polish some, vice and the law will drive off the rest, who uniting again with others like themselves will recede still farther; making room for more industrious people, who will finish their improvements, convert the log house into a convenient habitation, and rejoicing that the first heavy labors are finished, will change in a few years that hitherto barbarous country into a fine fertile, well regulated district.

Such is our progress, such is the march of the Europeans toward the interior parts of this continent. In all societies there are off-casts; this impure part serves as our precursors or pioneers; my father himself was one of that class, but he came upon honest principles, and was therefore one of the few who held fast; by good conduct and temperance, he transmitted to me his fair inheritance, when not above one in fourteen of his contemporaries had the same good fortune. Forty years ago, this smiling country was thus inhabited; it is now purged, a general decency of manners prevails throughout, and such has been the fate of our best countries.

Exclusive of those general characteristics, each province has its own, founded on the government, climate, mode of husbandry, customs, and peculiarity of circumstances. Europeans submit insensibly to these great powers and become, in the course of a few generations, not only Americans in general, but either Pennsylvanians, Virginians, or provincials under some other name. Whoever traverses the continent must easily observe those strong differences, which will grow more evident in time. The inhabitants of Canada, Massachusetts, the middle provinces, the Southern ones, will be as different as their climates; their only points of unity will be those of religion and language.

As I have endeavored to show you how Europeans become Americans; it may not be disagreeable to show you likewise how the various Christian sects introduced, wear out, and how religious indifference becomes prevalent. When any considerable number of a particular sect happen to dwell contiguous to

each other, they immediately erect a temple, and there worship the Divinity agreeably to their own peculiar ideas. Nobody disturbs them. If any new sect springs up in Europe, it may happen that many of its professors will come and settle in America. As they bring their zeal with them, they are at liberty to make proselytes if they can, and to build a meeting and to follow the dictates of their consciences; for neither the government nor any other power interferes. If they are peaceable subjects, and are industrious, what is it to their neighbors how and in what manner they think fit to address their prayers to the Supreme Being? But if the sectaries are not settled close together, if they are mixed with other denominations, their zeal will cool for want of fuel, and will be extinguished in a little time.

Then the Americans become as to religion what they are as to country, allied to all. In them, the name of Englishman, Frenchman, and European is lost, and in like manner, the strict modes of Christianity as practiced in Europe are lost also. This effect will extend itself still farther hereafter, and though this may appear to you as a strange idea, yet it is a very true one. I shall be able perhaps hereafter to explain myself better; in the meanwhile, let the following example serve as my first justification.

Let us suppose you and I to be travelling; we observe that in this house, to the right, lives a Catholic, who prays to God as he has been taught, and believes in transubstantiation; he works and raises wheat, he has a large family of children, all hale and robust; his belief, his prayers offend nobody.

About one mile farther on the same road, his next neighbor may be a good, honest plodding German Lutheran, who addresses himself to the same God, the God of all, agreeably to the modes he has been educated in, and believes in consubstantiation; by so doing he scandalizes nobody; he also works in his fields, embellishes the earth, clears swamps, etc. What has the world to do with his Lutheran principles? He persecutes nobody, and nobody persecutes him; he visits his neighbors, and his neighbors visit him.

Next to him lives a seceder, the most enthusiastic of all sectaries; his zeal is hot and fiery, but separated as he is from others of the same complexion, he has no congregation of his own to resort to, where he might cabal and mingle religious pride with worldly obstinacy. He likewise raises good crops, his house is handsomely painted, his orchard is one of the fairest in the neighborhood. How does it concern the welfare of the country, or of the province at large, what this man's religious sentiments are, or really whether he has any at all? He

is a good farmer, he is a sober, peaceable, good citizen: William Penn himself would not wish for more. This is the visible character, the invisible one is only guessed at, and is nobody's business.

Next again lives a Low Dutchman, who implicitly believes the rules laid down by the synod of Dort. He conceives no other idea of a clergyman than that of an hired man; if he does his work well, he will pay him the stipulated sum; if not, he will dismiss him, and do without his sermons, and let his church be shut up for years. But notwithstanding this coarse idea, you will find his house and farm to be the neatest in all the country; and you will judge by his wagon and fat horses that he thinks more of the affairs of this world than of those of the next. He is sober and laborious, therefore he is all he ought to be as to the affairs of this life; as for those of the next, he must trust to the great Creator.

Each of these people instruct their children as well as they can, but these instructions are feeble compared to those which are given to the youth of the poorest class in Europe. Their children will therefore grow up less zealous and more indifferent in matters of religion than their parents. The foolish vanity, or rather the fury of making Proselytes, is unknown here; they have no time. The seasons call for all their attention, and thus in a few years, this mixed neighborhood will exhibit a strange religious medley, that will be neither pure Catholicism nor pure Calvinism. A very perceptible indifference even in the first generation will become apparent; and it may happen that the daughter of the Catholic will marry the son of the seceder, and settle by themselves at a distance from their parents.

What religious education will they give their children? A very imperfect one. If there happens to be in the neighborhood any place of worship, we will suppose a Quaker's meeting; rather than not show their fine clothes, they will go to it, and some of them may perhaps attach themselves to that society. Others will remain in a perfect state of indifference; the children of these zealous parents will not be able to tell what their religious principles are, and their grandchildren still less. The neighborhood of a place of worship generally leads them to it, and the action of going thither is the strongest evidence they can give of their attachment to any sect. The Quakers are the only people who retain a fondness for their own mode of worship; for be they ever so far separated from each other, they hold a sort of communion with the society, and seldom depart from its rules, at least in this country.

Thus all sects are mixed as well as all nations; thus religious indifference is imperceptibly disseminated from one end of the continent to the other; which is at present one of the strongest characteristics of the Americans. Where this will reach, no one can tell; perhaps it may leave a vacuum fit to receive other systems. Persecution, religious pride, the love of contradiction, are the food of what the world commonly calls religion. These motives have ceased here: zeal in Europe is confined; here it evaporates in the great distance it has to travel. There it is a grain of powder enclosed; here it burns away in the open air, and consumes without effect.

But to return to our back-settlers. I must tell you that there is something in the proximity of the woods which is very singular. It is with men as it is with the plants and animals that grow and live in the forests; they are entirely different from those that live in the plains. I will candidly tell you all my thoughts, but you are not to expect that I shall advance any reasons. By living in or near the woods, their actions are regulated by the wildness of the neighborhood. The deer often come to eat their grain, the wolves to destroy their sheep, the bears to kill their hogs, the foxes to catch their poultry. This surrounding hostility immediately puts the gun into their hands; they watch these animals, they kill some; and thus by defending their property, they soon become professed hunters; this is the progress; once hunters, farewell to the plow. The chase renders them ferocious, gloomy, and unsociable; a hunter wants no neighbor; he rather hates them, because he dreads the competition. In a little time, their success in the woods makes them neglect their tillage. They trust to the natural fecundity of the earth and therefore do little; carelessness in fencing often exposes what little they sow to destruction; they are not at home to watch; in order, therefore, to make up the deficiency, they go oftener to the woods.

That new mode of life brings along with it a new set of manners, which I cannot easily describe. These new manners being grafted on the old stock produce a strange sort of lawless profligacy, the impressions of which are indelible. The manners of the Indian natives are respectable compared with this European medley. Their wives and children live in sloth and inactivity; and having no proper pursuits, you may judge what education the latter receive. Their tender minds have nothing else to contemplate but the example of their parents; like them, they grow up a mongrel breed, half civilized, half savage, except nature stamps on them some constitutional propensities.

That rich, that voluptuous sentiment is gone that struck them so forcibly;

the possession of their freeholds no longer conveys to their minds the same pleasure and pride. To all these reasons you must add their lonely situation, and you cannot imagine what an effect on manners the great distances they live from each other has! Consider one of the last settlements in its first view: of what is it composed? Europeans who have not that sufficient share of knowledge they ought to have in order to prosper; people who have suddenly passed from oppression, dread of government, and fear of laws, into the unlimited freedom of the woods. This sudden change must have a very great effect on most men, and on that class particularly. Eating of wild meat, what ever you may think, tends to alter their temper; though all the proof I can adduce is that I have seen it; and having no place of worship to resort to, what little society this might afford, is denied them. The Sunday meetings, exclusive of religious benefits, were the only social bonds that might have inspired them with some degree of emulation in neatness.

Is it then surprising to see men thus situated, immersed in great and heavy labors, degenerate a little? It is rather a wonder the effect is not more diffusive. The Moravians and the Quakers are the only instances in exception to what I have advanced. The first never settle singly—it is a colony of the society which emigrates; they carry with them their forms, worship, rules, and decency: the others never begin so hard; they are always able to buy improvements, in which there is a great advantage, for by that time the country is recovered from its first barbarity. Thus our bad people are those who are half cultivators and half hunters; and the worst of them are those who have degenerated altogether into the hunting state. As old plowmen and new men of the woods, as Europeans and new-made Indians, they contract the vices of both; they adopt the moroseness and ferocity of a native, without his mildness or even his industry at home. If manners are not refined, at least they are rendered simple and inoffensive by tilling the earth; all our wants are supplied by it, our time is divided between labor and rest, and leaves none for the commission of great misdeeds.

As hunters, it is divided between the toil of the chase, the idleness of repose, or the indulgence of inebriation. Hunting is but a licentious idle life, and if it does not always pervert good dispositions; yet, when it is united with bad luck, it leads to want: want stimulates that propensity to rapacity and injustice, too natural to needy men, which is the fatal gradation.

After this explanation of the effects which follow by living in the woods, shall we yet vainly flatter ourselves with the hope of converting the Indians?

We should rather begin with converting our back-settlers; and now if I dare mention the name of religion, its sweet accents would be lost in the immensity of these woods. Men thus placed are not fit either to receive or remember its mild instructions; they want temples and ministers, but as soon as men cease to remain at home and begin to lead an erratic life, let them be either tawny or white, they cease to be its disciples.

Thus have I faintly and imperfectly endeavored to trace our society from the sea to our woods! Yet you must not imagine that every person who moves back acts upon the same principles, or falls into the same degeneracy. Many families carry with them all their decency of conduct, purity of morals, and respect of religion; but these are scarce, the power of example is sometimes irresistible. Even among these back-settlers, their depravity is greater or less, according to what nation or province they belong. Were I to adduce proofs of this, I might be accused of partiality. If there happens to be some rich intervals, some fertile bottoms, in those remote districts, the people will there prefer tilling the land to hunting, and will attach themselves to it; but even on these fertile spots you may plainly perceive the inhabitants to acquire a great degree of rusticity and selfishness.

It is in consequence of this straggling situation, and the astonishing power it has on manners, that the back-settlers of both the Carolinas, Virginia, and many other parts, have been long a set of lawless people; it has been even dangerous to travel among them. Government can do nothing in so extensive a country, better it should wink at these irregularities than that it should use means inconsistent with its usual mildness. Time will efface those stains: in proportion as the great body of population approaches them, they will reform, and become polished and subordinate. Whatever has been said of the four New England provinces, no such degeneracy of manners has ever tarnished their annals; their back-settlers have been kept within the bounds of decency, and government, by means of wise laws, and by the influence of religion.

What a detestable idea such people must have given to the natives of the Europeans! They trade with them; the worst of people are permitted to do that which none but persons of the best characters should be employed in. They get drunk with them, and often defraud the Indians. Their avarice, removed from the eyes of their superiors, knows no bounds; and aided by a little superiority of knowledge, these traders deceive them, and even sometimes shed blood. Hence those shocking violations, those sudden devastations which have so

often stained our frontiers, when hundreds of innocent people have been sacrificed for the crimes of a few. It was in consequence of such behavior that the Indians took the hatchet against the Virginians in 1774.

Thus are our first steps trod, thus are our first trees felled, in general, by the most vicious of our people; and thus the path is opened for the arrival of a second and better class, the true American freeholders; the most respectable set of people in this part of the world: respectable for their industry, their happy independence, the great share of freedom they possess, the good regulation of their families, and for extending the trade and the dominion of our mother country.

Europe contains hardly any other distinctions but lords and tenants; this fair country alone is settled by freeholders, the possessors of the soil they cultivate, members of the government they obey, and the framers of their own laws, by means of their representatives. This is a thought which you have taught me to cherish; our difference from Europe, far from diminishing, rather adds to our usefulness and consequence as men and subjects. Had our forefathers remained there, they would only have crowded it, and perhaps prolonged those convulsions which had shook it so long. Every industrious European who transports himself here may be compared to a sprout growing at the foot of a great tree; it enjoys and draws but a little portion of sap; wrench it from the parent roots, transplant it, and it will become a tree bearing fruit also. Colonists are therefore entitled to the consideration due to the most useful subjects; a hundred families barely existing in some parts of Scotland will here in six years cause an annual exportation of 10,000 bushels of wheat: 100 bushels being but a common quantity for an industrious family to sell, if they cultivate good land.

It is here then that the idle may be employed, the useless become useful, and the poor become rich; but by riches, I do not mean gold and silver; we have but little of those metals; I mean a better sort of wealth, cleared lands, cattle, good houses, good clothes, and an increase of people to enjoy them.

There is no wonder that this country has so many charms, and presents to Europeans so many temptations to remain in it. A traveler in Europe becomes a stranger as soon as he quits his own kingdom; but it is otherwise here. We know, properly speaking, no strangers; this is every person's country; the variety of our soils, situations, climates, governments, and produce, have something which must please everybody. No sooner does an European arrive, no matter

of what condition, than his eyes are opened upon the fair prospect; he hears his language spoke, he retraces many of his own country manners, he perpetually hears the names of families and towns with which he is acquainted; he sees happiness and prosperity in all places disseminated; he meets with hospitality, kindness, and plenty everywhere; he beholds hardly any poor, he seldom hears of punishments and executions; and he wonders at the elegance of our towns, those miracles of industry and freedom. He cannot admire enough our rural districts, our convenient roads, good taverns, and our many accommodations; he involuntarily loves a country where everything is so lovely.

When in England, he was a mere Englishman; here he stands on a larger portion of the globe, not less than its fourth part, and may see the productions of the North, in iron and naval stores; the provisions of Ireland, the grain of Egypt, the indigo, the rice of China. He does not find, as in Europe, a crowded society, where every place is overstocked; he does not feel that perpetual collision of parties, that difficulty of beginning, that contention which oversets so many. There is room for everybody in America. Has he any particular talent or industry? He exerts it in order to procure a livelihood, and it succeeds. Is he a merchant? The avenues of trade are infinite. Is he eminent in any respect? He will be employed and respected. Does he love a country life? Pleasant farms present themselves; he may purchase what he wants, and thereby become an American farmer. Is he a laborer, sober and industrious? He need not go many miles, nor receive many informations before he will be hired, well fed at the table of his employer, and paid four or five times more than he can get in Europe. Does he want uncultivated lands? Thousands of acres present themselves, which he may purchase cheap.

Whatever be his talents or inclinations, if they are moderate, he may satisfy them. I do not mean that every one who comes will grow rich in a little time; no, but he may procure an easy, decent maintenance, by his industry. Instead of starving, he will be fed; instead of being idle, he will have employment; and these are riches enough for such men as come over here. The rich stay in Europe—it is only the middling and the poor that emigrate. Would you wish to travel in independent idleness, from North to South, you will find easy access, and the most cheerful reception at every house; society without ostentation, good cheer without pride, and every decent diversion which the country affords, with little expense.

It is no wonder that the European who has lived here a few years is desirous

to remain; Europe, with all its pomp, is not to be compared to this continent, for men of middle stations or laborers.

A European, when he first arrives, seems limited in his intentions, as well as in his views; but he very suddenly alters his scale; two hundred miles formerly appeared a very great distance; it is now but a trifle; he no sooner breathes our air than he forms schemes and embarks in designs he never would have thought of in his own country. There the plenitude of society confines many useful ideas and often extinguishes the most laudable schemes which here ripen into maturity. Thus Europeans become Americans.

But how is this accomplished in that crowd of low, indigent people, who flock here every year from all parts of Europe? I will tell you; they no sooner arrive than they immediately feel the good effects of that plenty of provisions we possess: they fare on our best food, and they are kindly entertained; their talents, character, and peculiar industry are immediately inquired into; they find countrymen everywhere disseminated, let them come from whatever part of Europe. Let me select one as an epitome of the rest; he is hired, he goes to work, and works moderately; instead of being employed by a haughty person, he finds himself with his equal, placed at the substantial table of the farmer, or else at an inferior one as good; his wages are high, his bed is not like that bed of sorrow on which he used to lie: if he behaves with propriety, and is faithful, he is caressed and becomes, as it were, a member of the family. He begins to feel the effects of a sort of resurrection; hitherto he had not lived, but simply vegetated; he now feels himself a man, because he is treated as such; the laws of his own country had overlooked him in his insignificance; the laws of this cover him with their mantle.

Judge what an alteration there must arise in the mind and thoughts of this man; he begins to forget his former servitude and dependence, his heart involuntarily swells and glows; this first swell inspires him with those new thoughts which constitute an American. What love can he entertain for a country where his existence was a burden to him; if he is a generous, good man, the love of this new adoptive parent will sink deep into his heart. He looks around and sees many a prosperous person, who but a few years before was as poor as himself. This encourages him much; he begins to form some little scheme, the first, alas, he ever formed in his life. If he is wise, he thus spends two or three years, in which time he acquires knowledge, the use of tools, the modes of working the lands, felling trees, etc. This prepares the foundation

of a good name, the most useful acquisition he can make. He is encouraged, he has gained friends; he is advised and directed, he feels bold, he purchases some land; he gives all the money he has brought over, as well as what he has earned, and trusts to the God of harvests for the discharge of the rest. His good name procures him credit. He is now possessed of the deed, conveying to him and his posterity the fee simple and absolute property of two hundred acres of land, situated on such a river. What an epoch in this man's life! He is become a freeholder, from perhaps a German boor—he is now an American, a Pennsylvanian, an English subject. He is naturalized, his name is enrolled with those of the other citizens of the province. Instead of being a vagrant, he has a place of residence; he is called the inhabitant of such a county, or of such a district, and for the first time in his life counts for something; for hitherto he has been a cipher.

I only repeat what I have heard many say, and no wonder their hearts should glow and be agitated with a multitude of feelings not easy to describe. From nothing to start into being; from a servant to the rank of a master; from being the slave of some despotic prince to become a free man, invested with lands, to which every municipal blessing is annexed! What a change indeed!

It is in consequence of that change that he becomes an American. This great metamorphosis has a double effect: it extinguishes all his European prejudices, he forgets that mechanism of subordination, that servility of disposition which poverty had taught him; and sometimes he is apt to forget too much, often passing from one extreme to the other. If he is a good man, he forms schemes of future prosperity, he proposes to educate his children better than he has been educated himself; he thinks of future modes of conduct, feels an ardor to labor he never felt before. Pride steps in and leads him to everything that the laws do not forbid: he respects them; with a heartfelt gratitude he looks toward the East, toward that insular government from whose wisdom all his new felicity is derived, and under whose wings and protection he now lives. These reflections constitute him the good man and the good subject.

Ye poor Europeans, ye, who sweat and work for the great—ye, who are obliged to give so many sheaves to the church, so many to your lords, so many to your government, and have hardly any left for yourselves—ye, who are held in less estimation than favorite hunters or useless lapdogs—ye, who only breathe the air of nature, because it cannot be withheld from you; it is here that ye can conceive the possibility of those feelings I have been describing; it

is here the laws of naturalization invite everyone to partake of our great labors and felicity, to till unrented untaxed lands! Many, corrupted beyond the power of amendment, have brought with them all their vices, and disregarding the advantages held to them, have gone on in their former career of iniquity, until they have been overtaken and punished by our laws. It is not every emigrant who succeeds; no, it is only the sober, the honest, and industrious: happy those to whom this transition has served as a powerful spur to labor, to prosperity, and to the good establishment of children, born in the days of their poverty; and who had no other portion to expect but the rags of their parents, had it not been for their happy emigration.

Others again have been led astray by this enchanting scene; their new pride, instead of leading them to the fields, has kept them in idleness; the idea of possessing lands is all that satisfies them—though surrounded with fertility, they have moldered away their time in inactivity, misinformed husbandry, and ineffectual endeavors. How much wiser, in general, the honest Germans than almost all other Europeans; they hire themselves to some of their wealthy landmen, and in that apprenticeship learn everything that is necessary. They attentively consider the prosperous industry of others, which imprints in their minds a strong desire of possessing the same advantages. This forcible idea never quits them; they launch forth, and by dint of sobriety, rigid parsimony, and the most persevering industry, they commonly succeed. Their astonishment at their first arrival from Germany is very great—it is to them a dream; the contrast must be powerful indeed; they observe their countrymen flourishing in every place; they travel through whole counties where not a word of English is spoken; and in the names and the language of the people, they retrace Germany. They have been a useful acquisition to this continent, and to Pennsylvania in particular; to them it owes some share of its prosperity: to their mechanical knowledge and patience, it owes the finest mills in all America, the best teams of horses, and many other advantages. The recollection of their former poverty and slavery never quits them as long as they live.

The Scotch and the Irish might have lived in their own country perhaps as poor, but enjoying more civil advantages, the effects of their new situation do not strike them so forcibly, nor has it so lasting an effect. From whence the difference arises I know not, but out of twelve families of emigrants of each country, generally seven Scotch will succeed, nine German, and four Irish. The

Scotch are frugal and laborious, but their wives cannot work so hard as German women, who on the contrary vie with their husbands and often share with them the most severe toils of the field, which they understand better. They have therefore nothing to struggle against but the common casualties of nature.

The Irish do not prosper so well; they love to drink and to quarrel; they are litigious, and soon take to the gun, which is the ruin of everything; they seem beside to labor under a greater degree of ignorance in husbandry than the others; perhaps it is that their industry had less scope and was less exercised at home. I have heard many relate how the land was parceled out in that kingdom; their ancient conquest has been a great detriment to them, by oversetting their landed property. The lands possessed by a few are leased down *ad infinitum*, and the occupiers often pay five guineas an acre. The poor are worse lodged there than anywhere else in Europe; their potatoes, which are easily raised, are perhaps an inducement to laziness: their wages are too low and their whisky too cheap.

There is no tracing observations of this kind without making at the same time very great allowances, as there are everywhere to be found a great many exceptions. The Irish themselves, from different parts of that kingdom, are very different. It is difficult to account for this surprising locality; one would think on so small an island, an Irishman must be an Irishman: yet it is not so—they are different in their aptitude to, and in their love of, labor.

The Scotch, on the contrary, are all industrious and saving; they want nothing more than a field to exert themselves in, and they are commonly sure of succeeding. The only difficulty they labor under is that technical American knowledge which requires some time to obtain; it is not easy for those who seldom saw a tree to conceive how it is to be felled, cut up, and split into rails and posts.

As I am fond of seeing and talking of prosperous families, I intend to finish this letter by relating to you the history of an honest Scotch Hebridean,* who came here in 1774, which will show you in epitome what the Scotch can do, wherever they have room for the exertion of their industry. Whenever I hear of any new settlement, I pay it a visit once or twice a year, on purpose to observe the different steps each settler takes, the gradual improvements, the different tempers of each family, on which their prosperity in a great nature depends;

* A man from the Hebrides island chain off the coast of Scotland.

their different modifications of industry, their ingenuity, and contrivance; for being all poor, their life requires sagacity and prudence. In an evening I love to hear them tell their stories; they furnish me with new ideas; I sit still and listen to their ancient misfortunes, observing in many of them a strong degree of gratitude to God, and the government. Many a well-meant sermon have I preached to some of them. When I found laziness and inattention to prevail, who could refrain from wishing well to these new countrymen after having undergone so many fatigues? Who could withhold good advice? What a happy change it must be, to descend from the high, sterile, bleak lands of Scotland, where everything is barren and cold, to rest on some fertile farms in these middle provinces! Such a transition must have afforded the most pleasing satisfaction.

The following dialogue passed at an out-settlement, where I lately paid a visit:

“Well, friend, how do you do now; I am come fifty odd miles on purpose to see you; how do you go on with your new cutting and slashing?”

“Very well, good sir, we learn the use of the axe bravely, we shall make it out; we have a belly full of victuals every day, our cows run about and come home full of milk, our hogs get fat of themselves in the woods: Oh, this is a good country! God bless the king, and William Penn; we shall do very well by and by, if we keep our healths.”

“Your log-house looks neat and light; where did you get these shingles?”

“One of our neighbors is a New England man, and he showed us how to split them out of chestnut trees. Now for a barn, but all in good time, here are fine trees to build with.”

“Who is to frame it, sure you don’t understand that work yet?”

“A countryman of ours who has been in America these ten years offers to wait for his money until the second crop is lodged in it.”

“What did you give for your land?”

“Thirty-five shillings per acre, payable in seven years.

“How many acres have you got?”

“An hundred and fifty.”

“That is enough to begin with; is not your land pretty hard to clear?”

“Yes, sir, hard enough, but it would be harder still if it was ready cleared,

for then we should have no timber, and I love the woods much; the land is nothing without them.”

“Have not you found out any bees yet?”

“No, sir; and if we had we should not know what to do with them.”

“I will tell you by and by.”

“You are very kind.”

“Farewell, honest man, God prosper you; whenever you travel toward ____,* enquire for J.S. He will entertain you kindly, provided you bring him good tidings from your family and farm.”

In this manner I often visit them, and carefully examine their houses, their modes of ingenuity, their different ways; and make them all relate all they know, and describe all they feel. These are scenes which I believe you would willingly share with me. I well remember your philanthropic turn of mind. Is it not better to contemplate under these humble roofs the rudiments of future wealth and population, than to behold the accumulated bundles of litigious papers in the office of a lawyer?

To examine how the world is gradually settled, how the howling swamp is converted into a pleasing meadow, the rough ridge into a fine field; and to hear the cheerful whistling, the rural song, where there was no sound heard before, save the yell of the savage, the screech of the owl, or the hissing of the snake?

Here a European, fatigued with luxury, riches, and pleasures, may find a sweet relaxation in a series of interesting scenes, as affecting as they are new. England, which now contains so many domes, so many castles, was once like this; a place woody and marshy; its inhabitants, now the favorite nation for arts and commerce, were once painted like our neighbors. The country will flourish in its turn, and the same observations will be made which I have just delineated. Posterity will look back with avidity and pleasure, to trace, if possible, the era of this or that particular settlement.

Pray, what is the reason that the Scots are in general more religious, more faithful, more honest, and industrious than the Irish? I do not mean to insinuate national reflections, God forbid! If ill becomes any man, and much less an American; but as I know men are nothing of themselves, and that they owe all their different modifications either to government or other local circumstances,

* Omitted in the original text.

there must be some powerful causes which constitute this great national difference.

Agreeable to the account which several Scotchmen have given me of the north of Britain, of the Orkneys, and the Hebride Islands, they seem, on many accounts, to be unfit for the habitation of men; they appear to be calculated only for great sheep pastures. Who then can blame the inhabitants of these countries for transporting themselves hither? This great continent must in time absorb the poorest part of Europe; and this will happen in proportion as it becomes better known; and as war, taxation, oppression, and misery increase there. The Hebrides appear to be fit only for the residence of malefactors, and it would be much better to send felons there than either to Virginia or Maryland. What a strange compliment has our mother country paid to two of the finest provinces in America! England has entertained in that respect very mistaken ideas; what was intended as a punishment is become the good fortune of several; many of those who have been transported as felons are now rich, and strangers to the stings of those wants that urged them to violations of the law: they are become industrious, exemplary, and useful citizens.

The English government should purchase the most northern and barren of those islands; it should send over to us the honest, primitive Hebrideans, settle them here on good lands as a reward for their virtue and ancient poverty; and replace them with a colony of her wicked sons. The severity of the climate, the inclemency of the seasons, the sterility of the soil, the tempestuousness of the sea, would afflict and punish enough. Could there be found a spot better adapted to retaliate the injury it had received by their crimes? Some of those islands might be considered as the hell of Great Britain, where all evil spirits should be sent. Two essential ends would be answered by this simple operation. The good people, by emigration, would be rendered happier; the bad ones would be placed where they ought to be. In a few years the dread of being sent to that wintry region would have a much stronger effect than that of transportation.

This is no place of punishment; were I a poor hopeless, breadless Englishman, and not restrained by the power of shame, I should be very thankful for the passage. It is of very little importance how and in what manner an indigent man arrives; for if he is but sober, honest, and industrious, he has nothing more to ask of heaven. Let him go to work; he will have opportunities enough to earn a comfortable support, and even the means of procuring some land, which ought to be the utmost wish of every person who has health and hands to work.

I knew a man who came to this country, in the literal sense of the expression, stark naked; I think he was a Frenchman and a sailor on board an English man of war. Being discontented, he had stripped himself and swam ashore; where finding clothes and friends, he settled afterwards at Maranock, in the county of Chester, in the province of New York: he married and left a good farm to each of his sons. I knew another person who was but twelve years old when he was taken on the frontiers of Canada by the Indians; at his arrival at Albany, he was purchased by a gentleman who generously bound him apprentice to a tailor. He lived to the age of ninety, and left behind him a fine estate and a numerous family, all well settled; many of them I am acquainted with. Where is then the industrious European who ought to despair?

After a foreigner from any part of Europe is arrived and become a citizen; let him devoutly listen to the voice of our great parent, which says to him, “Welcome to my shores, distressed European; bless the hour in which thou didst see my verdant fields, my fair, navigable rivers, and my green mountains! If thou wilt work, I have bread for thee; if thou wilt be honest, sober, and industrious, I have greater rewards to confer on thee—ease and independence. I will give thee fields to feed and clothe thee; a comfortable fireside to sit by, and tell thy children by what means thou hast prospered; and a decent bed to repose on. I shall endow thee beside with the immunities of a freeman. If thou wilt carefully educate thy children, teach them gratitude to God and reverence to that government, that philanthropic government, which has collected here so many men and made them happy. I will also provide for thy progeny; and to every good man this ought to be the most holy, the most powerful, the most earnest wish he can possibly form, as well as the most consolatory prospect when he dies. Go thou and work and till; thou shalt prosper, provided thou be just, grateful, and industrious.”

Chapter 14

Benjamin Franklin: To Those Who Would Remove to America

Benjamin Franklin (1706–1790) was an American statesman and a philosopher.

Many persons in Europe, having directly or by letters, expressed to the writer of this, who is well acquainted with North America, their desire of transporting and establishing themselves in that country; but who appear to him to have formed through ignorance, mistaken ideas and expectations of what is to be obtained there; he thinks it may be useful, and prevent inconvenient, expensive and fruitless removals and voyages of improper persons, if he gives some clearer and truer notions of that part of the world than appear to have hitherto prevailed.

He finds it is imagined by numbers that the inhabitants of North America are rich, capable of rewarding, and disposed to reward all sorts of ingenuity; that they are at the same time ignorant of all the sciences; and, consequently, that strangers possessing talents in the *belles-lettres*, fine arts, etc. must be highly esteemed, and so well paid as to become easily rich themselves; that there are also abundance of profitable offices to be disposed of, which the natives are not qualified to fill; and that having few persons of family among them, strangers of birth must be greatly respected and, of course, easily obtain the best of those offices, which will make all their fortunes; that the governments, too, to encourage emigrations from Europe, not only pay the expense of personal transportation, but give lands gratis to strangers, with negroes to work for them, utensils of husbandry and stocks of cattle. These are all wild imaginations; and those who go to America with expectations founded upon them will surely find themselves disappointed.

The truth is that though there are in that country few people so miserable as the poor of Europe, there are also very few that in Europe would be called rich: it is rather a general happy mediocrity that prevails. There are few great proprietors of the soil, and few tenants; most people cultivate their own lands, or follow some handicraft or merchandise; very few are rich enough to live idly upon their rents or incomes, or to pay the high prices given in Europe for paintings, statues,

architecture and the other works of art that are more curious than useful. Hence the natural geniuses that have arisen in America, with such talents, have uniformly quitted that country for Europe, where they can be more suitably rewarded. It is true that letters and mathematical knowledge are in esteem there, but they are at the same time more common than is apprehended; there being already existing nine colleges or universities, *viz.* four in New England, and one in each of the provinces of New York, New Jersey, Pennsylvania, Maryland and Virginia, all furnished with learned professors; besides a number of smaller academies. These educate many of their youth in the languages and those sciences that qualify men for the professions of divinity, law or physic. Strangers, indeed, are by no means excluded from exercising those professions, and the quick increase of inhabitants everywhere gives them a chance of employ, which they have in common with the natives. Of civil offices or employments there are few; no superfluous ones as in Europe; and it is a rule established in some of the States that no office should be so profitable as to make it desirable. The 36th article of the Constitution of Pennsylvania runs expressly in these words:

As every freeman, to preserve his independence, (if he has not 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. Wherefore 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.

These ideas prevailing more or less in all the United States, it cannot be worth any man's while, who has a means of living at home, to expatriate himself in hopes of obtaining a profitable civil office in America; and as to military offices, they are at an end with the war; the armies being disbanded. Much less is it advisable for a person to go thither who has no other quality to recommend him but his birth. In Europe it has, indeed, its value, but it is a commodity that cannot be carried to a worse market than to that of America, where people do not enquire concerning a stranger, what is he? But what can he do? If he has any useful art, he is welcome; and if he exercises it and behaves well, he will be respected by all that know him; but a mere man of quality, who on that account wants to live upon the public, by some office or salary, will be despised and disregarded. The husbandman is in honor there, and even the mechanic, because their employments are useful. The

people have a saying, that God Almighty is himself a mechanic, the greatest in the universe; and he is respected and admired more for the variety, ingenuity and utility of his handiworks, than for the antiquity of his family. They are pleased with the observation of a negro, and frequently mention it, that Boccarorra (meaning the whiteman) make de black man workee, make de horse workee, make de ox workee, make ebery ting workee; only de hog. He de hog no workee; he eat, he drink, he walk about, he go to sleep when he please, he libb like a gentleman.

According to these opinions of the Americans, one of them would think himself more obliged to a genealogist, who could prove for him that his ancestors and relations for ten generations had been plowmen, smiths, carpenters, turners, weavers, tanners, or even shoemakers, and consequently that they were useful members of society; than if he could only prove that they were gentlemen, doing nothing of value, but living idly on the labor of others, mere *fruges consumere nati*,* and otherwise *good for nothing*, till by their death, their estates like the carcass of the negro's gentleman-hog, come to be *cut up*.

With regard to encouragements for strangers from government, they are really only what are derived from good laws and liberty. Strangers are welcome because there is room enough for them all, and therefore, the old inhabitants are not jealous of them; the laws protect them sufficiently, so that they have no need of the patronage of great men; and everyone will enjoy securely the profits of his industry. But if he does not bring a fortune with him, he must work and be industrious to live. One or two years residence give him all the rights of a citizen; but the government does not at present, whatever it may have done in former times, hire people to become settlers by paying their passages, giving land, negroes, utensils, stock, or any other kind of emolument whatsoever. In short, America is the land of labor, and by no means what the English call *Lubberland* and the French *Pays de Cocagne*, where the streets are said to be paved with half-peck loaves, the houses tiled with pancakes, and where the fowls fly about ready roasted, crying, *come eat me!*

Who, then, are the kind of persons to whom an emigration to America may be advantageous? And what are the advantages they may reasonably expect?

Land being cheap in that country, from the vast forests still void of inhabitants, and not likely to be occupied in an age to come, insomuch that the propriety of a hundred acres of fertile soil full of wood may be obtained

* "Born to eat the fruits."

near the frontiers in many places for eight or ten guineas, hearty young laboring men, who understand the husbandry of corn and cattle (which is nearly the same in that country as in Europe), may easily establish themselves there. A little money, saved of the good wages they receive there while they work for others, enables them to buy the land and begin their plantation, in which they are assisted by the goodwill of their neighbors and some credit. Multitudes of poor people from England, Ireland, Scotland, and Germany have by this means in a few years become wealthy farmers, who in their own countries, where all the lands are fully occupied and the wages of labor low, could never have emerged from the mean condition wherein they were born.

From the salubrity of the air, the healthiness of the climate, the plenty of good provisions, and the encouragement to early marriages, by the certainty of subsistence in cultivating the earth, the increase of inhabitants by natural generation is very rapid in America, and becomes still more so by the accession of strangers. Hence there is a continual demand for more artisans of all the necessary and useful kinds, to supply those cultivators of the earth with houses, and with furniture and utensils of the grosser sorts which cannot so well be brought from Europe. Tolerably good workmen in any of those mechanic arts are sure to find employ, and to be well paid for their work, there being no restraints preventing strangers from exercising any art they understand, nor any permission necessary. If they are poor, they begin first as servants or journeymen; and if they are sober, industrious, and frugal, they soon become masters, establish themselves in business, marry, raise families, and become respectable citizens.

Also, persons of moderate fortunes and capitals who, having a number of children to provide for, are desirous of bringing them up to industry, and of securing estates for their posterity, have opportunities of doing it in America which Europe does not afford. There they may be taught and practice profitable mechanic arts, without incurring disgrace on that account; but on the contrary, acquiring respect by such abilities. There small capitals laid out in lands, which daily become more valuable by the increase of people, afford a solid prospect of ample fortunes thereafter for those children. The writer of this has known several instances of large tracts of land, bought on what was then the frontier of Pennsylvania, for ten pounds per hundred acres, which, after twenty years, when the settlements had been extended far beyond them, sold readily, without any improvement made upon them, for three pounds per acre. The acre in America is the same with the English acre or the acre of Normandy.

Those who desire to understand the state of government in America would do well to read the constitutions of the several states, and the Articles of Confederation that bind the whole together for general purposes under the direction of one assembly called the Congress. These constitutions have been printed by order of Congress in America; two editions of them have also been printed in London, and a good translation of them into French has lately been published at Paris.

Several of the princes of Europe, having of late formed an opinion of advantage to arise by producing all commodities and manufactures within their own dominions, so as to diminish or render useless their importations, have endeavored to entice workmen from other countries, by high salaries, privileges, etc. Many persons pretending to be skilled in various great manufactures, imagining that America must be in want of them, and that the Congress would probably be disposed to imitate the princes above mentioned, have proposed to go over, on condition of having their passages paid, lands given, salaries appointed, exclusive privileges for terms of years, etc. Such persons, on reading the Articles of Confederation, will find that the Congress have no power committed to them, or money put into their hands, for such purposes; and that if any such encouragement is given, it must be by the government of some separate state. This however has rarely been done in America; and when it has been done, it has rarely succeeded, so as to establish a manufacture which the country was not yet so ripe for as to encourage private persons to set it up; labor being generally too dear there, and hands difficult to be kept together, every one desiring to be a master, and the cheapness of land inclining many to leave trades for agriculture. Some, indeed, have met with success, and are carried on to advantage; but they are generally such as require only a few hands, or wherein great part of the work is performed by machines. Goods that are bulky, and of so small value as not well to bear the expense of freight, may often be made cheaper in the country than they can be imported; and the manufacture of such goods will be profitable wherever there is a sufficient demand. The farmers in America produce, indeed, a deal of wool and flax; and none is exported, it is all worked up; but it is in the way of domestic manufacture for the use of the family. The buying up quantities of wool and flax with the design to employ spinners, weavers, etc., and form great establishments, producing quantities of linen and woollen goods for sale, has been several times attempted in different provinces; but those projects have generally failed, goods of equal value being imported cheaper. And when the governments have been solicited to support such schemes by encouragements, in

money, or by imposing duties on importation of such goods, it has been generally refused, on this principle: that if the country is ripe for the manufacture, it may be carried on by private persons to advantage; and if not, it is a folly to think of forcing nature. Great establishments of manufacture require great numbers of poor to do the work for small wages; these poor are to be found in Europe, but will not be found in America till the lands are all taken up and cultivated, and the excess of people who cannot get land want employment. The manufacture of silk, they say, is natural in France, as that of cloth in England, because each country produces in plenty the first material: but if England will have a manufacture of silk as well as that of cloth, and France one of cloth as well as that of silk, these unnatural operations must be supported by mutual prohibitions or high duties on the importation of each others goods; by which means, the workmen are enabled to tax the home consumer by greater prices while the higher wages they receive makes them neither happier nor richer, since they only drink more and work less. Therefore the governments in America do nothing to encourage such projects. The people, by this means, are not imposed on, either by the merchant or mechanic; if the merchant demands too much profit on imported shoes, they buy of the shoemaker; and if he asks too high a price, they take them of the merchant. Thus, the two professions are checks on each other. The shoemaker, however, has on the whole a considerable profit upon his labor in America, beyond what he had in Europe, as he can add to his price a sum nearly equal to all the expenses of freight and commission, risk or insurance, etc., necessarily charged by the merchant. And the case is the same with the workmen in every other mechanic art. Hence it is that artisans generally live better and more easily in America than in Europe, and such as are good economists make a comfortable provision for age and for their children. Such may, therefore, remove with advantage to America.

In the old, long-settled countries of Europe, all arts, trades, professions, farms, etc., are so full that it is difficult for a poor man who has children to place them where they may gain, or learn to gain a decent livelihood. The artisans, who fear creating future rivals in business, refuse to take apprentices but upon conditions of money, maintenance or the like, which the parents are unable to comply with. Hence the youth are dragged up in ignorance of every gainful art, and obliged to become soldiers, servants, or thieves, for a subsistence. In America, the rapid increase of inhabitants takes away that fear of rivalship, and artisans willingly receive apprentices for the hope of profit by their labor during the remainder of the time stipulated after they shall be instructed. Hence it is easy for poor families

to get their children instructed; for the artisans are so desirous of apprentices that many of them will even give money to the parents to have boys from ten to fifteen years of age bound apprentices to them till the age of twenty one; and many poor parents have by that means, on their arrival in the country, raised money enough to buy land sufficient to establish themselves and to subsist the rest of their family by agriculture. These contracts for apprentices are made before a magistrate, who regulates the agreement according to reason and justice; and having in view the formation of a future useful citizen, obliges the master to engage by a written indenture, not only that during the time of service stipulated the apprentice shall be duly provided with meat, drink, apparel, washing, and lodging, and at its expiration with a complete new suit of clothes, but also that he shall be taught to read, write, and cast accounts, and that he shall be well instructed in the art or profession of his master, or some other, by which he may afterwards gain a livelihood and be able in his turn to raise a family. A copy of this indenture is given to the apprentice or his friends, and the magistrate keeps a record of it, to which recourse may be had in case of failure by the master in any point of performance. This desire among the masters to have more hands employed in working for them induces them to pay the passages of young persons, of both sexes, who on their arrival agree to serve them one, two, three or four years; those who have already learnt a trade agreeing for a shorter term in proportion to their skill and the consequent immediate value of their service; and those who have none, agreeing for a longer term, in consideration of being taught an art their poverty would not permit them to acquire in their own country.

The almost general mediocrity of fortune that prevails in America, obliging its people to follow some business for subsistence, those vices that arise usually from idleness are in a great measure prevented. Industry and constant employment are great preservatives of the morals and virtue of a nation. Hence bad examples to youth are more rare in America, which must be a comfortable consideration to parents. To this may be truly added that serious religion, under its various denominations, is not only tolerated but respected and practiced. Atheism is unknown there, infidelity rare and secret, so that persons may live to a great age in that country without having their piety shocked by meeting with either an atheist or an infidel. And the Divine Being seems to have manifested his approbation of the mutual forbearance and kindness with which the different sects treat each other, by the remarkable prosperity with which he has been pleased to favor the whole country.

Chapter 15

H.L. Mencken: On Being an American

Henry Louis Mencken (1880–1956) was a journalist and editor.

The American*

The notion that Americans are a sordid money-grubbing people, with no thought above the dollar, is a favorite delusion of continentals, and even the English, on occasion, dally with it. It has, in fact, little solid basis. The truth is that Americans, as a race, set relatively little store by money; surely all of their bitterest critics are at least as eager for it. This is probably the only country in the world, save Russia under the Bolsheviki, in which a rich man is *ipso facto* a scoundrel and *ferae naturae*** , with no rights that any slanderer is bound to respect. It would be a literal impossibility for an Englishman worth \$100,000,000 to avoid public office and public honor; it would be equally impossible for an American worth \$100,000,000 to obtain either. The moment he showed his head, the whole pack would be upon him.

Americans, true enough, are richer than most. Their country yields more than other countries; they get more cash for their labor; they jingle more money in their pockets. But they also spend more, and with less thought of values. Whatever is gaudy and showy gets their dollars; they are, so to speak, constantly on holiday, their eyes alert to get rid of their change. The only genuinely thrifty people among us, in the sense that a Frenchman is thrifty, are foreigners. This is why they are ousting the natives in New England and in large areas of the middle West. But as soon as they become Americanized, they begin to draw their money out of the savings banks and to buy phonographs, Fords, boiled shirts, yellow shoes, cuckoo clocks and the works of Bulwer-Lytton.

The character that actually marks off the American is not money-hunger at

* H.L. Mencken, "The American," *The New York Evening Mail*, May 3, 1918. Reprinted by permission of the Enoch Pratt Free Library of Baltimore, in accordance with the terms of the will of H.L. Mencken.

** "Of wild nature."

all; it is what might be called, at the risk of misunderstanding, social aspiration. That is to say, he is forever trying to improve his position; to break down some barrier of caste, to secure the acceptance of his betters. Money, of course, usually helps him in this endeavor, and so he values it—but not for its own sake, not as a thing in itself. On the contrary, he is always willing to pay it out lavishly for what he wants.

Nothing is too expensive if it helps him to make a better showing in the world, to raise himself above what he has been. It is the opportunity that founds the aspiration. The cause of all this unanimous pushing is plainly the fact that every American's position is always more or less insecure—that he is free to climb upward almost infinitely, and that, by the same token, he is in steady danger of slipping back. This keeps him in a state of social timorousness; he is never absolutely safe and never absolutely contented. Such a thing as a secure position is practically unknown among us. There is no American who cannot hope to lift himself another notch—if he is good. And there is no American who doesn't have to keep on fighting for whatever position he has got. All our cities are full of aristocrats whose grandfathers were day laborers, and clerks whose grandfathers were aristocrats.

The oldest societies of Europe protect caste lines more resolutely. A grandee of Spain, for example, is quite as secure in his class as a dog is in his. Nothing he can do in this world can raise him above it, and nothing he can do can bounce him out of it. Once, a long while ago, I met a Spanish count who wore celluloid cuffs, was drunk every afternoon and borrowed money for a living. Yet he remained a count in perfectly good standing, and all lesser Spaniards deferred to him and envied him. He knew that he was quite safe, and so he gave no thought to appearances. In the same way, he knew that he had reached his limit. He was a grandee, but he had no hope whatever of making the next step; he knew that he could never be royal.

No American is ever so securely lodged. There is always something just ahead of him, beckoning him and tantalizing him, and there is always something just behind him, menacing him and causing him to sweat. The preposterous doings of what we call our fashionable society are all based on this uncertainty. The elect are surrounded by hordes of pushers, all full of envy, but the elect themselves are by no means safe. The result is a constant maneuvering, an incessant effort to get a firmer hold. It is this effort which inspires so many rich girls to shanghai foreigners of title. A title, however paltry,

is still of genuine value. It represents a social status that cannot be changed by the rise of rivals, or by personal dereliction, or by mere accident. It is a policy of insurance against dangers that it is very difficult to meet otherwise.

The mention of social aspiration always suggests the struggle to be accepted as fashionable, but it is really quite as earnest and quite as widespread on all lower planes. Every men's club, even the worst, has a waiting list of men who are eager to get in but have not yet demonstrated that they are up to it. The huge fraternal orders are surrounded by the same swarms of aspirants; there are thousands of men who look forward eagerly to election to the Masons, the Odd Fellows or the Knights of Pythias. And among women—but let us keep away from women. The dominating emotion of almost every normal woman is envy of some other woman. Put beside this grand passion her deep, delirious affection for her husband, and even for her children, fades to a mere phosphorescence.

As I have said, the fruit of all this appetite to get on, this desire to cut a better figure, is not the truculence that might be imagined, but rather timorousness. The desire itself is bold and insatiable, but its satisfaction demands discretion, prudence, a politic and ingratiating habit. The walls are not to be stormed, they must be wooed to a sort of Jerichoan fall. Success takes the form of a series of waves of protective coloration; failure is a succession of unmaskings. The aspirant must first imitate exactly the aspects and behavior of the class he yearns to penetrate. There follows notice. There follows confusion. There follows recognition and acceptance.

Thus the hog murderer's or soap boiler's wife horns into the fashionable society of Chicago or New York, and thus the whiskey drummer insinuates himself into the Elks, and the rising retailer wins the toleration of wholesalers, and the rich peasant becomes a planter, and the servant girl penetrates the movies, and the shyster lawyer becomes a statesman, and Schmidt turns into Smith, and all of us Yankees creep up, up, up. The business is not to be accomplished by headlong assault; it must be done quietly, insidiously, pianissimo. Above all, it must be done without exciting alarm and opposition lest the portcullis fall. Above all, the manner of a Jenkins must be got into it.

It seems to me that this necessity is responsible for one of the characters that observers often note in the average American, to wit, the character of orthodoxy, of eager conformity—in brief, the fear to give offense. “More than any other people,” said Wendell Phillips one blue day, “we Americans are afraid of one

another.” The saying seems harsh. It goes counter to the national delusion of uncompromising independence and limitless personal freedom. It wars upon the national vanity. But all the same there is a good deal of truth in it.

What is often mistaken for an independent spirit, in dealing with the national traits, is not more than a habit of crying with the pack. The American is not a joiner for nothing. He joins something, whether it be a political party, a church or a tin-pot fraternal order, because joining gives him the feeling of security—because it makes him a part of something larger and safer than he is—because it gives him a chance to work off his steam within prudent limits. Beyond lie the national taboos. Beyond lies true independence—and the heavy penalties that go therewith. Once over the border, and the whole pack is on the heretic.

The taboos that I have mentioned are extraordinarily harsh and numerous. They stand around nearly every subject that is genuinely important to man; they hedge in free opinion and experimentation on all sides. Consider, for example, the matter of religion. It is debated freely and furiously in almost every country in the world save the United States. Here the debate, save it keep to the superficial, is frowned upon. Let an individual uncover the fundamentals of the thing, and he is denounced as a disturber of the public peace. Let a journal cut loose, and at once an effort is made to bar it from the mails. The result is that all religions are equally safeguarded against criticism and that all of them lose vitality. We protect the status quo, and so make steady war upon revision and improvement.

Nor is our political discussion much more free and thorough. It concerns itself, in the overwhelming main, with nonessentials; time and again, the two chief parties of the country, warring over details, have come so close together that it has been almost impossible to distinguish them. Whenever a stray heretic essays to grapple with essentials, he finds himself denounced for his contumacy. Thus the discussion of the capital problem of industrial organization, in so far as it has gone on at all, has gone on under the surface, and almost furtively. Now, suddenly bursting out in wartime, it takes on an aspect of the sinister, and causes justifiable alarm. That alarm might have been avoided by threshing out the thing in the days of peace.

Behind all this timorousness, of course, there is a sound discretion. With a population made up of widely various and often highly antagonistic elements, many of them without political experience, the dangers of a “too free” gabbling

needn't be pointed out. But at the same time, it would be useless to deny the disadvantages of the current system of taboos. It tends to substitute mere complacency for alertness and information. It gives a false importance to the occasional rebel. It sets up a peace that is full of dynamite.

On Being an American*

Apparently there are those who begin to find it disagreeable. One of them unburdened his woes in this place last Tuesday, under the heading of, "Is America Fit to Live In?" Let me confess at once that this elegy filled me with great astonishment. I had labored under the impression that this republic was wholly satisfactory to all 100% Americans—that any proposal to fumigate and improve it was as personally offensive to them as a proposal to improve the looks of their wives. Yet here was a 100% American ranting against it like a Bolshevik on a soap box. And here was I, less than 1/2 of 1% American by volume, standing aghast. A curious experience, indeed. Can it be that all the 100% Americans are preparing to throw up their hands and move out, leaving the land that the Fathers sweated and bled for to us Huns?

God forbid! I'd as lief have some poor working girl (mistaking the street number) leave twins on my doorstep. No one would weep saltier tears than I when the huge fleet of Mayflowers sailed away, bound for some land of liberty. For what makes America charming is precisely the Americans—that is, those above 50%, those above proof. They are, by long odds, the most charming people that I have ever encountered in this world. They have the same charm that one so often notes in a young girl, say of seventeen or eighteen, and perhaps it is grounded upon the same qualities, artlessness, great seriousness, extreme self-consciousness, a fresh and innocent point of view, a disarming and ingratiating ignorance. They are, culturally speaking, the youngest of white races, and they have all the virtues that go with youngness. It is easy to excite them. It is easy to fool them. But it is very hard to dislike them.

Perhaps there is something deeper than the qualities I have rehearsed. I grope for it vaguely, and decide that it is probably a naïve fidelity to good intentions. The Americans do everything with the best of motives, and with all the solemnity that goes therewith. And they get the reward that the jocose

* H.L. Mencken, excerpted from "On Being American," *The Baltimore Evening Sun*, Oct. 11, 1920. Reprinted by permission of the Enoch Pratt Free Library of Baltimore, in accordance with the terms of the will of H.L. Mencken.

gods invariably bestow. I recall a scene in a low burlesque show, witnessed for hire in my days as a dramatic critic. A chorus girl executes a fall on the stage, and Krausemeyer, the Swiss comedian, rushes to her aid. As he stoops painfully to pick her up, Irving Rabinovitz, the Zionist comedian, fetches him a fearful clout across the cofferdam with a slapstick. Here, in brief, is the history of the United States, particularly in recent years. Say what you will against it, I maintain to the last that it is diverting—that it affords stimulating entertainment to a civilized man.

Where, indeed, is there a better show in the world? Where has there been a better show since the Reformation? It goes on daily, not in three rings, but in three hundred rings, and in each one of them whole battalions of acrobats tie themselves into fabulous knots, and the handsomest gals in Christendom pirouette upon the loveliest and most skittish horses, and clowns of unbelievable limberness and humor perform inordinate monkeyshines. Consider, for example, the current campaign for the presidency.* Would it be possible to imagine anything more stupendously grotesque—a deafening, nerve-wracking battle to the death between Tweedledum and Tweedledee—the impossible, with fearful snorts, gradually swallowing the inconceivable? I defy anyone to match it elsewhere on this earth. In other lands, at worst, there are at least issues, ideas, personalities. Somebody says something intelligible, and somebody replies. It is important to somebody that the thing go this way or that way. But here, having perfected democracy, we lift the whole combat to a gaudy symbolism, to a disembodied transcendentalism, to metaphysics, that sweet nirvana. Here we load a pair of palpably tin cannons with blank cartridges charged with talcum powder, and so let fly. Here one may howl over the show without an uneasy reminder that someone is being hurt.

I hold that this exhibition is peculiarly American—that nowhere else on this disreputable ball has the art of the sham-battle been developed to such fineness. Two late experiences in point: A few weeks back, a Berlin paper reprinted an article of mine from the *Evening Sun* paper, with an explanatory preface. In this preface, the editor was at pains to explain that no intelligent man in the United States regarded the result of an election as important, and to warn the Germans against getting into “feverish sweats” over such combats. Last week, I had dinner with an Englishman. From cocktails to bromo seltzer, he bewailed the political lassitude of the English populace—its growing indifference to the

* Between Warren G. Harding and James M. Cox.

whole political buffoonery. Here we have two typical foreign attitudes: the Germans make politics too harsh and implacable, and the English take politics too lightly. Both attitudes make for bad shows. Observing a German election, one is uncomfortably harassed and stirred up; observing an English election, one falls asleep. In the United States, the thing is better done. Here it is purged of all menace, all sinister quality, all genuine significance—and stuffed with such gorgeous humors, such extravagant imbecilities, such uproarious farce that one comes to the end of it with one's midriff in tatters.

But feeling better for the laugh. As the 100% *pleureur** said last Tuesday, the human soul craves joy. It is necessary to happiness, to health. Well, here is the land of joy. Here the show never stops. What could be more steadily mirth-provoking than the endless battle of the Puritans to make this joy unlawful and impossible? The effort is itself a greater joy to one standing on the sidelines than any or all of the joys that it combats. If I had to choose between hanging Dr. Kelly** and closing all of the theaters in Baltimore, I'd surely shut up the theaters, for nine times out of ten their laborious struggles to amuse me merely bore me, whereas Dr. Kelly fetches me every time. He is, it seems to me, the eternal American, ever moved by good intentions, ever lifting me to yells with the highest of motives, ever stooping à la Krausemeyer to pick up a foundered chorus girl and ever getting a thumping clout from the Devil.

I am sinful, and such spectacles delight me. If the slapstick were a sash-weight, the show would be cruel, and I'd probably go to the rescue of Dr. Kelly. As it is, I know that he is not hurt. On the contrary, it does him good; it helps to get him into Heaven. As for me, it helps to divert me from my sorrows, of which there are many. More, it makes me a better American. One man likes the republic because it pays better wages than Bulgaria. Another because it has laws to keep him sober, pious and faithful to his wife. Another because the Woolworth Building is higher than the cathedral at Chartres. . . . Another because there is a warrant out for him somewhere else. Me, I like it because it amuses me. I never get tired of the show. It is worth every cent it costs.

I have never heard of such a show in any other country. Perhaps one goes on in Russia, but, as the European *Advocates Diaboli* said last Tuesday, it is difficult to be happy when one is hungry. Here one always gets plenty to eat,

* "Weeper."

** Howard A. Kelly, one of the founding doctors of John's Hopkins University, and a Christian fundamentalist.

even in the midst of war, and despite Prohibition, quite enough to drink. I remember many post-prandial felicities, inconceivable in Europe, Asia, Africa or Oceania. Four nights, for example, at the Bill Sunday circus; one night in particular. I had got down a capital dinner, with three or four coffin-varnish cocktails and half a bottle of Beni Carlo. (Ah, those days!) Proceeding to the holy place, I witnessed the incomparable spectacle of a governor of Maryland, the president of a bank, and the president of the Western Maryland Railroad moaning and puffing in a bull-ring together. Match it in Europe if you can! I defy you to name the country. The governor, prefect, lord lieutenant, *Oberpräsident* of an ancient and imperial province sobbing out his sins in the presence of 20,000 neck-stretchers, while a florid man with an elkhorn mustache played “Throw Out the Lifeline” on a trombone!

Another memory. The other day in New York, I gave ear to a publisher soured and made hopeless by the incessant forays of the Comstocks—*The Genius* and *Jurgen* suppressed out of hand, half a dozen other good books killed abornin’, the national letters hamstrung and knee-haltered by a violent arbitrary and unintelligible despotism. That night I went to the Winter Garden to see the new show. During the first part, 40 or 50 head of girls with their legs bare marched down a runway into the audience, passing within four or five centimeters of my popping eyes. During the second part, two comedians came out and began to make jokes about what Havelock Ellis* calls inversion. Revolve the thing in your mind. Here was I, an innocent young yokel, forbidden by law to read *Jurgen*, and yet it was quite lawful to beguile me with a herd of half-naked vampires and to divert me with jests proper only to banquets of interns at the Phipps Clinic. After the show, I met Ernest A. Boyd. He told me that he had a fearful beer thirst and would gladly give \$5 for a *humpen*** of 2 3/4%. I raised him \$1, but we found that malt was forbidden. But down in Greenwich Village, we found plenty of 100-proof Scotch at 65 cents a drink.

Let the 100% viewer with alarm stay his tears. If this is not joy, then what is?

* British physician and psychologist who studied homosexuality.

** Beer mug.

Chapter 16

Ralph Waldo Emerson: Self-Reliance

Ralph Waldo Emerson (1803–1882) was an American essayist and poet.

*Ne te quaesiveris extra.**

“Man is his own star; and the soul that can
Render an honest and a perfect man,
Commands all light, all influence, all fate;
Nothing to him falls early or too late.
Our acts our angels are, or good or ill,
Our fatal shadows that walk by us still.”

—Epilogue to Beaumont and Fletcher’s *Honest Man’s Fortune*

Cast the bantling on the rocks,
Suckle him with the she-wolf’s teat;
Wintered with the hawk and fox,
Power and speed be hands and feet.

I read the other day some verses written by an eminent painter which were original and not conventional. The soul always hears an admonition in such lines, let the subject be what it may. The sentiment they instill is of more value than any thought they may contain. To believe your own thought, to believe that what is true for you in your private heart is true for all men—that is genius. Speak your latent conviction, and it shall be the universal sense; for the inmost in due time becomes the outmost—and our first thought is rendered back to us by the trumpets of the Last Judgment. Familiar as the voice of the mind is to each, the highest merit we ascribe to Moses, Plato, and Milton is that they set at naught books and traditions, and spoke not what men but what they

Ralph Waldo Emerson, *Essays: First Series*, (Boston: James Munroe and Company, 1850), chap. 2.

* “Do not seek outside yourself.”

thought. A man should learn to detect and watch that gleam of light which flashes across his mind from within, more than the luster of the firmament of bards and sages. Yet he dismisses without notice his thought, because it is his. In every work of genius we recognize our own rejected thoughts: they come back to us with a certain alienated majesty. Great works of art have no more affecting lesson for us than this. They teach us to abide by our spontaneous impression with good-humored inflexibility then most when the whole cry of voices is on the other side. Else, tomorrow a stranger will say with masterly good sense precisely what we have thought and felt all the time, and we shall be forced to take with shame our own opinion from another.

There is a time in every man's education when he arrives at the conviction that envy is ignorance; that imitation is suicide; that he must take himself for better, for worse, as his portion; that though the wide universe is full of good, no kernel of nourishing corn can come to him but through his toil bestowed on that plot of ground which is given to him to till. The power which resides in him is new in nature, and none but he knows what that is which he can do, nor does he know until he has tried. Not for nothing one face, one character, one fact makes much impression on him, and another none. This sculpture in the memory is not without pre-established harmony. The eye was placed where one ray should fall, that it might testify of that particular ray. We but half express ourselves, and are ashamed of that divine idea which each of us represents. It may be safely trusted as proportionate and of good issues, so it be faithfully imparted, but God will not have his work made manifest by cowards. A man is relieved and gay when he has put his heart into his work and done his best; but what he has said or done otherwise shall give him no peace. It is a deliverance which does not deliver. In the attempt, his genius deserts him; no muse befriends; no invention, no hope.

Trust thyself: every heart vibrates to that iron string. Accept the place the divine providence has found for you, the society of your contemporaries, the connection of events. Great men have always done so, and confided themselves childlike to the genius of their age, betraying their perception that the absolutely trustworthy was seated at their heart, working through their hands, predominating in all their being. And we are now men, and must accept in the highest mind the same transcendent destiny; and not minors and invalids in a protected corner, not cowards fleeing before a revolution, but guides, redeemers, and benefactors, obeying the Almighty effort, and advancing on Chaos and the Dark.

What pretty oracles nature yields us on this text, in the face and behavior of children, babes, and even brutes! That divided and rebel mind, that distrust of a sentiment because our arithmetic has computed the strength and means opposed to our purpose, these have not. Their mind being whole, their eye is as yet unconquered, and when we look in their faces, we are disconcerted. Infancy conforms to nobody: all conform to it, so that one babe commonly makes four or five out of the adults who prattle and play to it. So God has armed youth and puberty and manhood no less with its own piquancy and charm, and made it enviable and gracious and its claims not to be put by, if it will stand by itself. Do not think the youth has no force, because he cannot speak to you and me. Hark! In the next room, his voice is sufficiently clear and emphatic. It seems he knows how to speak to his contemporaries. Bashful or bold, then, he will know how to make us seniors very unnecessary.

The nonchalance of boys who are sure of a dinner, and would disdain as much as a lord to do or say aught to conciliate one, is the healthy attitude of human nature. A boy is in the parlor what the pit is in the playhouse; independent, irresponsible, looking out from his corner on such people and facts as pass by, he tries and sentences them on their merits, in the swift, summary way of boys, as good, bad, interesting, silly, eloquent, troublesome. He cumpers himself never about consequences, about interests: he gives an independent, genuine verdict. You must court him: he does not court you. But the man is, as it were, clapped into jail by his consciousness. As soon as he has once acted or spoken with *éclat*, he is a committed person, watched by the sympathy or the hatred of hundreds, whose affections must now enter into his account. There is no *Lethe** for this. Ah, that he could pass again into his neutrality! Who can thus avoid all pledges, and having observed, observe again from the same unaffected, unbiased, unbribable, unaffrighted innocence, must always be formidable. He would utter opinions on all passing affairs, which being seen to be not private, but necessary, would sink like darts into the ear of men, and put them in fear.

These are the voices which we hear in solitude, but they grow faint and inaudible as we enter into the world. Society everywhere is in conspiracy against the manhood of every one of its members. Society is a joint-stock company, in which the members agree, for the better securing of his bread to each shareholder, to surrender the liberty and culture of the eater. The virtue

* Greek goddess of forgetfulness.

in most request is conformity. Self-reliance is its aversion. It loves not realities and creators, but names and customs.

Whoso would be a man must be a nonconformist. He who would gather immortal palms must not be hindered by the name of goodness, but must explore if it be goodness. Nothing is at last sacred but the integrity of your own mind. Absolve you to yourself, and you shall have the suffrage of the world. I remember an answer which when quite young I was prompted to make to a valued adviser, who was wont to importune me with the dear old doctrines of the church. On my saying, What have I to do with the sacredness of traditions, if I live wholly from within? My friend suggested, "But these impulses may be from below, not from above." I replied, "They do not seem to me to be such; but if I am the Devil's child, I will live then from the Devil." No law can be sacred to me but that of my nature. Good and bad are but names very readily transferable to that or this; the only right is what is after my constitution, the only wrong what is against it.

A man is to carry himself in the presence of all opposition, as if everything were titular and ephemeral but he. I am ashamed to think how easily we capitulate to badges and names, to large societies and dead institutions. Every decent and well-spoken individual affects and sways me more than is right. I ought to go upright and vital, and speak the rude truth in all ways. If malice and vanity wear the coat of philanthropy, shall that pass? If an angry bigot assumes this bountiful cause of Abolition, and comes to me with his last news from Barbados, why should I not say to him, "Go love thy infant; love thy wood-chopper: be good-natured and modest: have that grace; and never varnish your hard, uncharitable ambition with this incredible tenderness for black folk a thousand miles off. Thy love afar is spite at home." Rough and graceless would be such greeting, but truth is handsomer than the affectation of love. Your goodness must have some edge to it—else it is none. The doctrine of hatred must be preached as the counteraction of the doctrine of love when that pules* and whines. I shun father and mother and wife and brother when my genius calls me. I would write on the lintels of the doorpost, *Whim*. I hope it is somewhat better than whim at last, but we cannot spend the day in explanation. Expect me not to show cause why I seek or why I exclude company. Then, again, do not tell me, as a good man did today, of my obligation to put all poor men in good situations. Are they *my* poor? I tell thee, thou foolish philanthropist, that

* Cries.

I grudge the dollar, the dime, the cent I give to such men as do not belong to me and to whom I do not belong. There is a class of persons to whom by all spiritual affinity I am bought and sold; for them I will go to prison, if need be; but your miscellaneous popular charities; the education at college of fools; the building of meetinghouses to the vain end to which many now stand; alms to sots; and the thousandfold relief societies—though I confess with shame I sometimes succumb and give the dollar, it is a wicked dollar which by and by I shall have the manhood to withhold.

Virtues are, in the popular estimate, rather the exception than the rule. There is the man *and* his virtues. Men do what is called a good action, as some piece of courage or charity, much as they would pay a fine in expiation of daily non-appearance on parade. Their works are done as an apology or extenuation of their living in the world—as invalids and the insane pay a high board. Their virtues are penances. I do not wish to expiate, but to live. My life is for itself and not for a spectacle. I much prefer that it should be of a lower strain, so it be genuine and equal, than that it should be glittering and unsteady. I wish it to be sound and sweet, and not to need diet and bleeding. I ask primary evidence that you are a man, and refuse this appeal from the man to his actions. I know that for myself it makes no difference whether I do or forbear those actions which are reckoned excellent. I cannot consent to pay for a privilege where I have intrinsic right. Few and mean as my gifts may be, I actually am, and do not need for my own assurance or the assurance of my fellows any secondary testimony.

What I must do is all that concerns me, not what the people think. This rule, equally arduous in actual and in intellectual life, may serve for the whole distinction between greatness and meanness. It is the harder, because you will always find those who think they know what is your duty better than you know it. It is easy in the world to live after the world's opinion; it is easy in solitude to live after our own; but the great man is he who, in the midst of the crowd, keeps with perfect sweetness the independence of solitude.

The objection to conforming to usages that have become dead to you is that it scatters your force. It loses your time and blurs the impression of your character. If you maintain a dead church, contribute to a dead Bible society, vote with a great party either for the government or against it, spread your table like base housekeepers—under all these screens I have difficulty to detect the precise man you are. And, of course, so much force is withdrawn

from your proper life. But do your work, and I shall know you. Do your work, and you shall reinforce yourself. A man must consider what a blind-man's buff is this game of conformity. If I know your sect, I anticipate your argument. I hear a preacher announce for his text and topic the expediency of one of the institutions of his church. Do I not know beforehand that not possibly can he say a new and spontaneous word? Do I not know that, with all this ostentation of examining the grounds of the institution, he will do no such thing? Do I not know that he is pledged to himself not to look but at one side—the permitted side—not as a man, but as a parish minister? He is a retained attorney, and these airs of the bench are the emptiest affectation. Well, most men have bound their eyes with one or another handkerchief and attached themselves to some one of these communities of opinion. This conformity makes them not false in a few particulars, authors of a few lies, but false in all particulars. Their every truth is not quite true. Their two is not the real two, their four not the real four; so that every word they say chagrins us, and we know not where to begin to set them right. Meantime, nature is not slow to equip us in the prison uniform of the party to which we adhere. We come to wear one cut of face and figure, and acquire by degrees the gentlest asinine expression. There is a mortifying experience in particular, which does not fail to wreak itself also in the general history; I mean “the foolish face of praise,” the forced smile which we put on in company where we do not feel at ease in answer to conversation which does not interest us. The muscles, not spontaneously moved, but moved by a low usurping willfulness, grow tight about the outline of the face with the most disagreeable sensation.

For nonconformity the world whips you with its displeasure. And therefore a man must know how to estimate a sour face. The bystanders look askance on him in the public street or in the friend's parlor. If this aversion had its origin in contempt and resistance like his own, he might well go home with a sad countenance; but the sour faces of the multitude, like their sweet faces, have no deep cause, but are put on and off as the wind blows and a newspaper directs. Yet is the discontent of the multitude more formidable than that of the senate and the college. It is easy enough for a firm man who knows the world to brook the rage of the cultivated classes. Their rage is decorous and prudent, for they are timid as being very vulnerable themselves. But when to their feminine rage the indignation of the people is added, when the ignorant and the poor are aroused, when the unintelligent brute force that lies at the bottom

of society is made to growl and mow, it needs the habit of magnanimity and religion to treat it godlike as a trifle of no concernment.

The other terror that scares us from self-trust is our consistency; a reverence for our past act or word, because the eyes of others have no other data for computing our orbit than our past acts, and we are loath to disappoint them.

But why should you keep your head over your shoulder? Why drag about this corpse of your memory, lest you contradict somewhat you have stated in this or that public place? Suppose you should contradict yourself; what then? It seems to be a rule of wisdom never to rely on your memory alone, scarcely even in acts of pure memory, but to bring the past for judgment into the thousand-eyed present, and live ever in a new day. In your metaphysics you have denied personality to the Deity: yet when the devout motions of the soul come, yield to them heart and life, though they should clothe God with shape and color. Leave your theory, as Joseph his coat in the hand of the harlot, and flee.

A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines. With consistency a great soul has simply nothing to do. He may as well concern himself with his shadow on the wall. Speak what you think now in hard words, and tomorrow speak what tomorrow thinks in hard words again, though it contradict every thing you said today. "Ah, so you shall be sure to be misunderstood." Is it so bad, then, to be misunderstood? Pythagoras was misunderstood, and Socrates, and Jesus, and Luther, and Copernicus, and Galileo, and Newton, and every pure and wise spirit that ever took flesh. To be great is to be misunderstood.

I suppose no man can violate his nature. All the sallies of his will are rounded in by the law of his being, as the inequalities of Andes and Himalaya are insignificant in the curve of the sphere. Nor does it matter how you gauge and try him. A character is like an acrostic or Alexandrian stanza—read it forward, backward, or across, it still spells the same thing. In this pleasing, contrite wood-life which God allows me, let me record day by day my honest thought without prospect or retrospect, and I cannot doubt it will be found symmetrical, though I mean it not and see it not. My book should smell of pines and resound with the hum of insects. The swallow over my window should interweave that thread or straw he carries in his bill into my web also. We pass for what we are. Character teaches above our wills. Men imagine that they communicate their virtue or vice only by overt actions, and do not see that virtue or vice emit a breath every moment.

There will be an agreement in whatever variety of actions, so they be each honest and natural in their hour. For of one will, the actions will be harmonious, however unlike they seem. These varieties are lost sight of at a little distance, at a little height of thought. One tendency unites them all. The voyage of the best ship is a zigzag line of a hundred tacks. See the line from a sufficient distance, and it straightens itself to the average tendency. Your genuine action will explain itself, and will explain your other genuine actions. Your conformity explains nothing. Act singly, and what you have already done singly will justify you now. Greatness appeals to the future. If I can be firm enough today to do right, and scorn eyes, I must have done so much right before as to defend me now. Be it how it will, do right now. Always scorn appearances, and you always may. The force of character is cumulative. All the foregone days of virtue work their health into this. What makes the majesty of the heroes of the senate and the field, which so fills the imagination? The consciousness of a train of great days and victories behind. They shed a united light on the advancing actor. He is attended as by a visible escort of angels. That is it which throws thunder into Chatham's voice, and dignity into Washington's port, and America into Adams's eye. Honor is venerable to us because it is no ephemeris. It is always ancient virtue. We worship it today because it is not of today. We love it and pay it homage, because it is not a trap for our love and homage, but is self-dependent, self-derived, and therefore of an old immaculate pedigree, even if shown in a young person.

I hope in these days we have heard the last of conformity and consistency. Let the words be gazetted and ridiculous henceforward. Instead of the gong for dinner, let us hear a whistle from the Spartan fife. Let us never bow and apologize more. A great man is coming to eat at my house. I do not wish to please him; I wish that he should wish to please me. I will stand here for humanity, and though I would make it kind, I would make it true. Let us affront and reprimand the smooth mediocrity and squalid contentment of the times, and hurl in the face of custom, and trade, and office, the fact which is the upshot of all history, that there is a great responsible Thinker and Actor working wherever a man works; that a true man belongs to no other time or place, but is the center of things. Where he is, there is nature. He measures you, and all men, and all events. Ordinarily, everybody in society reminds us of somewhat else, or of some other person. Character, reality, reminds you of nothing else; it takes place of the whole creation. The man must be so much

that he must make all circumstances indifferent. Every true man is a cause, a country, and an age; requires infinite spaces and numbers and time fully to accomplish his design—and posterity seem to follow his steps as a train of clients. A man Caesar is born, and for ages after we have a Roman Empire. Christ is born, and millions of minds so grow and cleave to his genius, that he is confounded with virtue and the possible of man. An institution is the lengthened shadow of one man; as, Monachism, of the Hermit Antony; the Reformation, of Luther; Quakerism, of Fox; Methodism, of Wesley; Abolition, of Clarkson. Scipio, Milton called “the height of Rome”; and all history resolves itself very easily into the biography of a few stout and earnest persons.

Let a man then know his worth, and keep things under his feet. Let him not peep or steal, or skulk up and down with the air of a charity boy, a bastard, or an interloper, in the world which exists for him. But the man in the street, finding no worth in himself which corresponds to the force which built a tower or sculptured a marble god, feels poor when he looks on these. To him a palace, a statue, or a costly book have an alien and forbidding air, much like a gay equipage, and seem to say like that, “Who are you, sir?” Yet they all are his, suitors for his notice, petitioners to his faculties that they will come out and take possession. The picture waits for my verdict: it is not to command me, but I am to settle its claims to praise. That popular fable of the sot who was picked up dead drunk in the street, carried to the duke’s house, washed and dressed and laid in the duke’s bed, and, on his waking, treated with all obsequious ceremony like the duke, and assured that he had been insane, owes its popularity to the fact that it symbolizes so well the state of man, who is in the world a sort of sot, but now and then wakes up, exercises his reason, and finds himself a true prince.

Our reading is mendicant and sycophantic. In history, our imagination plays us false. Kingdom and lordship, power and estate, are a gaudier vocabulary than private John and Edward in a small house and common day’s work; but the things of life are the same to both; the sum total of both is the same. Why all this deference to Alfred, and Scanderbeg, and Gustavus? Suppose they were virtuous; did they wear out virtue? As great a stake depends on your private act today, as followed their public and renowned steps. When private men shall act with original views, the luster will be transferred from the actions of kings to those of gentlemen.

The world has been instructed by its kings, who have so magnetized

the eyes of nations. It has been taught by this colossal symbol the mutual reverence that is due from man to man. The joyful loyalty with which men have everywhere suffered the king, the noble, or the great proprietor to walk among them by a law of his own, make his own scale of men and things, and reverse theirs, pay for benefits not with money but with honor, and represent the law in his person, was the hieroglyphic by which they obscurely signified their consciousness of their own right and comeliness, the right of every man.

The magnetism which all original action exerts is explained when we inquire the reason of self-trust. Who is the trustee? What is the aboriginal Self, on which a universal reliance may be grounded? What is the nature and power of that science-baffling star, without parallax, without calculable elements, which shoots a ray of beauty even into trivial and impure actions, if the least mark of independence appear? The inquiry leads us to that source, at once the essence of genius, of virtue, and of life, which we call Spontaneity or Instinct. We denote this primary wisdom as Intuition, whilst all later teachings are tuitions. In that deep force, the last fact behind which analysis cannot go, all things find their common origin. For the sense of being which in calm hours rises, we know not how, in the soul, is not diverse from things, from space, from light, from time, from man, but one with them, and proceeds obviously from the same source whence their life and being also proceed. We first share the life by which things exist, and afterwards see them as appearances in nature, and forget that we have shared their cause. Here is the fountain of action and of thought. Here are the lungs of that inspiration which give man wisdom, and which cannot be denied without impiety and atheism. We lie in the lap of immense intelligence, which makes us receivers of its truth and organs of its activity. When we discern justice, when we discern truth, we do nothing of ourselves, but allow a passage to its beams. If we ask whence this comes, if we seek to pry into the soul that causes, all philosophy is at fault. Its presence or its absence is all we can affirm. Every man discriminates between the voluntary acts of his mind, and his involuntary perceptions, and knows that to his involuntary perceptions a perfect faith is due. He may err in the expression of them, but he knows that these things are so, like day and night, not to be disputed. My willful actions and acquisitions are but roving—the idlest reverie, the faintest native emotion, command my curiosity and respect. Thoughtless people contradict as readily the statement of perceptions as of opinions, or rather much more readily; for they do not distinguish between

perception and notion. They fancy that I choose to see this or that thing. But perception is not whimsical, but fatal. If I see a trait, my children will see it after me, and in course of time, all mankind—although it may chance that no one has seen it before me. For my perception of it is as much a fact as the sun.

The relations of the soul to the divine spirit are so pure that it is profane to seek to interpose helps. It must be that when God speaks, he should communicate, not one thing, but all things; should fill the world with his voice; should scatter forth light, nature, time, souls, from the center of the present thought; and new date and new create the whole. Whenever a mind is simple, and receives a divine wisdom, old things pass away—means, teachers, texts, temples fall; it lives now, and absorbs past and future into the present hour. All things are made sacred by relation to it—one as much as another. All things are dissolved to their center by their cause and, in the universal miracle, petty and particular miracles disappear. If, therefore, a man claims to know and speak of God, and carries you backward to the phraseology of some old moldered nation in another country, in another world, believe him not. Is the acorn better than the oak which is its fullness and completion? Is the parent better than the child into whom he has cast his ripened being? Whence, then, this worship of the past? The centuries are conspirators against the sanity and authority of the soul. Time and space are but physiological colors which the eye makes, but the soul is light; where it is, is day; where it was, is night; and history is an impertinence and an injury, if it be any thing more than a cheerful apologue or parable of my being and becoming.

Man is timid and apologetic; he is no longer upright; he dares not say, "I think," "I am," but quotes some saint or sage. He is ashamed before the blade of grass or the blowing rose. These roses under my window make no reference to former roses or to better ones; they are for what they are; they exist with God today. There is no time to them. There is simply the rose; it is perfect in every moment of its existence. Before a leaf-bud has burst, its whole life acts; in the full-blown flower there is no more; in the leafless root there is no less. Its nature is satisfied, and it satisfies nature, in all moments alike. But man postpones or remembers; he does not live in the present, but with reverted eye laments the past, or, heedless of the riches that surround him, stands on tiptoe to foresee the future. He cannot be happy and strong until he, too, lives with nature in the present, above time.

This should be plain enough. Yet see what strong intellects dare not yet

hear God himself, unless he speak the phraseology of I know not what David, or Jeremiah, or Paul. We shall not always set so great a price on a few texts, on a few lives. We are like children who repeat by rote the sentences of grandames* and tutors, and, as they grow older, of the men of talents and character they chance to see—painfully recollecting the exact words they spoke; afterwards, when they come into the point of view which those had who uttered these sayings, they understand them, and are willing to let the words go; for, at any time, they can use words as good when occasion comes. If we live truly, we shall see truly. It is as easy for the strong man to be strong, as it is for the weak to be weak. When we have new perception, we shall gladly disburden the memory of its hoarded treasures as old rubbish. When a man lives with God, his voice shall be as sweet as the murmur of the brook and the rustle of the corn.

And now, at last, the highest truth on this subject remains unsaid; probably cannot be said; for all that we say is the far-off remembering of the intuition. That thought, by what I can now nearest approach to say it, is this. When good is near you, when you have life in yourself, it is not by any known or accustomed way; you shall not discern the footprints of any other; you shall not see the face of man; you shall not hear any name—the way, the thought, the good, shall be wholly strange and new. It shall exclude example and experience. You take the way from man, not to man. All persons that ever existed are its forgotten ministers. Fear and hope are alike beneath it. There is somewhat low even in hope. In the hour of vision, there is nothing that can be called gratitude, nor properly joy. The soul raised over passion beholds identity and eternal causation, perceives the self-existence of Truth and Right, and calms itself with knowing that all things go well. Vast spaces of nature, the Atlantic Ocean, the South Sea; long intervals of time, years, centuries—are of no account. This which I think and feel underlay every former state of life and circumstances, as it does underlie my present, and what is called life, and what is called death.

Life only avails, not the having lived. Power ceases in the instant of repose; it resides in the moment of transition from a past to a new state, in the shooting of the gulf, in the darting to an aim. This one fact the world hates, that the soul becomes; for that forever degrades the past, turns all riches to poverty, all reputation to a shame, confounds the saint with the rogue, shoves Jesus and Judas equally aside. Why, then, do we prate of self-reliance? Inasmuch as the

* Grandmothers.

soul is present, there will be power not confident but agent. To talk of reliance is a poor external way of speaking. Speak rather of that which relies, because it works and is. Who has more obedience than I masters me, though he should not raise his finger. Round him I must revolve by the gravitation of spirits. We fancy it rhetoric when we speak of eminent virtue. We do not yet see that virtue is Height, and that a man or a company of men, plastic and permeable to principles, by the law of nature must overpower and ride all cities, nations, kings, rich men, poets, who are not.

This is the ultimate fact which we so quickly reach on this, as on every topic, the resolution of all into the ever-blessed ONE. Self-existence is the attribute of the Supreme Cause, and it constitutes the measure of good by the degree in which it enters into all lower forms. All things real are so by so much virtue as they contain. Commerce, husbandry, hunting, whaling, war, eloquence, personal weight are somewhat, and engage my respect as examples of its presence and impure action. I see the same law working in nature for conservation and growth. Power is in nature the essential measure of right. Nature suffers nothing to remain in her kingdoms which cannot help itself. The genesis and maturation of a planet, its poise and orbit, the bended tree recovering itself from the strong wind, the vital resources of every animal and vegetable, are demonstrations of the self-sufficing, and therefore self-relying, soul.

Thus all concentrates: let us not rove; let us sit at home with the cause. Let us stun and astonish the intruding rabble of men and books and institutions by a simple declaration of the divine fact. Bid the invaders take the shoes from off their feet, for God is here within. Let our simplicity judge them, and our docility to our own law demonstrate the poverty of nature and fortune beside our native riches.

But now we are a mob. Man does not stand in awe of man, nor is his genius admonished to stay at home, to put itself in communication with the internal ocean, but it goes abroad to beg a cup of water of the urns of other men. We must go alone. I like the silent church before the service begins better than any preaching. How far off, how cool, how chaste the persons look, begirt each one with a precinct or sanctuary! So let us always sit. Why should we assume the faults of our friend, or wife, or father, or child, because they sit around our hearth or are said to have the same blood? All men have my blood, and I have all men's. Not for that will I adopt their petulance or folly, even to the extent of being ashamed of it. But your isolation must not be mechanical,

but spiritual, that is, must be elevation. At times the whole world seems to be in conspiracy to importune you with emphatic trifles. Friend, client, child, sickness, fear, want, charity, all knock at once at thy closet door, and say, "Come out unto us." But keep thy state; come not into their confusion. The power men possess to annoy me, I give them by a weak curiosity. No man can come near me but through my act. "What we love that we have, but by desire we bereave ourselves of the love."

If we cannot at once rise to the sanctities of obedience and faith, let us at least resist our temptations; let us enter into the state of war, and wake Thor and Woden, courage and constancy, in our Saxon breasts. This is to be done in our smooth times by speaking the truth. Check this lying hospitality and lying affection. Live no longer to the expectation of these deceived and deceiving people with whom we converse. Say to them, O father, O mother, O wife, O brother, O friend, I have lived with you after appearances hitherto. Henceforward, I am the truth's. Be it known unto you that henceforward I obey no law less than the eternal law. I will have no covenants but proximities. I shall endeavor to nourish my parents, to support my family, to be the chaste husband of one wife—but these relations I must fill after a new and unprecedented way. I appeal from your customs. I must be myself. I cannot break myself any longer for you, or you. If you can love me for what I am, we shall be the happier. If you cannot, I will still seek to deserve that you should. I will not hide my tastes or aversions. I will so trust that what is deep is holy, that I will do strongly before the sun and moon whatever inly rejoices me, and the heart appoints. If you are noble, I will love you; if you are not, I will not hurt you and myself by hypocritical attentions. If you are true, but not in the same truth with me, cleave to your companions; I will seek my own. I do this not selfishly, but humbly and truly. It is alike your interest, and mine, and all men's, however long we have dwelt in lies, to live in truth. Does this sound harsh today? You will soon love what is dictated by your nature as well as mine, and, if we follow the truth, it will bring us out safe at last. But so you may give these friends pain. Yes, but I cannot sell my liberty and my power to save their sensibility. Besides, all persons have their moments of reason, when they look out into the region of absolute truth; then will they justify me and do the same thing.

The populace think that your rejection of popular standards is a rejection of all standard, and mere antinomianism; and the bold sensualist will use the name of philosophy to gild his crimes. But the law of consciousness abides.

There are two confessionals, in one or the other of which we must be shriven. You may fulfill your round of duties by clearing yourself in the *direct* or in the *reflex* way. Consider whether you have satisfied your relations to father, mother, cousin, neighbor, town, cat, and dog; whether any of these can upbraid you. But I may also neglect this reflex standard, and absolve me to myself. I have my own stern claims and perfect circle. It denies the name of duty to many offices that are called duties. But if I can discharge its debts, it enables me to dispense with the popular code. If any one imagines that this law is lax, let him keep its commandment one day.

And truly it demands something godlike in him who has cast off the common motives of humanity and has ventured to trust himself for a taskmaster. High be his heart, faithful his will, clear his sight, that he may in good earnest be doctrine, society, law, to himself, that a simple purpose may be to him as strong as iron necessity is to others!

If any man consider the present aspects of what is called by distinction *society*, he will see the need of these ethics. The sinew and heart of man seem to be drawn out, and we are become timorous, desponding whimperers. We are afraid of truth, afraid of fortune, afraid of death, and afraid of each other. Our age yields no great and perfect persons. We want men and women who shall renovate life and our social state, but we see that most natures are insolvent, cannot satisfy their own wants, have an ambition out of all proportion to their practical force, and do lean and beg day and night continually. Our housekeeping is mendicant, our arts, our occupations, our marriages, our religion, we have not chosen, but society has chosen for us. We are parlor soldiers. We shun the rugged battle of fate, where strength is born.

If our young men miscarry in their first enterprises, they lose all heart. If the young merchant fails, men say he is *ruined*. If the finest genius studies at one of our colleges and is not installed in an office within one year afterwards in the cities or suburbs of Boston or New York, it seems to his friends and to himself that he is right in being disheartened, and in complaining the rest of his life. A sturdy lad from New Hampshire or Vermont, who in turn tries all the professions, who *teams* it, *farms* it, *peddles*, keeps a school, preaches, edits a newspaper, goes to Congress, buys a township, and so forth, in successive years, and always, like a cat, falls on his feet, is worth a hundred of these city dolls. He walks abreast with his days, and feels no shame in not “studying a profession,” for he does not postpone his life, but lives already. He has not one

chance, but a hundred chances. Let a Stoic open the resources of man, and tell men they are not leaning willows, but can and must detach themselves; that with the exercise of self-trust, new powers shall appear; that a man is the word made flesh, born to shed healing to the nations, that he should be ashamed of our compassion, and that the moment he acts from himself, tossing the laws, the books, idolatries, and customs out of the window, we pity him no more, but thank and revere him—and that teacher shall restore the life of man to splendor, and make his name dear to all history.

It is easy to see that a greater self-reliance must work a revolution in all the offices and relations of men; in their religion; in their education; in their pursuits; their modes of living; their association; in their property; in their speculative views.

1. In what prayers do men allow themselves! That which they call a holy office is not so much as brave and manly. Prayer looks abroad and asks for some foreign addition to come through some foreign virtue, and loses itself in endless mazes of natural and supernatural, and mediatorial and miraculous. Prayer that craves a particular commodity—anything less than all good—is vicious. Prayer is the contemplation of the facts of life from the highest point of view. It is the soliloquy of a beholding and jubilant soul. It is the spirit of God pronouncing his works good. But prayer as a means to effect a private end is meanness and theft. It supposes dualism and not unity in nature and consciousness. As soon as the man is at one with God, he will not beg. He will then see prayer in all action. The prayer of the farmer kneeling in his field to weed it, the prayer of the rower kneeling with the stroke of his oar, are true prayers heard throughout nature, though for cheap ends. Caratach, in Fletcher's *Bonduca*, when admonished to inquire the mind of the god Audate, replies:

His hidden meaning lies in our endeavours;
Our valors are our best gods.

Another sort of false prayers are our regrets. Discontent is the want of self-reliance: it is infirmity of will. Regret calamities, if you can thereby help the sufferer; if not, attend your own work, and already the evil begins to be repaired. Our sympathy is just as base. We come to them who weep foolishly, and sit down and cry for company, instead of imparting to them truth and health in rough electric shocks, putting them once more in communication with their own reason. The secret of fortune is joy in our hands. Welcome evermore to

gods and men is the self-helping man. For him all doors are flung wide: him all tongues greet, all honors crown, all eyes follow with desire. Our love goes out to him and embraces him, because he did not need it. We solicitously and apologetically caress and celebrate him, because he held on his way and scorned our disapprobation. The gods love him because men hated him. “To the persevering mortal,” said Zoroaster, “the blessed Immortals are swift.”

As men’s prayers are a disease of the will, so are their creeds a disease of the intellect. They say with those foolish Israelites, “Let not God speak to us, lest we die. Speak thou, speak any man with us, and we will obey.” Everywhere I am hindered of meeting God in my brother, because he has shut his own temple doors, and recites fables merely of his brother’s, or his brother’s brother’s God. Every new mind is a new classification. If it prove a mind of uncommon activity and power, a Locke, a Lavoisier, a Hutton, a Bentham, a Fourier,* it imposes its classification on other men, and lo! a new system. In proportion to the depth of the thought, and so to the number of the objects it touches and brings within reach of the pupil, is his complacency. But chiefly is this apparent in creeds and churches, which are also classifications of some powerful mind acting on the elemental thought of duty and man’s relation to the Highest. Such is Calvinism, Quakerism, Swedenborgism. The pupil takes the same delight in subordinating everything to the new terminology, as a girl who has just learned botany in seeing a new earth and new seasons thereby. It will happen for a time that the pupil will find his intellectual power has grown by the study of his master’s mind. But in all unbalanced minds, the classification is idolized, passes for the end, and not for a speedily exhaustible means, so that the walls of the system blend to their eye in the remote horizon with the walls of the universe; the luminaries of heaven seem to them hung on the arch their master built. They cannot imagine how you aliens have any right to see—how you can see; “It must be somehow that you stole the light from us.” They do not yet perceive that light, unsystematic, indomitable, will break into any cabin, even into theirs. Let them chirp awhile and call it their own. If they are honest and do well, presently their neat new pincfold will be too strait and low, will crack, will lean, will rot and vanish, and the immortal light, all young and joyful, million-orbed, million-colored, will beam over the universe as on the first morning.

* John Locke, Antoine Lavoisier, James Holton, Jeremy Bentham, and Charles Fourier, all considered original thinkers.

2. It is for want of self-culture that the superstition of travelling, whose idols are Italy, England, Egypt, retains its fascination for all educated Americans. They who made England, Italy, or Greece venerable in the imagination did so by sticking fast where they were, like an axis of the earth. In manly hours, we feel that duty is our place. The soul is no traveler; the wise man stays at home, and when his necessities, his duties, on any occasion call him from his house, or into foreign lands, he is at home still, and shall make men sensible by the expression of his countenance, that he goes the missionary of wisdom and virtue, and visits cities and men like a sovereign, and not like an interloper or a valet.

I have no churlish objection to the circumnavigation of the globe, for the purposes of art, of study, and benevolence, so that the man is first domesticated, or does not go abroad with the hope of finding somewhat greater than he knows. He who travels to be amused, or to get somewhat which he does not carry, travels away from himself, and grows old even in youth among old things. In Thebes, in Palmyra, his will and mind have become old and dilapidated as they. He carries ruins to ruins.

Travelling is a fool's paradise. Our first journeys discover to us the indifference of places. At home I dream that at Naples, at Rome, I can be intoxicated with beauty and lose my sadness. I pack my trunk, embrace my friends, embark on the sea, and at last wake up in Naples, and there beside me is the stern fact, the sad self, unrelenting, identical, that I fled from. I seek the Vatican and the palaces. I affect to be intoxicated with sights and suggestions, but I am not intoxicated. My giant goes with me wherever I go.

3. But the rage of travelling is a symptom of a deeper unsoundness affecting the whole intellectual action. The intellect is vagabond, and our system of education fosters restlessness. Our minds travel when our bodies are forced to stay at home. We imitate; and what is imitation but the travelling of the mind? Our houses are built with foreign taste; our shelves are garnished with foreign ornaments; our opinions, our tastes, our faculties, lean, and follow the past and the distant. The soul created the arts wherever they have flourished. It was in his own mind that the artist sought his model. It was an application of his own thought to the thing to be done and the conditions to be observed. And why need we copy the Doric or the Gothic model? Beauty, convenience, grandeur of thought, and quaint expression are as near to us as to any, and if the American artist will study with hope and love the precise thing to be done by him, considering the climate, the soil, the length of the day, the wants of the

people, the habit and form of the government, he will create a house in which all these will find themselves fitted, and taste and sentiment will be satisfied also.

Insist on yourself; never imitate. Your own gift you can present every moment with the cumulative force of a whole life's cultivation; but of the adopted talent of another, you have only an extemporaneous, half possession. That which each can do best, none but his Maker can teach him. No man yet knows what it is, nor can, till that person has exhibited it. Where is the master who could have taught Shakespeare? Where is the master who could have instructed Franklin, or Washington, or Bacon, or Newton? Every great man is a unique. The Scipionism of Scipio is precisely that part he could not borrow. Shakespeare will never be made by the study of Shakespeare. Do that which is assigned you, and you cannot hope too much or dare too much. There is at this moment for you an utterance brave and grand as that of the colossal chisel of Phidias, or trowel of the Egyptians, or the pen of Moses, or Dante, but different from all these. Not possibly will the soul all rich, all eloquent, with thousand-cloven tongue, deign to repeat itself; but if you can hear what these patriarchs say, surely you can reply to them in the same pitch of voice; for the ear and the tongue are two organs of one nature. Abide in the simple and noble regions of thy life, obey thy heart, and thou shalt reproduce the Foreworld again.

4. As our religion, our education, our art look abroad, so does our spirit of society. All men plume themselves on the improvement of society, and no man improves.

Society never advances. It recedes as fast on one side as it gains on the other. It undergoes continual changes; it is barbarous, it is civilized, it is Christianized, it is rich, it is scientific; but this change is not amelioration. For every thing that is given, something is taken. Society acquires new arts and loses old instincts. What a contrast between the well-clad, reading, writing, thinking American, with a watch, a pencil, and a bill of exchange in his pocket, and the naked New Zealander, whose property is a club, a spear, a mat, and an undivided twentieth of a shed to sleep under! But compare the health of the two men, and you shall see that the white man has lost his aboriginal strength. If the travelers tell us truly, strike the savage with a broad axe, and in a day or two the flesh shall unite and heal as if you struck the blow into soft pitch, and the same blow shall send the white to his grave.

The civilized man has built a coach but has lost the use of his feet. He is supported on crutches, but lacks so much support of muscle. He has a fine

Geneva watch, but he fails of the skill to tell the hour by the sun. A Greenwich nautical almanac he has, and so being sure of the information when he wants it, the man in the street does not know a star in the sky. The solstice he does not observe; the equinox he knows as little; and the whole bright calendar of the year is without a dial in his mind. His notebooks impair his memory; his libraries overload his wit; the insurance office increases the number of accidents; and it may be a question whether machinery does not encumber; whether we have not lost by refinement some energy, by a Christianity entrenched in establishments and forms, some vigor of wild virtue. For every Stoic was a Stoic; but in Christendom, where is the Christian?

There is no more deviation in the moral standard than in the standard of height or bulk. No greater men are now than ever were. A singular equality may be observed between the great men of the first and of the last ages; nor can all the science, art, religion, and philosophy of the nineteenth century avail to educate greater men than Plutarch's heroes, three or four and twenty centuries ago. Not in time is the race progressive. Phocion, Socrates, Anaxagoras, Diogenes, are great men, but they leave no class. He who is really of their class will not be called by their name, but will be his own man, and, in his turn, the founder of a sect. The arts and inventions of each period are only its costume, and do not invigorate men. The harm of the improved machinery may compensate its good. Hudson and Behring accomplished so much in their fishing boats as to astonish Parry and Franklin,* whose equipment exhausted the resources of science and art. Galileo, with an opera-glass, discovered a more splendid series of celestial phenomena than any one since. Columbus found the New World in an undecked boat. It is curious to see the periodical disuse and perishing of means and machinery, which were introduced with loud laudation a few years or centuries before. The great genius returns to essential man. We reckoned the improvements of the art of war among the triumphs of science, and yet Napoleon conquered Europe by the bivouac, which consisted of falling back on naked valor and disencumbering it of all aids. The Emperor held it impossible to make a perfect army, says Las Casas, "without abolishing our arms, magazines, commissaries, and carriages, until, in imitation of the Roman custom, the soldier should receive his supply of corn, grind it in his hand-mill, and bake his bread himself."

Society is a wave. The wave moves onward, but the water of which it is

* Henry Hudson, Victor Behring, William Edward Perry, and John Franklin, all explorers.

composed does not. The same particle does not rise from the valley to the ridge. Its unity is only phenomenal. The persons who make up a nation today, next year die, and their experience with them.

And so the reliance on property, including the reliance on governments which protect it, is the want of self-reliance. Men have looked away from themselves and at things so long that they have come to esteem the religious, learned, and civil institutions as guards of property, and they deprecate assaults on these, because they feel them to be assaults on property. They measure their esteem of each other by what each has, and not by what each is. But a cultivated man becomes ashamed of his property, out of new respect for his nature. Especially he hates what he has, if he sees that it is accidental—came to him by inheritance, or gift, or crime; then he feels that it is not having; it does not belong to him, has no root in him, and merely lies there, because no revolution or no robber takes it away. But that which a man is does always by necessity acquire, and what the man acquires is living property, which does not wait the beck of rulers, or mobs, or revolutions, or fire, or storm, or bankruptcies, but perpetually renews itself wherever the man breathes. “Thy lot or portion of life,” said the Caliph Ali, “is seeking after thee; therefore be at rest from seeking after it.” Our dependence on these foreign goods leads us to our slavish respect for numbers. The political parties meet in numerous conventions; the greater the concourse, and with each new uproar of announcement—The delegation from Essex! The Democrats from New Hampshire! The Whigs of Maine!—the young patriot feels himself stronger than before by a new thousand of eyes and arms. In like manner, the reformers summon conventions and vote and resolve in multitude. Not so, O friends! will the God deign to enter and inhabit you, but by a method precisely the reverse. It is only as a man puts off all foreign support and stands alone that I see him to be strong and to prevail. He is weaker by every recruit to his banner. Is not a man better than a town? Ask nothing of men, and in the endless mutation, thou only firm column must presently appear the upholder of all that surrounds thee. He who knows that power is inborn, that he is weak because he has looked for good out of him and elsewhere, and so perceiving, throws himself unhesitatingly on his thought, instantly rights himself, stands in the erect position, commands his limbs, works miracles; just as a man who stands on his feet is stronger than a man who stands on his head.

So use all that is called Fortune. Most men gamble with her, and gain all,

and lose all, as her wheel rolls. But do thou leave as unlawful these winnings, and deal with Cause and Effect, the chancellors of God. In the Will work and acquire, and thou hast chained the wheel of Chance, and shall sit hereafter out of fear from her rotations. A political victory, a rise of rents, the recovery of your sick, or the return of your absent friend, or some other favorable event, raises your spirits, and you think good days are preparing for you. Do not believe it. Nothing can bring you peace but yourself. Nothing can bring you peace but the triumph of principles.

PART VI

THE FRONTIER

Chapter 17

John Umbeck: Self-Reliance in the California Gold Rush

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Prior to 1846, the territory now known as California belonged to Mexico. Any individual wanting the rights to a particular piece of land had only to write out a request and submit it, along with a rough map, to the local representative of the Mexican government. If the request included the rights to rare minerals, the processing was slightly more complex and also required that the owner work the property on a regular basis in order to maintain the exclusive rights granted by the government.¹ Except for some land along the coast and a few private grants in the interior, not many people sought the rights to California property.

On May 13, 1846, the United States declared war on Mexico, and American troops occupied California for two years until the war ended. The military government apparently acted only to maintain the status quo with respect to previously granted property rights in land. Meanwhile, gold was discovered on January 24, 1848, just nine days before peace was declared, and in the “Treaty of Peace, Friendship, Limits and Settlement, between the United States of America and the Mexican Republic,” California became a territory of the United States. According to the treaty, all Mexican laws not in conflict with the Constitution of the United States were to be continued in force in California. Yet, on February 12, 1848, just 10 days after the treaty was

John Umbeck, excerpted from *Explorations in Economic History*, vol. 14, issue 3 (Elsevier, July 1977), “The California Gold Rush: A Study of Emerging Property Rights,” reprinted with permission, with some of the original footnotes (renumbered).

1. For a more detailed discussion of Mexican laws regulating the private acquisition of mineral rights, see W. Rodman, *History of the Bench and Bar of Southern California* (Los Angeles: William J. Porter, 1909), 85–92; J. H. deFooz, *Fundamental Principles of the Law of Mines*, trans. H. W. Halleck (San Francisco: J. B. Painter, 1860), i–CXliii; H.H. Bancroft, *History of the Pacific States*, vol. 18 (San Francisco: The History Co., 1888), 548–560, notes. Contained here are many court cases involving Mexican land grants. Almost all were found illegal, as they failed to comply with the Mexican law.

signed, the governor, Colonel Mason, proclaimed that: "From and after this date, the Mexican laws and customs now prevailing in California relative to [acquisition of mining rights on public lands] are hereby abolished."² Colonel Mason *offered no alternative legal system by which property rights to mineral lands could be obtained.*

In 1848, the federal government was considering a detailed bill for organizing a territorial government in Oregon. Similar bills were introduced for New Mexico and California, but Oregon alone was passed. The only other mention of California before 1849 was to include Monterey and San Francisco as mail stops for the naval service. In March 1849, the revenue laws of the United States were extended over California with the rather strange provision that violators be taken to either the District Court of Louisiana or the Supreme Court of Oregon. *Even in September 1850, when admitted as a state, the general laws of the country were not extended into California.* Not until a district court was established, on September 28, 1850, were the laws of the country officially to take effect in California.

In 1850, the United States did not have what could be called a body of mining law relating to private acquisition of mining rights on public land. Like most countries, the rights to mineral lands were reserved for the government and not subject to private appropriation. In 1807, a bill had passed which gave the president the power to evict trespassers on public lands. Another bill, passed on the same day, allowed the government to lease the mineral lands for five years, but the lands were reserved from outright sale to private individuals. According to the treaty with Mexico, all land was given to the United States government and as such was "public." No other mining bills of relevance to California were passed at the federal level until 1866.³

It would appear that from 1848 to 1850, California was without any

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2. G. Yale, *Legal Titles to Mining Claims and Water Rights, in California, Under the Mining Law of Congress, of July 1866* (San Francisco: A. Roman & Co., 1967), 17. While Colonel Mason's proclamation applies specifically to "denouncements," which is a term reserved for the reclaiming of an old mine, he probably meant to abolish Mexican laws pertaining to the establishment of rights in new and old mines. There is also some evidence that Mason did not know of the treaty with Mexico until eight months after its signing.
 3. *Ibid.*, 325–354. See also eds. Rocky Mountain Mineral Law Foundation, *American Law of Mining*, vol. 1, cumulative supplement (New York: Matthew Bender, 1973), 17–39. A complete review of all the bills relating to mining rights can be found in C. Lindley, *A Treatise on the American Law Relating to Mines and Mineral Lands*, vol. 1 (San Francisco: Bancroft-Whitney, 1903).

mining law, Mexican or American. From 1850 to 1866, the only federal law was such as to make all the miners trespassers on California's public mineral lands: a law which the government chose not to enforce. On July 26, 1866, the legislature of the United States passed "An Act granting the right of way to Ditch and Canal owners over the Public Lands, and for other purposes." This law specifically opened all the public mineral lands to exploration and occupation by any United States' citizen or by anyone declaring their intention to obtain citizenship. Furthermore, it provided that individuals could file a claim for their discovery, as long as they did so according to any local rules or customs. After 90 days, if no one filed a counterclaim, the land could be surveyed and sold to the claimant at a rate of \$5 per acre plus survey expenses. The federal government would then issue a patent on the land. Each individual's claim was limited to 200 feet in length along the vein, with the exception that anyone discovering a new vein was allowed an extra 200 feet. Lands previously designated as "mineral land," but where no minerals had been found, were now open to preemption to homestead as agricultural land. Property rights to mineral lands could now be legally obtained from and enforced by the federal government.

After being admitted to the Union in 1850, legal action concerning mining rights at the state level was constrained by federal laws. All the public land in California belonged to the federal government, so the state could not legally pass any legislation granting property rights to these lands. In the first meeting of the California legislature, the only bill to pass which related to the mines was an "Act for the better regulation of the mines and the government of foreign miners." This bill required all foreign miners to pay a tax or license fee of \$20 a month for the right to mine gold in California. If not paid, the miner could be legally evicted. In 1850 the bill was repealed, but in 1852 was reinstated in an "Act to provide for the protection of foreigners, and to define their liabilities and privileges." The tax was set at \$3 per month. This bill underwent some further changes through time but, except for the original \$20 fee in 1850, does not appear to have been an important constraint on foreign miners.

In 1851, the state passed the Civil Practice Act. Section 621 of this act authorized justices, when deciding a mining case, to admit as evidence "the customs, usages, or regulations established or in force at the [gold] miners' embracing such claims, and such customs, usages and regulations, when

not in conflict with the Constitution and laws of this state, shall govern the decision of the action.” This is the only legislation of any relevance to the issue of property rights over mineral lands. In effect, the state was approving and agreeing to enforce (at least in the courts) the miners’ rights to agree among themselves how to work the mineral lands.⁴

From 1848 to 1866, California miners were legally trespassers on federal property. During this period there was no additional legislation at the federal or the state level which limited or restricted the miner’s behavior in acquiring and enforcing his own rights to mineral land.⁵ Murder and stealing were against the law, but stealing is only defined when one has property rights already established. Even given these laws, in the early years from 1848 to 1852, they could not be enforced.

In the United States military, the penalty for desertion ranged from several years of hard labor to death. However, in comparing a soldier’s salary of \$7 per month⁶ with the potential gains from rushing to the mines, large-scale desertions might have been predicted. In April 1847, there were approximately 1,059 soldiers in California.⁷ During 1848, the number fell to about 660.⁸ This drop was not entirely accounted for by deserters, as Colonel Mason dismissed some at the end of the war. Nevertheless, the following letters indicate the magnitude of the problem:

Sir, In my letter No. 24, from La Paz, I recommended the retention on this coast of all cruising ships of the Pacific squadron, and pointed out how they could be kept in repair and manned without returning round

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4. Yale, *Legal Titles to Mining Claims*, 58–69. For a review of all the major court cases at the state level involving mineral rights see C. Parker, *Digest of California Reports and Statutes* (San Francisco: Bancroft, 1868) 632–643. Also J. David, *Historical Sketch of the Mining Law in California* (Los Angeles: Commercial Printing House, 1902), 1–83.
 5. A good general review of the legal and political problems in setting up a system of mining laws in California will be found in J. Ellison, “Mineral Land Question in California, 1848–1866,” *The Southwestern Historical Quarterly* 30, no.1 (July 1926); G. Gordon, *Mining Titles: Are there Any—What are they?* (San Francisco: J. G. Gilchrist, 1859); S. Mowry, *The Mines of the West. Shall the Government Seize Them?* (New York: G. E. Currie, 1864); A. H. Ricketts, *A Dissertation Upon American Mining Law, Its Origin, Development and Establishment* (Sacramento: State Printing, 1893).
 6. W. Colton, *Three Years in California* (New York: A. S. Barnes, 1859), 247.
 7. D. Thomas, *A History of Military Government in Newly Acquired Territory of the United States* (New York: Columbia University Press, 1904), 239.
 8. J. Ellison, J. (1927), *California and the Nation, 1850–1869* (Berkeley: University of California Press, 1927) 80.

Cape Horn to the Atlantic States. When that recommendation was made, I had no conception of the state of things in Upper California. For the present, and I fear for some years to come, it will be impossible for the United States to maintain any naval or military establishment in California; as at present no hope of reward nor fear of punishment is sufficient to make binding any contract between man and man upon the soil of California.

To send troops out here would be needless, for they would immediately desert. . . . Among the deserters from my squadron are some of the best petty officers and seaman, having but few months to serve, and large balances due them, amounting in the aggregate to over ten thousand dollars.⁹

In October, the paymaster general, William Rich, wrote from Monterey that five men-of-war, the “*Ohio, Warren, Dale, Lexington, and Southampton* are in port; but they cannot land a man, as they desert as soon as they set foot on shore. The only thing the ships could do in case of an outbreak would be to fire upon the town.” He reports further that “there are at present but two companies in California—one of 1st dragoons, the other of 3rd artillery; the latter reduced to a mere skeleton by desertion, and the former in a fair way to share the same fate.”¹⁰

Governor Mason tried offering a reward for the deserters. He notified everyone through the newspapers that \$40,000 would be given for the capture of deserters from his squadron, in the following sums: “for the first four deserting since July, \$500 each, and for any others, \$200 each, the reward to be paid in silver dollars immediately on the delivery of the culprit.” When this failed, Mason threatened to concentrate his small forces in particular mining areas and arrest the miners for trespassing on government property unless they helped him catch deserters.¹¹ This too failed, as evidenced by the following

9. Letter from Thomas Jones, Commander-in-Chief of the Pacific Squadron, to the Secretary of Navy, October 25, 1848. Reprinted in *The American Quarterly Register and Magazine*, 1849, 11, 293–294.

10. Letter from William Rich to the Paymaster General, October 23, 1848. Reprinted in *Ibid.*, 294–295. For other reports of deserters, see J. Royce, *California, From the Conquest in 1846 to the Second Committee in San Francisco* (New York: Houghton, Mifflin, 1843), 223; Bancroft, *History of the Pacific*, 64–66.

11. Congressional Documents, serial no. 573, doc. 17, p. 580. Reprinted in M.F. Williams, *History of the San Francisco Committee of Vigilance of 1851* (California: University of California Press, 1921), 59–60.

letter from Colonel Mason:

what right or authority have I to exercise civil control in time of peace in a territory of the United States? Or, if sedition and rebellion should arise, where is my force to meet it? Two companies of regulars, every day diminishing by desertions, that cannot be prevented, will soon be the only military force in California. . . .

In the meantime, however, should the people refuse to obey the existing authorities . . . my force is inadequate to compel obedience.¹²

It was shown earlier that California was literally without any law relating to the acquisition of mineral rights. Now it appears that even had there been laws, they would not have been enforceable. This situation led one observer to comment:

All law, both civil and military, is at an end. Among the mines, and indeed most parts of the country out of the villages, no authority but that of the strongest exists, . . . I know of no section of the United States territories which more imperatively requires strong garrisons for the preservation of order. Without them I think the whole country will sink into anarchy and the worst possible confusion.¹³

After the initial rush to the mines, the rate of desertion declined, and by 1852 the number of men in the army in California had risen to over 800 and continued to increase for the next several years.¹⁴ Even with this increase, I have been unable to find any evidence that federal troops interfered with the miners from 1848 to 1866. They served only to protect civilians from hostile Indians.¹⁵

From 1850 to 1854, the state legislature did little to help or hinder the miners' activities. Some boats were purchased and converted into prisons, but these soon proved inadequate for the number of convicted criminals, so a prison was constructed at Point Quinton. The only other assistance offered

12. Letter from Mason to the adjutant general on August 19, 1848. In *ibid.*, 61.

13. Letter from Captain J. L. Folsom. Reprinted in E. Bryant, *What I Saw in California* (California: Lewis Osborn, 1876), 476, 480.

14. *Journal of the Fourth Session of the Legislature of the State of California; Journal of the Proceedings of the Senate* (San Francisco: George Kerr State Printing), 4.

15. For several accounts of Indian conflicts see E. Bean, *Bean's History and Directory of Nevada County, California* (California: Daily Gazette Book and Job-Office, 1867), 185–187; H.H. Bancroft, *California, Inter Pocula, a Review of Some Classical Abnormalities* (California: The History Company, 1888), 436–560.

the miners by the state was financial compensation for costs incurred while defending themselves against Indians.¹⁶ In 1854, the state legislature passed an act providing for the formation of a state militia. However, it was not until 1855 that any action was taken to put this into effect. I can find no indication that the militia was actually used to interfere with the miners from 1855 to 1866. However, the existence of a stronger federal army and state militia probably served to reduce the costs to the miners of enforcing their contracts in the late 1850s. I doubt that this was a significant reduction in most of the outlying districts. Legally, California gold land was a nonexclusive property from 1848 to 1866.

The Technology of Gold Mining

Throughout the time period being investigated, most of the gold mining activities were in the placer deposits. These gold deposits were formed primarily by rivers which washed away small pieces of gold from veins higher up in the Sierras and deposited them at lower altitudes. These gold pieces ranged in size from tiny, nearly invisible flakes to nuggets weighing several pounds.

The first gold hunters used only a knife to get the gold. By scraping crevices in rocks located near a stream, they could extract the flakes which had been deposited there by the force of the water.¹⁷ In some places, the flakes were big enough that they could be seen mixed in the dirt or sand, and, with a good deal of effort, could be separated by hand. It was discovered, early in the rush period, that the gold, being much more dense than most elements, would work its way down through the lighter surface soils. Eventually, it came to rest on hard bedrock. The miners, by using a pick and a shovel, would dig down to the bedrock and then, using a knife, scrape the hard surface to retrieve the gold. This gold-bearing stratum was called “pay dirt.”¹⁸

By the early spring of 1848, two other devices were introduced which

16. M. Angel, *History of Placer County, California* (Oakland: Thomson & West, 1882), 345–347; T. Martinez and F. Drummond, *Early Mining Laws of Tuolumne and Calaveras Counties* (California: Dept. of Natural Resources, Division of Parks, 1939), 6; Bancroft, 319.

17. H. W. Bigler, *Diary of a Mormon*, reprinted in R. W. Paul, *The California Gold Discovery, Sources, Documents, Accounts, and Memoirs Relating to the Discovery of Gold at Sutter's Mill* (California: The Talisman Press, 1966), 62.

18. J. S. Hittell, J. S., *The Resources of California* (California: A. Roman & Co. 1863), 264. This is probably the best nontechnical description of the various mining techniques. Also described in Hutchings and Rosenfields, *The Miner's Own Book* (San Francisco: 1858).

facilitated the separation of the placer gold from the surrounding elements. These were the pan and the cradle.¹⁹ The former was a pan, usually made out of tin, which was about 18 inches in diameter and 3 inches deep with gently sloping sides. This was filled with pay dirt and then submerged in water. By applying a circular motion to the pan, the lighter dirt was washed away, leaving only the heavier gold flakes in the bottom.

The cradle was a wooden box about 40 inches long, 20 inches wide, and 4 inches deep. This rested on rockers, like a child's cradle, with the head of the box elevated above the lower end. At the head was placed another box, called a riddle box, which had a bottom made of sheet iron perforated with holes about 0.5 inches in diameter. Dirt was thrown into the riddle box and water was added while the cradle was rocked. The smaller-sized rocks, sand, dirt, and gold fell through the perforations to the floor of the cradle. The water washed the dirt over a set of cleats, which were fastened to the cradle floor, and out the lower end, leaving the heavier gold and sand trapped in the cleats. Two or three times a day the cleats were cleaned with a spoon, and the pan was used to separate the gold from the remaining dirt. Two miners together could wash an average of 300 pans a day using the cradle, which was about three times what could be washed with the pan alone. One disadvantage of the cradle was that, if the rocking motion ceased, the sand would pack around the cleats and the gold washing over this packing would not be trapped. The cleats had to be cleaned before reusing. So, while one miner could work the cradle by himself, there appears to have been a large cost savings from forming a contract with a second miner who supplied dirt, thus avoiding the interruption of the rocking motion.

The only other technique used prior to 1850 was "winnowing." This involved placing the pay dirt in a large bowl or blanket and then tossing it into the air. As the dirt descended, the miner blew lightly on it, thus separating the lighter dirt from the gold. Catching the remaining pay dirt as it fell, this process was then repeated until only gold remained. Winnowing was a relatively costly process compared to the use of the pan or cradle and was used only when water was not economically available.²⁰

After 1850, when the private rights to gold land had been fully developed, there were several significant advances in mining technology. However, these

19. J.S. Hittell, *Mining in the Pacific States*, 15.

20. This method was apparently used only by Mexicans who, because of discrimination against them, had a lower opportunity cost of their labor.

inventions had no major impact on the formation of the initial contract. Instead, they served to alter the spectrum of rights which the miners chose to allow themselves. This, however, is beyond the scope of this paper and is discussed in detail elsewhere.

The Early Rush for Gold and the First Contracts

Before 1848, California was a sparsely populated territory. The non-Indian population consisted of missionaries, military personnel, and some farmers, most of whom settled on lands along the coast. Americans had been coming in increasing numbers and locating themselves mostly in the northern part of the country. In 1839, John A. Sutter came to California and built a fort near the present site of Sacramento. Here, he hired Indians and established a large cattle ranch, flour mill, tannery, and rest stop for immigrants coming into California.²¹ Shortly after Sutter established himself, he bought some property from a group of Russians in Bodega, California. This consisted of some hunting rights, a small boat, several rusty cannons, and some old muskets.²² When the Mexicans heard about Sutter's artillery purchase, they threatened to remove him from California. In response, Sutter gathered around him a large number of Indians and some white settlers in the area and sent a note to the Mexican authorities saying that they should threaten him no more or he would "chastise them." Therefore, in 1842 a new governor, Manuel Micheltorena, was sent from Mexico, along with 600 troops, to subdue Sutter. In Los Angeles, the new governor was met by a representative of Sutters' who carried a note welcoming Micheltorena and offering submission to his authority. Sutter and the governor apparently became good friends and a charter was granted Sutter giving him several leagues of land around his farm.

At about the same time that Mexico was trying to rid California of Sutter and other Americans, gold was discovered 45 miles northwest of Los Angeles. These placer deposits were not extensive, but from 1840 to 1841 were worked by miners from the province of Sonora, Mexico, and yielded 212 pounds of gold.²³

21. J. Sutter, *New Helvetia Diary* (San Francisco: Grabhorn Press, 1939). A good biography of Sutter is given in J. P. Zollinger, *Sutter, the Man and His Empire* (New York: 1939).

22. J. Bidwell, *Echoes of the Past* (New York: Citadel Press, 1962), 17.

23. W.W. Jenkins, "History of the Development of Placer Mining in California," *Annual Publication of the Pioneers of L.A. County*, vol. VII (Los Angeles: Moke Printing, 1907), 71. This refers to "avoirdupois weight" as opposed to "troy." At \$16 per ounce and 16 ounces to the pound, this gold had a value of about \$54,000.

Information concerning this gold find never became widespread,²⁴ probably because the Mexicans feared that this would attract more Americans.

During the Mexican-American war, from 1846 to 1848, Sutter continued to work his land. His labor consisted primarily of Indians who were paid in produce from his store, although some white settlers had built homes around Sutter's fort and did some contract work for him.²⁵ Among those retained by Sutter was James Wilson Marshall, a carpenter, who was hired to construct a sawmill to supply lumber for Sutter's buildings.²⁶ It was while building the sawmill on the south fork of the American River (now called Coloma) that Marshall discovered gold. The date was January 24, 1848, just nine days before the peace treaty was signed ending the war with Mexico.

When Sutter heard of the discovery, he returned with Marshall to the sawmill and requested that those employed in its construction remain until the job was completed.²⁷ Next, Sutter tried to establish stronger property rights in the land surrounding the sawmill. He negotiated a contract with the Indians in the area agreeing to pay them \$200 a year in goods in exchange for their promise to respect his property. They were not to kill his horses, cattle, hogs, or sheep or burn the wheat and other crops which grew on the land specified by the contract. To further strengthen his rights, on February 5, Sutter sent Charles Bennett, an associate of Marshall, to see Colonel Mason in Monterey. Mason was the military governor of California at this time, and Sutter tried to acquire from him a pre-emption right to the land surrounding the mill

24. Bidwell, *Echoes of the Past*, 96–97. Bidwell claims that Sutter knew of gold around his land as early as 1843. In 1844, a Mexican, Pablo Gutierrez, went to Bidwell and asked for money to go to Mexico in order to buy a batea (mining pan) with which to mine gold out of the mountains around Bear River. Bidwell did not trust him and delayed in granting the financing. Gutierrez was later hung by troops of ex-Governor Alvarado while carrying a message to Micheltorena from Sutter.

25. In 1847, Sutter reported a white population of 289 in the vicinity of his fort, 16 half-breeds, Hawaiians, and Negroes, 479 tame Indians, and 21,873 wild Indians. There were 60 houses, six mills and one tannery. Sutter had 12,000 cattle, 2,000 horses and mules, from 10,000 to 15,000 sheep and 1,000 hogs. He eventually died in poverty. Miners took almost everything Sutter had. Bancroft, *History of the Pacific*, 14. For a different set of figures see G. W. Reed, *History of Sacramento County, California*. (Los Angeles: Historic Record Co., 1923), 31.

26. The contract between Sutter and Marshall was unique. Written in August 1847, by Bidwell, before the end of the war, it contained the following terms: If the U.S. wins the war, the mill belongs to Marshall. If the Mexicans win, it belongs to Sutter. G. F. Parsons, *The Life and Adventures of James W. Marshall*. (Sacramento: 1870), 79–80.

27. Sutter's account of this was written in a letter to *Hutchings California Magazine* (November 1857) and reprinted in Thompson and West, *History of Amador County, California* (1881), 56–58.

site.²⁸ Mason denied Sutter's request on the grounds that California was still a Mexican territory and he had no right to grant land titles.²⁹ On February 12, Mason abolished all Mexican laws by which private titles could be granted on mineral lands.

Sutter had tried to keep the discovery of gold a secret from his employees at the fort, but one of his teamsters, while delivering supplies to the workers at the mill, was told of the gold discovery by a young boy. The boy's mother gave the teamster a small nugget as a present and, upon arriving back at the fort, the nugget was used to purchase a drink of whiskey; the secret was out.

As his workers began deserting the fort to find gold, Sutter tried to collect a percentage of the gold they discovered. Even though the mill site was not on land covered in the original grant and Mason had refused to grant a pre-emption claim, Sutter and Marshall used the treaty with the Indians to claim property rights in the land and the minerals. Each miner was asked to pay up to 50% of his gold find.³⁰ While it is not possible to determine what percentage the miners actually paid, their diaries indicate that they did pay something for the privilege of mining. This payment was reduced to one-third of the total and later done away with completely when a mining party from Oregon refused to pay in the summer of 1848.

Rumors of rich mineral wealth had been circulating around California for several years prior to Marshall's discovery, so when the story first appeared in a San Francisco newspaper on March 15, 1848, it had very little impact.³¹ Short notices continued to appear in both San Francisco newspapers, but few people took it seriously. As late as May 6, 1848, the editor of the *California Star* wrote:

28. R. Nadeau, *Ghost Towns and Mining Camps of California* (California: The Ward Ritchie Press, 1965), 12. Also N. B. Ricketts, *Mormons and the Discovery of Gold* (California: Pioneer Press, 1966), 19; Bancroft, *History of the Pacific States*, 43–44, note 4.

29. Bancroft, *History of the Pacific States*, 44, note 4. Mason had not yet heard the peace treaty.

30. Bancroft, *History of the Pacific States*, 51, note 9. Also in "Azariah Smith's Journal" entry of April 7 and "Peter L. Wimmer Gives His Version" a first-hand account of the discovery, both in Paul, *The California Gold Discovery*. Marshall later claimed these payments were for prospecting services [Paul, 115].

31. "Gold Mine Found—In the newly made raceway of the Saw Mill recently created by Captain Sutter, on the American Fork, gold has been found in considerable quantities. One person brought thirty dollars worth to New Helvetia, gathered there in a short time. California, no doubt, is rich in mineral wealth; great chances here for scientific capitalists. Gold has been found in almost every part of the country"—Note found in the *San Francisco Californian*, March 15, 1848.

After a very pleasant, but brief sojourn in the Great Valley of the Sacramento, we have returned and resumed our labors, settled down in our chair again, physically refreshed and invigorated, and in mind abounding with reminiscences of all that we have seen and done while absent. Great country—fine climate. Visit this Great Valley, we would advise all who have not yet done so. See luxuriant clover, fragrant flowers, gold and silver.

But two weeks later people were taking notice, as indicated by the following which appeared in the *California Star* on May 20, 1848.

El Dorado Anew—A terrible visitant we have had of late—a FEVER which has well nigh depopulated a town—a town hard pressing upon a thousand souls.

The rush for gold had begun in full force by mid-May.

While Marshall is generally accredited with the discovery of gold, the honor of starting the “rush,” if it belongs to anyone person, must go to Samuel Brannan. It was Brannan who, on about the 12th of May, went down the streets of San Francisco waving a bottle of gold dust and yelling, “Gold! Gold! Gold from the American River.”³² Why would a miner announce publicly the existence of gold on land to which he has no exclusive rights? The answer, in this particular case, appears to be that Brannan, as the leader of the Mormons, had been collecting from his brothers a tithe of 30% on all the gold they discovered. This was done on the pretext of building a shrine for their God. The money, instead of going directly to God, went to stock a small store and trading post co-owned by Brannan at Sutter’s Fort. A large “rush” of people to Sutter’s Fort could have benefited his business.³³

In San Francisco, and other towns along the California coast, news was arriving every day of new “strikes” in the gold fields. Reports of tremendous nuggets, many of them verified, were increasing. Governor Mason visited the mines and came back with stories about thousands of dollars being made in a matter of days. The potential gains from breaking a prior contractual

32. Bancroft, *History of the Pacific States*, 56, note 5.

33. Assuming, of course, that the miners “respect” Brannan’s rights to the goods in his store. This they apparently did. To my knowledge, no one has noticed the incentives for Brannan’s “strange” behavior in the streets of San Francisco. Later, prospectors would occasionally try to keep their find a secret, but many of them reported their discoveries to others. Their behavior is more difficult to explain than that of Brannan.

agreement and leaving for the mines were apparently rising, and with everyone else leaving, the potential cost of punishment fell. Contracts were broken everywhere. Farmers who had promised to supply wheat to the mills left their crops to rot in the field. There were no complaints because the miller left, too. Builders under contract to construct new houses left the frames half assembled. No one was there to live in them. Newspapers could no longer be published as the workers had all gone to the mines. But there was no one left to read them anyway. Ships would put into San Francisco harbor to unload merchandise, and all the sailors would mutiny, leaving the captain tied up if he resisted. Hundreds of empty boats were left to rot at anchor. A jailor by the name of Henry Bee had ten Indian prisoners in his charge when the rush began. He tried to turn them over to the *alcalde*,* but he had left his position for the mines. Finally, he decided to take his prisoners to the gold fields, where he had them mine for him. Reportedly, he had made a small fortune by the time the other free miners helped the Indians escape. By May, Bancroft estimated that the mining population within 30 miles either side of Coloma was 800, and by June, 2,000.³⁴ In July, Colonel Mason visited the gold fields and estimated that there were 4,000 miners. By the close of the year, the number of miners had been estimated at between 5,000 and 10,000. While most of these miners were clustered around the south fork of the American River, some prospecting had been done as far north as Reading's Bar and south to the Tuolumne River.

The first to the mines were the Mormons employed by Sutter. They had written others of their faith notifying them of the discovery. These early miners worked on the sawmill during the week and hunted gold on their off hours. As I mentioned previously, Marshall and Sutter charged them for the right to extract gold from their property so, when the mill was completed, the Mormons began mining on an island about one mile downriver from Coloma. They named this place Mormon Island. From April to July, their party of about a dozen worked the island using the "panning" method to separate the gold from the dirt. On July 17, 1848, they left for Salt Lake City, reportedly with thousands of dollars in gold.

When the Mormons started operations on the island, several employees of Sutter, some settlers around the fort, and Sutter himself began mining on

*A Mexican title for a judge, jury, and sheriff all in one.

34. Bancroft, *History of the Pacific States*, 70.

their own. Shortly thereafter they began hiring Indians to mine for them. The Indians, apparently not knowing the value of gold, were willing to exchange what they found for beads, cloth, and food, sometimes trading an ounce of gold for an ounce of cloth. Later, when the Indians noticed the other miners carefully weighing their gold before an exchange was made, they demanded that their gold also be weighed. The earliest merchants, being few and far between, were reportedly able to discriminate against the Indians by using weights that were much heavier than an ounce. This heavy weight was called a “digger ounce” because the local natives were called “diggers.” Of course, even if these natives were so ignorant that they never learned to tell the difference between weights but could tell the differences between a higher and lower gold price, competition among traders would eventually eliminate these discriminatory measures. In fact, by the autumn of 1848, competition had forced miners to pay Indians the equivalent of \$20 per day, which was equal to the average estimated daily earnings of the white miners. These contracts with the Indians were the first and only wage contracts in the mines during 1848.

Judging from the diaries and early accounts, the first miners entered into no contractual arrangements regulating either the exclusivity of the land or the mining process. They did group together, but this was apparently to take advantage of scale economies in hunting, cooking, providing shelter, and medical care. This is evidenced by the following account:

We were no sooner our own masters again, than there commenced on all sides a series of the most active preparations for a journey to the mines. The plan adopted was to form bands of three, five or ten, under the leadership of one of the number. . . . A set of written rules was drawn up for the regulation of the general interest, these rules varying in certain points, according to the peculiar views of particular associations. The purport of the majority of them, however, ran as follows:

1. That we shall each bear an equal share in all expenses incurred for the general advantage, such as the purchase of a yoke of oxen, a cart, horses, packs, etc.
2. That we all proceed together to the gold mines, and that no man be allowed to separate from the party without the general consent.
3. That in case of unavoidable separation, each person be allowed to take out an amount of goods or money equivalent to the original investment, less what he may have consumed or injured.

4. That we work together in the mines, using the tools and property of the party in common.
5. That each may be allowed to retain all he can make by digging, but that he shall contribute to the company his equal portion of the funds necessary for the purchase of food and other things for the common use.
6. That in case of danger or difficulty, we stand by each other under all circumstances.
7. That no sick man shall be abandoned, but every possible means adopted to restore him to health.
8. That each man, in his turn, shall do his share of the general work, namely cooking, attending to the horses, chopping wood, fetching water, etc.
9. That any member separating himself from the part without the general consent shall forfeit all that he had invested.
10. That any man proved guilty of stealing from . . . any member of his company shall be immediately expelled, and forfeit the whole of his property.³⁵

This particular contractual arrangement did not last very long, probably because it failed to assign exclusive rights to a scarce resource. As I have already discussed, in the absence of exclusive rights, the income generated by the resource tends to dissipate. In this case, no one owned the rights to exclude other group members from a rich gold find, and yet no one was required to share his gold with others. This combination led to the following situation: A miner would make an especially rich discovery. The other group members could benefit from this only if they could get the gold out of the ground before anyone else, since the discoverer did not have to share what he found. This resulted in miners spying on each other and rushing to the richest area. It was frequently observed that four or five men would be working within a circle of 6 feet in diameter. When discovering a rich piece of land, the miner would try to keep it secret and mine it quickly and quietly. Thus, the income generated by the gold land was dissipated by allocating resources to rushing, crowding, spying, and increasing the rate of mining activities. This dissipation was probably negligible for the first miners because of the large number of

35. W. Ryan, *Ryan's California, Personal Adventures in Upper and Lower California in 1848–1849* (London: William Shoberl, 1850), 211–214.

rich deposits. However, as the relative abundance of high-yielding gold land diminished, due to the rapid influx of miners, this contractual form was discarded early in the gold rush.

The only other contractual arrangement from 1848 which I have found appears to have centered around the use of the cradle. As I mentioned earlier, economies of scale could have been realized by combining the labor inputs of at least two men with one cradle. Consequently, contracts were formed, usually between two to four miners, in which it was agreed to constrain individual behavior in the following way: Each individual would take his turn working a certain amount of time at a given job. Early observers have broken the cradle mining process into four jobs: shoveling dirt from the ground into a carrying device, carrying the dirt from the excavation to the cradle, pouring water into the riddle box, and providing the rocking motion to the cradle. Where there was easy access to water, these jobs were combined such that the one providing water could also do the rocking. All the gold, with the exception of nuggets weighing in excess of 0.5 ounces found before going into the cradle, was to be divided evenly among the contracting parties.³⁶ The large nuggets were kept by the individual who found them.

Like the contract formed by the soldiers, this contract did not assign to any individual the exclusive rights to work a given piece of land. However, unlike this prior arrangement, the sharing contract had the effect of assigning exclusive rights to all the gold before it was taken from the ground. To the extent that the group could exclude other outsiders, each member had the exclusive right to a given percentage share of the total. As a result, if the provisions of this contract could be costlessly enforced, no dissipation would occur. However, I believe that it was because of positive enforcement costs that the miners made the exception of allowing the discoverer to keep large nuggets. Nuggets weighing in excess of 0.5 ounces were worth \$8 or more and could still be easily concealed from other miners. By granting the discoverer the rights to these nuggets, potential conflicts could be reduced, and resources that would have been devoted to watching each other, or to concealing gold, could be saved. Notice also that the particular characteristics of cradle mining technology would have had the effect of reducing the costs of enforcing the sharing agreement. The likelihood of finding a nugget smaller than 0.5 ounces

36. J.T. Brooks, *Four Months Among the Gold-finders in California* (London: David Bogou, 1849), 2nd ed., 82.

without the aid of a cradle or a pan was quite small. It was these gold particles which accumulated in the cleats of the cradle after the lighter dirt had been washed away. When the cleats became full, all cradle operations ceased. The group would clean the residual from the cradle and then, each miner taking a pan, would go to the nearest water source for the final separation process. The fact that each cradle full of gold was cleaned by all the miners in the group in close proximity to each other probably reduced the costs of watching for cheaters and enforcing the sharing provision. By the beginning of 1849, this had become the most widely used contractual arrangement.

During 1848, several remarkable things occurred. Nearly 10,000 people rushed to mine gold on property to which no one had exclusive rights. Furthermore, although nearly every miner carried a gun, little violence was reported. In July, when Governor Mason visited the mines, he reported that the miners were respecting Sutter's property rights and that "crime of any kind was very infrequent, and that no thefts or robberies had been committed in the gold district . . . and it was a matter of surprise, that so peaceful and quiet a state of things should continue to exist."³⁷

In the first six months after the initial discovery by Marshall, the size of the known gold fields increased from a small area around Sutter's mill to an area covering over 10,000 squares miles. For the early miners, it was apparently less costly to move to a new discovery than to use violence to acquire someone else's mining rights. As long as gold land remained relatively abundant, small groups of miners found the sharing arrangement to be the most economical. *I can find no contracts, in 1848, in which it was agreed to assign and enforce an individual's exclusive rights to a given parcel of gold land.*³⁸

By the end of 1848, most of the miners had returned to the coastal cities as the change in weather raised the costs of mining. Meanwhile, on the East Coast of the United States and in nearly every other country, thousands of people were preparing for the trip to California. Every boat that could possibly float, and some that might not, were booked up months in advance. Companies were being formed to provide financing and protection for those who chose the overland route. When these people reached California in the spring of 1849, they had significant and predictable effects on the types of

37. Nearly every writer during this period agreed with Mason. However, the crime rate reported rose sharply after 1849, and, as mentioned before, Sutter eventually lost nearly all his property.

38. With the exception of the contract between Sutter and the Indians mentioned earlier.

emerging property rights contracts.

The Full Gold Rush and the Emergence of Property Rights

In the early months of 1849, the rush was on. Between December 7, 1848, and April 17, 1849, over 8,000 people sailed out of New York for California. More than 2,000 left Boston and another 1,200 left New Orleans. It has been estimated that a total of 20,000 people left for California by boat from the East Coast of the United States. The Harbor Master's Office at San Francisco reported that nearly 40,000 people from all over the world arrived by boat in 1849, including those who came overland from the States, the Oregon territory, Mexico, and South America. The population in California by the end of 1849 was about 107,000, and by the end of 1852 it has been estimated at 264,000.

In 1848 the ratio of land to miners was large enough that mining rights had relatively little value. If one area got too crowded, the miners just moved upstream to a new gold field. However, as the new wave of miners entered California in 1849, gold land became scarcer and scarcer. It is not unusual to read accounts of thousands of potential miners converging on a piece of land previously being worked by only four or five men. As the land became relatively scarce, its value at the margin increased. If the theoretical implications are not to be refuted, we should observe explicit agreements emerging which assign the exclusive rights to mine a piece of land. The formation of these explicit contracts is so important in understanding the actual constraints on the development of property rights that I have chosen to give several firsthand accounts:

—When the mines in and around Nevada City were first opened they were solely in the ravines . . . and there was no law regulating the size of a miner's claim, and generally a party that first went into a ravine had the exclusive right there too. . . . As population increased that rule did not long maintain. The miners saw that something must be done, and therefore a meeting was called and a rule was established that each miner could hold thirty feet square as a mining claim.³⁹

—All these bars on the Middle Fork of the American River, from Oregon Bar upwards, after the lowest estimate, employed in the summer of 1850 not less than 1,500 men; originally working on shares, and the assessment on the share paid out daily, so that those who had been

39. C. Ferguson, *The Experiences of a Forty-niner During a Third of a Century in the Goldfields* (Chicago: M. Carson, 1924), 98.

drunk or absent did not get any part of it; but this after a while caused dissatisfaction and was the reason of breaking up the co-operative work and commencing work on claims. A claim was a spot of ground fifteen feet wide on the river front.⁴⁰

—In a comparatively short time, we had a large community on that creek, which led to rows and altercations about boundaries, that eventuated in an agreement, entered into by unanimous agreement, that each person should have ten square feet.⁴¹

—Wood’s Creek was filled up with miners, and I here for the first time after the discovery of gold, learned what a miner’s claim was. In 1848, the miners had no division of the ground into claims—they worked where it was richest, and many times four or five could be seen at work in a circle of six feet in diameter; but . . . here they were now measuring the ground off with tape measures so as to prevent disputes arising from the division.⁴²

I could give more examples, but these few clearly reveal the nature of this transition period in which private property rights in land were being established through contracting.

The process by which the miners actually reached an agreement, or contract, was termed the “miner’s meeting.” An excellent description of this process was found in the following interview with one of the original 49ers:

A few hours labor convinced the discoverers that the royal metal was there in paying quantities. . . . Soon the news spread; and within a week there were fifteen or twenty men at work in the . . . bed or creek. At first the camp had no organization or government, and every man’s conduct conformed to his own ideas of right and justice. Each miner had chosen a “spot to work in,” and no question of encroachment could possibly arise until in the widening circle their operations began to approach each other. About the close of the first week after the establishment of the camp, the near approach of two miners’ operations caused a dispute about the size of claims. One of the miners considered his rights infringed upon; and a few days later, after a good deal of talk, his friends circulated an informal oral request through the camp, whose population had by that time increased to fifty or more, asking for a miners’ meeting in the evening. When the miners of the new camp assembled, one of

40. Sioli, *History of El Dorado County* (1883), 84.

41. W. Kelly, *Excursion to California* (London: Chapman and Hall, 1851), 24–25.

42. J. H. Carson, *Early Recollections of the Mine* (Stockton: 1852), 18.

their members called the meeting to order and nominated a permanent chairman, who was at once elected.⁴³

The result of this meeting was to specify the geographic limits over which their decisions would govern. In this case, the mining district was about three miles long by two miles wide. Within these boundaries, each individual was allowed a claim to a piece of land of some specified size.

Very few of these original contracts from 1849 are available today. Many of them were never written down, and most of those that were in writing burned in the fires that plagued every mining town during this early period. However, from the few existing documents and the statements of observers, it is possible to piece together the following:

(i) At every district meeting, an explicit contract was formed in which each participant received exclusive rights to a designated piece of land called a claim.

(ii) Each miner was to mark the boundaries of his claim with wooden stakes. To these stakes was frequently attached a notice informing others of the identity of the claimant or the likely consequences of trespassing:

—All and everybody, this is my claim, fifty feet on the gulch, cordin to Clear Creek District Law, backed up by shotgun amendments.⁴⁴

—Any person found trespassing on this claim will be persucuted to the full extent of the law. This is no monkey tale butt I will assert by rites at the pint of the sick's shirter if legally necessary so taik head and good warnin.⁴⁵

(iii) These early contracts usually contained a provision which required each miner to work his claim a certain number of days out of the week.

(iv) As long as the individual complied with this rule, the other miners would help him keep off potential “jumpers,” or those who would violate his exclusive rights. If the miner failed to comply with the terms of the contract, his claim was considered by the others to be nonexclusive and open to any jumpers.

It appears that a contract was formed when the population had risen to the point where there were enough miners to enforce their exclusive rights against outsiders. I can find only one instance where an entire district was outnumbered

43. C. Shinn, *Mining Camps: A Study in American Frontier Government* (Charles Scribner's Sons, 1885), 160–162.

44. *Ibid.*, 558.

45. *Ibid.*, 559.

by outsiders. The actual account of this event, given by one of the miners present, reveals clearly the constraints in establishing exclusive rights:

The first workers on the bar had taken up claims of a generous size, and soon the whole bar was occupied. The region was full of miners and they came pouring down upon the river, attracted by the reports of a rich strike, until their tents and campfires presented the appearance of a vast army. Those without claims far exceeded in number the fortunate ones. A miners' meeting was called to make laws. Majority rules in a mining camp in those days, and it was voted to cut down the size of claims to forty feet. The claim owners were powerless to resist, but had to submit to the fiat of the majority. The miners were then registered in the order of the date of their arrival upon the bar, and in that order were allowed to select claims until all were taken. Even then there was a great crowd of disappointed ones.⁴⁶

Notice that the majority always prevailed at the miner's meetings. I have copies of nearly 200 original contracts formed by miners to assign exclusive land rights.⁴⁷ In every case, the provisions of the contracts were determined through majority-rule vote. Of course, in the absence of any agreement, violence would be the allocator, and, if we assume that the miners were about equal in their abilities to shoot each other, the majority would always decide an outcome. Notice, also, that preference in claim selection was given to those who were first to arrive in the district.

By the end of 1849, more of the miners were putting their agreements on property rights in writing. The miners at Jackass Gulch had a typical contract which provided:

First. That each person can hold "one claim by virtue of occupation," but it "must not exceed one hundred feet square."

Second. That a claim or claims if held by purchase "must be under a bill of sale, and certified by two disinterested persons as to genuineness of signature and of the consideration."

Third. That a "jury of five persons shall decide any questions arising under the previous articles."

46. Farriss and Smith, *History of Plumas, Lassen and Sierra Counties, California* (Berkeley: Howell & North Books, 1971), 287.

47. There were estimated to be about 500 districts formed during the rush. My sample of contracts represents about 40%.

Fourth. That notices of claims must be posted upon the ground chosen, and must be renewed every ten days “until water to work the said claims can be had.”

Fifth. That, as soon as there is a sufficiency of water for working a claim, “five days absence from said claim, except in case of sickness, accident or reasonable excuse,” shall forfeit the property.

Sixth. “That these rules shall extend over Jackass and Soldier gulches and their tributaries.”⁴⁸

The format of the miner’s contract changed very little after 1849. In 1856, the miners of the Kelsey District formed this contract, more detailed, yet very similar to that formed in 1849:

1. The mining district of Kelsey shall include one mile from said town.
2. A claim of old ground, and worked, shall be 150 feet in length and 60 feet wide.
3. A claim on new discovered ravines, bank or surface diggings, shall be 100 feet in length and 50 feet wide, the discoverer to be entitled to one extra claim.
4. A claim on new ground generally denominated “hill diggings” shall be 100 feet square, and an extra claim to the discoverer.
5. There shall be a recorder appointed for the district, whose duty it shall be to record all mining claims in said district, in a book kept for that purpose.
6. Any person or persons locating a claim after the passage of these laws, and failing to have the same recorded within five days after such location, shall forfeit the same; or purchasing a claim and failing to have the same transferred on the recorder’s book, shall forfeit the same.
7. All mining claims recorded as aforesaid, shall be held by the person or persons recording the same during all the time there is not sufficient water to work the same.
8. Any person or persons holding claims over or during the dry season, must commence working the same within ten days after there is sufficient water to work the same, unless the said person or persons are

48. C. Shinn, *Mining Camps: A Study*, 557.

unable to do so on account of sickness; and failing to do the aforesaid, shall forfeit said claim.

9. Any person or persons failing to work a claim for a longer time than five days after there is sufficient water to work the same, shall forfeit said claim, unless the owner or owners be sick, except from the 1st of July to the 1st of November, when miners may hold their claims without working them.

10. Miners only shall be arbitrators or jurors in settling any disputes or difficulties about mining claims or mining interests.

11. Each person may hold one claim by purchase and one by preemption by working and causing the same to be worked as required by law.

12. The recorder shall keep a copy of the mining laws of Kelsey district posted all the time in some public place in the town of Kelsey.

13. The recorder shall be entitled to a fee of \$1.00 for each recording of a claim, and the sum of 50 cents for each transfer of purchase.⁴⁹

By 1850, property rights to mineral lands were completely developed. The contracts by which miners assigned property rights to mineral land had a definite structure. From the sample that I have available, almost every contract provided for the following:

1. It defined the geographic boundaries within which its provisions would be binding on all individuals.
2. It assigned to each individual the exclusive rights to work a claim.
3. It stipulated the maximum size of each claim.
4. It enumerated the conditions which must be met if exclusive rights to the claim were to be maintained. These might include staking the claim boundaries, recording the claim with some appointed official, and working the claim a certain amount of time.
5. It indicated the maximum number of claims which any individual could hold at one time, either by preemption or purchase.
6. It established some means of enforcement.

49. Sioli, *History of El Dorado*, 99–100.

Chapter 18

Mark Twain: Old Times on the Mississippi

*Mark Twain was the pen name of
American novelist Samuel Langhorne Clemens (1835–1910).*

When I was a boy, there was but one permanent ambition among my comrades in our village* on the west bank of the Mississippi River. That was to be a steamboatman. We had transient ambitions of other sorts, but they were only transient. When a circus came and went, it left us all burning to become clowns; the first negro minstrel show that came to our section left us all suffering to try that kind of life; now and then we had a hope that if we lived and were good, God would permit us to be pirates. These ambitions faded out, each in its turn; but the ambition to be a steamboatman always remained.

Once a day, a cheap, gaudy packet arrived upward from St. Louis, and another downward from Keokuk. Before these events, the day was glorious with expectancy; after them, the day was a dead and empty thing. Not only the boys, but the whole village, felt this. After all these years I can picture that old time to myself now, just as it was then: the white town drowsing in the sunshine of a summer's morning; the streets empty, or pretty nearly so; one or two clerks in front of the Water Street stores, with their splint-bottomed chairs tilted back against the wall, chins on breasts, hats slouched over their faces, asleep—with shingle-shavings enough around to show what broke them down; a sow and a litter of pigs loafing along the sidewalk, doing a good business in watermelon rinds and seeds; two or three lonely little freight piles scattered about the "levee"; a pile of "skids" on the slope of the stone-paved wharf, and the fragrant town drunkard asleep in the shadow of them; two or three wood flats at the head of the wharf, but nobody to listen to the peaceful lapping of the wavelets against them; the great Mississippi, the majestic, the magnificent

Mark Twain, excerpted from *Life on the Mississippi* (Boston: James R. Osgood and Company, 1883), chap. 4–7

* Hannibal, Missouri.

Mississippi, rolling its mile-wide tide along, shining in the sun; the dense forest away on the other side; the “point” above the town, and the “point” below, bounding the river-glimpse and turning it into a sort of sea, and withal a very still and brilliant and lonely one. Presently a film of dark smoke appears above one of those remote “points”; instantly a negro drayman, famous for his quick eye and prodigious voice, lifts up the cry, “S-t-e-am-boat a-comin’!” and the scene changes! The town drunkard stirs, the clerks wake up, a furious clatter of drays follows, every house and store pours out a human contribution, and all in a twinkling the dead town is alive and moving. Drays, carts, men, boys, all go hurrying from many quarters to a common center, the wharf.

Assembled there, the people fasten their eyes upon the coming boat as upon a wonder they are seeing for the first time. And the boat is rather a handsome sight, too. She is long and sharp and trim and pretty; she has two tall, fancy-topped chimneys, with a gilded device of some kind swung between them; a fanciful pilothouse, all glass and “gingerbread,” perched on top of the “texas” deck behind them; the paddle-boxes are gorgeous with a picture or with gilded rays above the boat’s name; the boiler deck, the hurricane deck, and the texas deck are fenced and ornamented with clean white railings; there is a flag gallantly flying from the jack-staff; the furnace doors are open and the fires flaring bravely; the upper decks are black with passengers; the captain stands by the big bell, calm, imposing, the envy of all; great volumes of the blackest smoke are rolling and tumbling out of the chimneys—a husbanded grandeur created with a bit of pitch pine just before arriving at a town; the crew are grouped on the forecastle; the broad stage is run far out over the port bow, and an envied deckhand stands picturesquely on the end of it with a coil of rope in his hand; the pent steam is screaming through the gauge-cocks; the captain lifts his hand, a bell rings, the wheels stop; then they turn back, churning the water to foam, and the steamer is at rest.

Then such a scramble as there is to get aboard, and to get ashore, and to take in freight and to discharge freight, all at one and the same time; and such a yelling and cursing as the mates facilitate it all with! Ten minutes later the steamer is under way again, with no flag on the jack-staff and no black smoke issuing from the chimneys. After ten more minutes, the town is dead again, and the town drunkard asleep by the skids once more.

My father was a justice of the peace, and I supposed he possessed the power of life and death over all men and could hang anybody that offended him.

This was distinction enough for me as a general thing; but the desire to be a steamboatman kept intruding, nevertheless. I first wanted to be a cabin boy, so that I could come out with a white apron on and shake a tablecloth over the side, where all my old comrades could see me; later I thought I would rather be the deckhand who stood on the end of the stage-plank with the coil of rope in his hand, because he was particularly conspicuous. But these were only daydreams—they were too heavenly to be contemplated as real possibilities. By and by one of our boys went away. He was not heard of for a long time. At last he turned up as apprentice engineer, or “striker,” on a steamboat. This thing shook the bottom out of all my Sunday-school teachings. That boy had been notoriously worldly, and I just the reverse; yet he was exalted to this eminence, and I left in obscurity and misery. There was nothing generous about this fellow in his greatness. He would always manage to have a rusty bolt to scrub while his boat tarried at our town, and he would sit on the inside guard and scrub it, where we could all see him and envy him and loathe him. And whenever his boat was laid up, he would come home and swell around the town in his blackest and greasiest clothes, so that nobody could help remembering that he was a steamboatman; and he used all sorts of steamboat technicalities in his talk, as if he were so used to them that he forgot common people could not understand them. He would speak of the “labboard” side of a horse in an easy, natural way that would make one wish he was dead. And he was always talking about “St. Looy” like an old citizen; he would refer casually to occasions when he “was coming down Fourth Street,” or when he was “passing by the Planter’s House,” or when there was a fire and he took a turn on the brakes of “the old Big Missouri”; and then he would go on and lie about how many towns the size of ours were burned down there that day.

Two or three of the boys had long been persons of consideration among us because they had been to St. Louis once and had a vague general knowledge of its wonders, but the day of their glory was over now. They lapsed into a humble silence, and learned to disappear when the ruthless “cub” engineer approached. This fellow had money, too, and hair oil. Also an ignorant silver watch and a showy brass watch chain. He wore a leather belt and used no suspenders. If ever a youth was cordially admired and hated by his comrades, this one was. No girl could withstand his charms. He “cut out” every boy in the village. When his boat blew up at last, it diffused a tranquil contentment among us such as we had not known for months. But when he came home

the next week, alive, renowned, and appeared in church all battered up and bandaged, a shining hero, stared at and wondered over by everybody, it seemed to us that the partiality of Providence for an undeserving reptile had reached a point where it was open to criticism.

This creature's career could produce but one result, and it speedily followed. Boy after boy managed to get on the river. The minister's son became an engineer. The doctor's and the postmaster's sons became "mud clerks"; the wholesale liquor dealer's son became a barkeeper on a boat; four sons of the chief merchant, and two sons of the county judge, became pilots. Pilot was the grandest position of all. The pilot, even in those days of trivial wages, had a princely salary—from 150 to 250 dollars a month, and no board to pay. Two months of his wages would pay a preacher's salary for a year. Now some of us were left disconsolate. We could not get on the river—at least our parents would not let us.

So, by and by, I ran away. I said I never would come home again till I was a pilot and could come in glory. But somehow I could not manage it. I went meekly aboard a few of the boats that lay packed together like sardines at the long St. Louis wharf, and very humbly inquired for the pilots, but got only a cold shoulder and short words from mates and clerks. I had to make the best of this sort of treatment for the time being, but I had comforting daydreams of a future when I should be a great and honored pilot, with plenty of money, and could kill some of these mates and clerks and pay for them.

I Want to Be a Cub-Pilot

Months afterward, the hope within me struggled to a reluctant death, and I found myself without an ambition. But I was ashamed to go home. I was in Cincinnati, and I set to work to map out a new career. I had been reading about the recent exploration of the river Amazon by an expedition sent out by our government. It was said that the expedition, owing to difficulties, had not thoroughly explored a part of the country lying about the headwaters, some 4,000 miles from the mouth of the river. It was only about 1,500 miles from Cincinnati to New Orleans, where I could doubtless get a ship. I had 30 dollars left; I would go and complete the exploration of the Amazon. This was all the thought I gave to the subject. I never was great in matters of detail. I packed my valise, and took passage on an ancient tub called the *Paul Jones* for New Orleans. For the sum of 16 dollars, I had the scarred and tarnished

splendors of “her” main saloon principally to myself, for she was not a creature to attract the eye of wiser travelers.

When we presently got under way and went poking down the broad Ohio, I became a new being, and the subject of my own admiration. I was a traveler! A word never had tasted so good in my mouth before. I had an exultant sense of being bound for mysterious lands and distant climes which I never have felt in so uplifting a degree since. I was in such a glorified condition that all ignoble feelings departed out of me, and I was able to look down and pity the untraveled with a compassion that had hardly a trace of contempt in it. Still, when we stopped at villages and wood yards, I could not help lolling carelessly upon the railings of the boiler deck to enjoy the envy of the country boys on the bank. If they did not seem to discover me, I presently sneezed to attract their attention, or moved to a position where they could not help seeing me. And as soon as I knew they saw me, I gaped and stretched, and gave other signs of being mightily bored with traveling.

I kept my hat off all the time, and stayed where the wind and the sun could strike me, because I wanted to get the bronzed and weather-beaten look of an old traveler. Before the second day was half gone, I experienced a joy which filled me with the purest gratitude; for I saw that the skin had begun to blister and peel off my face and neck. I wished that the boys and girls at home could see me now.

We reached Louisville in time—at least the neighborhood of it. We stuck hard and fast on the rocks in the middle of the river, and lay there four days. I was now beginning to feel a strong sense of being a part of the boat’s family, a sort of infant son to the captain and younger brother to the officers. There is no estimating the pride I took in this grandeur, or the affection that began to swell and grow in me for those people. I could not know how the lordly steamboatman scorns that sort of presumption in a mere landsman. I particularly longed to acquire the least trifle of notice from the big stormy mate, and I was on the alert for an opportunity to do him a service to that end. It came at last. The riotous powwow of setting a spar was going on down on the forecastle, and I went down there and stood around in the way—or mostly skipping out of it—till the mate suddenly roared a general order for somebody to bring him a capstan bar. I sprang to his side and said: “Tell me where it is—I’ll fetch it!”

If a rag-picker had offered to do a diplomatic service for the Emperor of Russia, the monarch could not have been more astounded than the mate

was. He even stopped swearing. He stood and stared down at me. It took him ten seconds to scrape his disjointed remains together again. Then he said impressively, “Well, if this don’t beat hell!” and turned to his work with the air of a man who had been confronted with a problem too abstruse for solution.

I crept away, and courted solitude for the rest of the day. I did not go to dinner; I stayed away from supper until everybody else had finished. I did not feel so much like a member of the boat’s family now as before. However, my spirits returned, in installments, as we pursued our way down the river. I was sorry I hated the mate so, because it was not in (young) human nature not to admire him. He was huge and muscular, his face was bearded and whiskered all over; he had a red woman and a blue woman tattooed on his right arm—one on each side of a blue anchor with a red rope to it; and in the matter of profanity he sublime. When he was getting out cargo at a landing, I was always where I could see and hear. He felt all the majesty of his great position, and made the world feel it, too. When he gave even the simplest order, he discharged it like a blast of lightning, and sent a long, reverberating peal of profanity thundering after it. I could not help contrasting the way in which the average landsman would give an order, with the mate’s way of doing it. If the landsman should wish the gangplank moved a foot farther forward, he would probably say, “James, or William, one of you push that plank forward, please”; but put the mate in his place, and he would roar out, “Here, now, start that gangplank for’ard! Lively, now! *What’re* you about! *Snatch* it! *Snatch* it! *There!* *There!* *Aft* again! *Aft* again! Don’t you hear me? *Dash* it to *dash*! Are you going to *sleep* over it! *’Vast* heaving. *’Vast* heaving, I tell you! Going to heave it clear astern? *WHERE’re* you going with that barrel! *For’ard* with it *’fore* I make you swallow it, you *dash-dash-dashed* split between a tired mud-turtle and a crippled hearse-horse!”

I wished I could talk like that.

When the soreness of my adventure with the mate had somewhat worn off, I began timidly to make up to the humblest official connected with the boat—the night watchman. He snubbed my advances at first, but I presently ventured to offer him a new chalk pipe, and that softened him. So he allowed me to sit with him by the big bell on the hurricane deck, and in time he melted into conversation. He could not well have helped it, I hung with such homage on his words and so plainly showed that I felt honored by his notice. He told me the names of dim capes and shadowy islands as we glided by

them in the solemnity of the night, under the winking stars, and by and by got to talking about himself. He seemed over-sentimental for a man whose salary was six dollars a week—or rather he might have seemed so to an older person than I. But I drank in his words hungrily, and with a faith that might have moved mountains if it had been applied judiciously. What was it to me that he was soiled and seedy and fragrant with gin? What was it to me that his grammar was bad, his construction worse, and his profanity so void of art that it was an element of weakness rather than strength in his conversation? He was a wronged man, a man who had seen trouble, and that was enough for me. As he mellowed into his plaintive history, his tears dripped upon the lantern in his lap, and I cried, too, from sympathy. He said he was the son of an English nobleman—either an earl or an alderman, he could not remember which, but believed he was both; his father, the nobleman, loved him, but his mother hated him from the cradle; and so while he was still a little boy he was sent to “one of them old, ancient colleges”—he couldn’t remember which; and by and by his father died and his mother seized the property and “shook” him, as he phrased it. After his mother shook him, members of the nobility with whom he was acquainted used their influence to get him the position of “loblolly-boy in a ship”; and from that point my watchman threw off all trammels of date and locality and branched out into a narrative that bristled all along with incredible adventures; a narrative that was so reeking with bloodshed and so crammed with hair-breadth escapes and the most engaging and unconscious personal villainies that I sat speechless, enjoying, shuddering, wondering, worshipping.

It was a sore blight to find out afterwards that he was a low, vulgar, ignorant, sentimental, half-witted humbug, an untraveled native of the wilds of Illinois, who had absorbed wildcat literature and appropriated its marvels, until in time he had woven odds and ends of the mess into this yarn, and then gone on, telling it to fledglings like me, until he had come to believe it himself.

A Cub-Pilot’s Experience

What with lying on the rocks four days at Louisville, and some other delays, the poor old *Paul Jones* fooled away about two weeks in making the voyage from Cincinnati to New Orleans. This gave me a chance to get acquainted with one of the pilots, and he taught me how to steer the boat, and thus made the fascination of river life more potent than ever for me.

It also gave me a chance to get acquainted with a youth who had taken deck passage—more's the pity; for he easily borrowed six dollars of me on a promise to return to the boat and pay it back to me the day after we should arrive. But he probably died or forgot, for he never came. It was doubtless the former, since he had said his parents were wealthy, and he only traveled deck passage because it was cooler.

I soon discovered two things. One was that a vessel would not be likely to sail for the mouth of the Amazon under ten or twelve years; and the other was that the nine or ten dollars still left in my pocket would not suffice for so imposing an exploration as I had planned, even if I could afford to wait for a ship. Therefore it followed that I must contrive a new career. The *Paul Jones* was now bound for St. Louis. I planned a siege against my pilot, and at the end of three hard days he surrendered. He agreed to teach me the Mississippi River from New Orleans to St. Louis for 500 dollars, payable out of the first wages I should receive after graduating. I entered upon the small enterprise of “learning” twelve or thirteen hundred miles of the great Mississippi River with the easy confidence of my time of life. If I had really known what I was about to require of my faculties, I should not have had the courage to begin. I supposed that all a pilot had to do was to keep his boat in the river, and I did not consider that that could be much of a trick, since it was so wide.

The boat backed out from New Orleans at four in the afternoon, and it was “our watch” until eight. Mr. Bixby, my chief, “straightened her up,” plowed her along past the sterns of the other boats that lay at the Levee, and then said, “Here, take her; shave those steamships as close as you'd peel an apple.” I took the wheel, and my heart fluttered up into the hundreds; for it seemed to me that we were about to scrape the side off every ship in the line, we were so close. I held my breath and began to claw the boat away from the danger; and I had my own opinion of the pilot who had known no better than to get us into such peril, but I was too wise to express it. In half a minute, I had a wide margin of safety intervening between the *Paul Jones* and the ships; and within ten seconds more I was set aside in disgrace, and Mr. Bixby was going into danger again and flaying me alive with abuse of my cowardice. I was stung, but I was obliged to admire the easy confidence with which my chief loafed from side to side of his wheel, and trimmed the ships so closely that disaster seemed ceaselessly imminent. When he had cooled a little, he told me that the easy water was close ashore and the current outside, and therefore we must hug the bank,

upstream, to get the benefit of the former, and stay well out, downstream, to take advantage of the latter. In my own mind I resolved to be a downstream pilot and leave the up-streaming to people dead to prudence.

Now and then Mr. Bixby called my attention to certain things. Said he, "This is Six-Mile Point." I assented. It was pleasant enough information, but I could not see the bearing of it. I was not conscious that it was a matter of any interest to me. Another time he said, "This is Nine-Mile Point." Later he said, "This is Twelve-Mile Point." They were all about level with the water's edge; they all looked about alike to me; they were monotonously unpicturesque. I hoped Mr. Bixby would change the subject. But no; he would crowd up around a point, hugging the shore with affection, and then say, "The slack water ends here, abreast this bunch of China-trees; now we cross over." So he crossed over. He gave me the wheel once or twice, but I had no luck. I either came near chipping off the edge of a sugar plantation, or else I yawed too far from shore, and so I dropped back into disgrace again and got abused.

The watch was ended at last, and we took supper and went to bed. At midnight the glare of a lantern shone in my eyes, and the night watchman said, "Come, turn out!"

And then he left. I could not understand this extraordinary procedure; so I presently gave up trying to, and dozed off to sleep. Pretty soon the watchman was back again, and this time he was gruff. I was annoyed. I said, "What do you want to come bothering around here in the middle of the night for? Now as like as not I'll not get to sleep again tonight."

The watchman said, "Well, if this ain't good, I'm blest."

The "off-watch" was just turning in, and I heard some brutal laughter from them, and such remarks as "Hello, watchman! Ain't the new cub turned out yet? He's delicate, likely. Give him some sugar in a rag and send for the chambermaid to sing rock-a-bye-baby to him."

About this time Mr. Bixby appeared on the scene. Something like a minute later I was climbing the pilothouse steps with some of my clothes on and the rest in my arms. Mr. Bixby was close behind, commenting. Here was something fresh—this thing of getting up in the middle of the night to go to work. It was a detail in piloting that had never occurred to me at all. I knew that boats ran all night, but somehow I had never happened to reflect that somebody had to get up out of a warm bed to run them. I began to fear

that piloting was not quite so romantic as I had imagined it was; there was something very real and work-like about this new phase of it.

It was a rather dingy night, although a fair number of stars were out. The big mate was at the wheel, and he had the old tub pointed at a star and was holding her straight up the middle of the river. The shores on either hand were not much more than a mile apart, but they seemed wonderfully far away and ever so vague and indistinct. The mate said, "We've got to land at Jones's plantation, sir."

The vengeful spirit in me exulted. I said to myself, I wish you joy of your job, Mr. Bixby; you'll have a good time finding Mr. Jones's plantation such a night as this; and I hope you never will find it as long as you live.

Mr. Bixby said to the mate, "Upper end of the plantation, or the lower?"
"Upper."

"I can't do it. The stumps there are out of water at this stage. It's no great distance to the lower, and you'll have to get along with that."

"All right, sir. If Jones don't like it he'll have to lump it, I reckon."

And then the mate left. My exultation began to cool and my wonder to come up. Here was a man who not only proposed to find this plantation on such a night, but to find either end of it you preferred. I dreadfully wanted to ask a question, but I was carrying about as many short answers as my cargo-room would admit of, so I held my peace. All I desired to ask Mr. Bixby was the simple question whether he was ass enough to really imagine he was going to find that plantation on a night when all plantations were exactly alike and all the same color. But I held in. I used to have fine inspirations of prudence in those days.

Mr. Bixby made for the shore and soon was scraping it, just the same as if it had been daylight. And not only that, but singing, "Father in heaven the day is declining," etc.

It seemed to me that I had put my life in the keeping of a peculiarly reckless outcast. Presently he turned on me and said, "What's the name of the first point above New Orleans?"

I was gratified to be able to answer promptly, and I did. I said I didn't know.
"Don't know?"

This manner jolted me. I was down at the foot again, in a moment. But

I had to say just what I had said before.

“Well, you’re a smart one,” said Mr. Bixby. “What’s the name of the next point?”

Once more I didn’t know.

“Well this beats anything. Tell me the name of *any* point or place I told you.”

I studied a while and decided that I couldn’t.

“Look here! What do you start out from, above Twelve-Mile Point, to cross over?”

“I—I—don’t know.”

“You—you—don’t know?” mimicking my drawling manner of speech. “What *do* you know?”

“I—I—nothing, for certain.”

“By the great Caesar’s ghost I believe you! You’re the stupidest dunderhead I ever saw or ever heard of, so help me Moses! The idea of you being a pilot—you! Why, you don’t know enough to pilot a cow down a lane.”

Oh, but his wrath was up! He was a nervous man, and he shuffled from one side of his wheel to the other as if the floor was hot. He would boil a while to himself, and then overflow and scald me again.

“Look here! What do you suppose I told you the names of those points for?”

I tremblingly considered a moment, and then the devil of temptation provoked me to say, “Well—to—to—be entertaining, I thought.”

This was a red rag to the bull. He raged and stormed so (he was crossing the river at the time) that I judge it made him blind, because he ran over the steering-oar of a trading-scow. Of course the traders sent up a volley of red-hot profanity. Never was a man so grateful as Mr. Bixby was: because he was brim full, and here were subjects who would *talk back*. He threw open a window, thrust his head out, and such an eruption followed as I never had heard before. The fainter and farther away the scowmen’s curses drifted, the higher Mr. Bixby lifted his voice and the weightier his adjectives grew. When he closed the window, he was empty. You could have drawn a seine through his system and not caught curses enough to disturb your mother with. Presently he said to me in the gentlest way:

“My boy, you must get a little memorandum-book, and every time I tell

you a thing, put it down right away. There's only one way to be a pilot, and that is to get this entire river by heart. You have to know it just like A B C."

That was a dismal revelation to me; for my memory was never loaded with anything but blank cartridges. However, I did not feel discouraged long. I judged that it was best to make some allowances, for doubtless Mr. Bixby was "stretching." Presently he pulled a rope and struck a few strokes on the big bell. The stars were all gone now, and the night was as black as ink. I could hear the wheels churn along the bank, but I was not entirely certain that I could see the shore. The voice of the invisible watchman called up from the hurricane deck, "What's this, sir?"

"Jones's plantation."

I said to myself, "I wish I might venture to offer a small bet that it isn't." But I did not chirp. I only waited to see. Mr. Bixby handled the engine-bells, and in due time the boat's nose came to the land, a torch glowed from the forecastle, a man skipped ashore, a darky's voice on the bank said: "Gimme de k'yarpet-bag, Mass' Jones," and the next moment we were standing up the river again, all serene. I reflected deeply a while, and then said—but not aloud—Well, the finding of that plantation was the luckiest accident that ever happened; but it couldn't happen again in a hundred years. And I fully believed it was an accident, too.

By the time we had gone seven or eight hundred miles up the river, I had learned to be a tolerably plucky up-stream steersman in daylight, and before we reached St. Louis, I had made a trifle of progress in night work, but only a trifle. I had a notebook that fairly bristled with the names of towns, "points," bars, islands, bends, reaches, etc.; but the information was to be found only in the notebook—none of it was in my head. It made my heart ache to think I had only got half of the river set down; for as our watch was four hours off and four hours on, day and night, there was a long four-hour gap in my book for every time I had slept since the voyage began.

My chief was presently hired to go on a big New Orleans boat, and I packed my satchel and went with him. She was a grand affair. When I stood in her pilothouse, I was so far above the water that I seemed perched on a mountain; and her decks stretched so far away, fore and aft, below me, that I wondered how I could ever have considered the little *Paul Jones* a large craft. There were other differences, too. The *Paul Jones's* pilothouse was a cheap, dingy, battered rattletrap, cramped for room: but here was a sumptuous glass temple; room

enough to have a dance in; showy red and gold window-curtains; an imposing sofa; leather cushions and a back to the high bench where visiting pilots sit to spin yarns and “look at the river”; bright, fanciful “cuspadores” instead of a broad wooden box filled with sawdust; nice new oilcloth on the floor; a hospitable big stove for winter; a wheel as high as my head, costly with inlaid work; a wire tiller-rope; bright brass knobs for the bells; and a tidy, white-aproned, black “texas-tender,” to bring up tarts and ices and coffee during mid-watch, day and night. Now this was “something like”; and so I began to take heart once more to believe that piloting was a romantic sort of occupation after all. The moment we were under way, I began to prowling about the great steamer and fill myself with joy. She was as clean and as dainty as a drawing room; when I looked down her long, gilded saloon, it was like gazing through a splendid tunnel; she had an oil-picture by some gifted sign-painter on every stateroom door; she glittered with no end of prism-fringed chandeliers; the clerk’s office was elegant, the bar was marvelous, and the barkeeper had been barbered and upholstered at incredible cost. The boiler deck (i.e., the second story of the boat, so to speak) was as spacious as a church, it seemed to me; so with the forecabin; and there was no pitiful handful of deckhands, firemen, and roustabouts down there, but a whole battalion of men. The fires were fiercely glaring from a long row of furnaces, and over them were eight huge boilers! This was unutterable pomp. The mighty engines—but enough of this. I had never felt so fine before. And when I found that the regiment of natty servants respectfully “sir’d” me, my satisfaction was complete.

A Daring Deed

When I returned to the pilothouse, St. Louis was gone and I was lost. Here was a piece of river which was all down in my book, but I could make neither head nor tail of it: you understand, it was turned around. I had seen it when coming upstream, but I had never faced about to see how it looked when it was behind me. My heart broke again, for it was plain that I had got to learn this troublesome river *both ways*.

The pilothouse was full of pilots going down to “look at the river.” What is called the “upper river” (the two hundred miles between St. Louis and Cairo, where the Ohio comes in) was low; and the Mississippi changes its channel so constantly that the pilots used to always find it necessary to run down to Cairo to take a fresh look when their boats were to lie in port a week, that is,

when the water was at a low stage. A deal of this “looking at the river” was done by poor fellows who seldom had a berth, and whose only hope of getting one lay in their being always freshly posted and therefore ready to drop into the shoes of some reputable pilot, for a single trip, on account of such pilot’s sudden illness, or some other necessity. And a good many of them constantly ran up and down inspecting the river, not because they ever really hoped to get a berth, but because (they being guests of the boat) it was cheaper to “look at the river” than stay ashore and pay board. In time these fellows grew dainty in their tastes, and only infested boats that had an established reputation for setting good tables. All visiting pilots were useful, for they were always ready and willing, winter or summer, night or day, to go out in the yawl and help buoy the channel or assist the boat’s pilots in any way they could. They were likewise welcome because all pilots are tireless talkers, when gathered together, and as they talk only about the river, they are always understood and are always interesting. Your true pilot cares nothing about anything on earth but the river, and his pride in his occupation surpasses the pride of kings.

We had a fine company of these river inspectors along, this trip. There were eight or ten; and there was abundance of room for them in our great pilothouse. Two or three of them wore polished silk hats, elaborate shirtfronts, diamond breastpins, kid gloves, and patent-leather boots. They were choice in their English, and bore themselves with a dignity proper to men of solid means and prodigious reputation as pilots. The others were more or less loosely clad, and wore upon their heads tall felt cones that were suggestive of the days of the Commonwealth.

I was a cipher in this august company, and felt subdued, not to say torpid. I was not even of sufficient consequence to assist at the wheel when it was necessary to put the tiller hard down in a hurry; the guest that stood nearest did that when occasion required—and this was pretty much all the time, because of the crookedness of the channel and the scant water. I stood in a corner; and the talk I listened to took the hope all out of me.

One visitor said to another, “Jim, how did you run Plum Point, coming up?”

“It was in the night, there, and I ran it the way one of the boys on the *Diana* told me; started out about 50 yards above the wood pile on the false point, and held on the cabin under Plum Point till I raised the reef—quarter less twain—then straightened up for the middle bar till I got well abreast the old one-limbed cottonwood in the bend, then got my stern on the cottonwood

and head on the low place above the point, and came through a-booming—nine and a half.”

“Pretty square crossing, ain’t it?”

“Yes, but the upper bar’s working down fast.”

Another pilot spoke up and said, “I had better water than that, and ran it lower down; started out from the false point—mark twain—raised the second reef abreast the big snag in the bend, and had quarter less twain.”

One of the gorgeous ones remarked, “I don’t want to find fault with your leadsmen, but that’s a good deal of water for Plum Point, it seems to me.”

There was an approving nod all around as this quiet snub dropped on the boaster and “settled” him. And so they went on talk-talk-talking. Meantime, the thing that was running in my mind was, “Now if my ears hear aright, I have not only to get the names of all the towns and islands and bends, and so on, by heart, but I must even get up a warm personal acquaintanceship with every old snag and one-limbed cottonwood and obscure woodpile that ornaments the banks of this river for twelve hundred miles; and more than that, I must actually know where these things are in the dark, unless these guests are gifted with eyes that can pierce through two miles of solid blackness; I wish the piloting business was in Jericho and I had never thought of it.”

At dusk Mr. Bixby tapped the big bell three times (the signal to land), and the captain emerged from his drawing room in the forward end of the texas, and looked up inquiringly.

Mr. Bixby said, “We will lay up here all night, captain.”

“Very well, sir.”

That was all. The boat came to shore and was tied up for the night. It seemed to me a fine thing that the pilot could do as he pleased without asking so grand a captain’s permission. I took my supper and went immediately to bed, discouraged by my day’s observations and experiences. My late voyage’s notebooking was but a confusion of meaningless names. It had tangled me all up in a knot every time I had looked at it in the daytime. I now hoped for respite in sleep; but no, it reveled all through my head till sunrise again, a frantic and tireless nightmare.

Next morning I felt pretty rusty and low-spirited. We went booming along, taking a good many chances, for we were anxious to “get out of the river” (as getting out to Cairo was called) before night should overtake us. But

Mr. Bixby's partner, the other pilot, presently grounded the boat, and we lost so much time getting her off that it was plain the darkness would overtake us a good long way above the mouth. This was a great misfortune, especially to certain of our visiting pilots, whose boats would have to wait for their return, no matter how long that might be. It sobered the pilothouse talk a good deal. Coming upstream, pilots did not mind low water or any kind of darkness: nothing stopped them but fog. But downstream work was different; a boat was too nearly helpless, with a stiff current pushing behind her; so it was not customary to run downstream at night in low water.

There seemed to be one small hope, however: if we could get through the intricate and dangerous Hat Island crossing before night, we could venture the rest, for we would have plainer sailing and better water. But it would be insanity to attempt Hat Island at night. So there was a deal of looking at watches all the rest of the day, and a constant ciphering upon the speed we were making; Hat Island was the eternal subject; sometimes hope was high, and sometimes we were delayed in a bad crossing, and down it went again. For hours all hands lay under the burden of this suppressed excitement; it was even communicated to me, and I got to feeling so solicitous about Hat Island, and under such an awful pressure of responsibility, that I wished I might have five minutes on shore to draw a good, full, relieving breath, and start over again. We were standing no regular watches. Each of our pilots ran such portions of the river as he had run when coming upstream, because of his greater familiarity with it; but both remained in the pilothouse constantly.

An hour before sunset, Mr. Bixby took the wheel and Mr. W—— stepped aside. For the next 30 minutes every man held his watch in his hand and was restless, silent, and uneasy.

At last somebody said, with a dooeful sigh, "Well, yonder's Hat Island—and we can't make it."

All the watches closed with a snap, everybody sighed and muttered something about its being "too bad, too bad—ah, if we could *only* have got here half an hour sooner!" and the place was thick with the atmosphere of disappointment. Some started to go out, but loitered, hearing no bell-tap to land. The sun dipped behind the horizon, the boat went on. Inquiring looks passed from one guest to another; and one who had his hand on the doorknob, and had turned it, waited, then presently took away his hand and let the knob turn back again. We bore steadily down the bend. More looks were exchanged,

and nods of surprised admiration—but no words. Insensibly the men drew together behind Mr. Bixby as the sky darkened and one or two dim stars came out. The dead silence and sense of waiting became oppressive. Mr. Bixby pulled the cord, and two deep, mellow notes from the big bell floated off on the night. Then a pause, and one more note was struck.

The watchman's voice followed, from the hurricane deck, "Labboard lead, there! Stabboard lead!"

The cries of the leadsmen began to rise out of the distance, and were gruffly repeated by the word-passers on the hurricane deck.

"M-a-r-k three! M-a-r-k three! Quarter-less-three! Half twain! Quarter twain! M-a-r-k twain! Quarter-less—"

Mr. Bixby pulled two bell-ropes, and was answered by faint jinglings far below in the engine room, and our speed slackened. The steam began to whistle through the gauge-cocks. The cries of the leadsmen went on—and it is a weird sound, always, in the night. Every pilot in the lot was watching, now, with fixed eyes, and talking under his breath. Nobody was calm and easy but Mr. Bixby. He would put his wheel down and stand on a spoke, and as the steamer swung into her (to me) utterly invisible marks—for we seemed to be in the midst of a wide and gloomy sea—he would meet and fasten her there.

Out of the murmur of half-audible talk, one caught a coherent sentence now and then, such as, "There; she's over the first reef all right!"

After a pause, another subdued voice, "Her stern's coming down just *exactly* right, by *George!*"

"Now she's in the marks; over she goes!"

Somebody else muttered, "Oh, it was done beautiful—*beautiful!*"

Now the engines were stopped altogether, and we drifted with the current. Not that I could see the boat drift, for I could not, the stars being all gone by this time. This drifting was the dismallest work; it held one's heart still. Presently I discovered a blacker gloom than that which surrounded us. It was the head of the island. We were closing right down upon it. We entered its deeper shadow, and so imminent seemed the peril that I was likely to suffocate; and I had the strongest impulse to do *something*, anything, to save the vessel. But still Mr. Bixby stood by his wheel, silent, intent as a cat, and all the pilots stood shoulder to shoulder at his back.

"She'll not make it!" somebody whispered.

The water grew shoaler and shoaler by the leadsmen's cries, till it was down to, "Eight-and-a-half! E-i-g-h-t feet! E-i-g-h-t feet! Seven-and—"

Mr. Bixby said warningly through his speaking tube to the engineer, "Stand by, now!"

"Aye-aye, sir."

"Seven-and-a-half! Seven feet! Six-and—"

We touched bottom! Instantly Mr. Bixby set a lot of bells ringing, shouted through the tube, "*Now* let her have it—every ounce you've got!" then to his partner, "Put her hard down! Snatch her! Snatch her!" The boat rasped and ground her way through the sand, hung upon the apex of disaster a single tremendous instant, and then over she went! And such a shout as went up at Mr. Bixby's back never loosened the roof of a pilothouse before!

There was no more trouble after that. Mr. Bixby was a hero that night; and it was some little time, too, before his exploit ceased to be talked about by river men.

Fully to realize the marvelous precision required in laying the great steamer in her marks in that murky waste of water, one should know that not only must she pick her intricate way through snags and blind reefs, and then shave the head of the island so closely as to brush the overhanging foliage with her stern, but at one place she must pass almost within arm's reach of a sunken and invisible wreck that would snatch the hull timbers from under her if she should strike it, and destroy a quarter of a million dollars' worth of steamboat and cargo in five minutes, and maybe a hundred and fifty human lives into the bargain.

The last remark I heard that night was a compliment to Mr. Bixby, uttered in soliloquy and with unction by one of our guests.

He said, "By the Shadow of Death, but he's a lightning pilot!"

PART VII

THE SPIRIT OF LIBERTY

Chapter 19

Thomas Jefferson: The Spirit of Resistance

Thomas Jefferson (1743–1826) was one of the main founders of the American Republic.

Dear Sir,

I am now to acknowledge the receipt of your favors of October the 4th, 8th, & 26th. In the last you apologize for your letters of introduction to Americans coming here. It is so far from needing apology on your part that it calls for thanks on mine. I endeavor to show civilities to all the Americans who come here and will give me opportunities of doing it: and it is a matter of comfort to know from a good quarter what they are and how far I may go in my attentions to them. Can you send me Woodmason's bills for the two copying presses for the M. de la Fayette, & the M. de Chastellux? The latter makes one article in a considerable account, of old standing, and which I cannot present for want of this article. I do not know whether it is to yourself or Mr. Adams I am to give my thanks for the copy of the new Constitution. I beg leave through you to place them where due. It will be yet three weeks before I shall receive them from America. There are very good articles in it, and very bad. I do not know which preponderate. What we have lately read in the history of Holland, in the chapter on the Stadtholder, would have sufficed to set me against a chief magistrate eligible for a long duration, if I had ever been disposed towards one; and what we have always read of the elections of Polish kings should have forever excluded the idea of one continuable for life. Wonderful is the effect of impudent and persevering lying. The British ministry have so long hired their gazetteers to repeat and model into every form lies about our being in anarchy, that the world has at length believed them, the English nation has believed them, the ministers themselves have come to believe them, and what is more wonderful, we have believed them ourselves. Yet where does this anarchy exist? Where did it ever exist, except in

the single instance of Massachusetts?^{*} And can history produce an instance of rebellion so honorably conducted? I say nothing of its motives. They were founded in ignorance, not wickedness. God forbid we should ever be 20 years without such a rebellion. The people cannot be all, and always, well informed. The part which is wrong will be discontented in proportion to the importance of the facts they misconceive. If they remain quiet under such misconceptions it is a lethargy, the forerunner of death to the public liberty. We have had 13 states independent 11 years. There has been one rebellion. That comes to one rebellion in a century and a half for each state. What country before ever existed a century and half without a rebellion? And what country can preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance? Let them take arms. The remedy is to set them right as to facts, pardon, and pacify them. What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure. Our Convention has been too much impressed by the insurrection of Massachusetts: and in the spur of the moment, they are setting up a kite to keep the hen-yard in order. I hope in God this article will be rectified before the new Constitution is accepted. You ask me if any thing transpires here on the subject of S. America? Not a word. I know that there are combustible materials there, and that they wait the torch only. But this country probably will join the extinguishers. The want of facts worth communicating to you has occasioned me to give a little loose to dissertation. We must be contented to amuse when we cannot inform.

^{*} Shay's Rebellion, 1786–1787.

Chapter 20

Henry David Thoreau: Civil Disobedience

Henry David Thoreau (1817–1862) was a philosopher and the author of Walden among other works.

I heartily accept the motto, “That government is best which governs least”; and I should like to see it acted up to more rapidly and systematically. Carried out, it finally amounts to this, which also I believe—“That government is best which governs not at all”; and when men are prepared for it, that will be the kind of government which they will have. Government is at best but an expedient; but most governments are usually, and all governments are sometimes, inexpedient. The objections which have been brought against a standing army, and they are many and weighty, and deserve to prevail, may also at last be brought against a standing government. The standing army is only an arm of the standing government. The government itself, which is only the mode which the people have chosen to execute their will, is equally liable to be abused and perverted before the people can act through it. Witness the present Mexican war, the work of comparatively a few individuals using the standing government as their tool; for in the outset, the people would not have consented to this measure.

This American government—what is it but a tradition, though a recent one, endeavoring to transmit itself unimpaired to posterity, but each instant losing some of its integrity? It has not the vitality and force of a single living man; for a single man can bend it to his will. It is a sort of wooden gun to the people themselves. But it is not the less necessary for this; for the people must have some complicated machinery or other, and hear its din, to satisfy that idea of government which they have. Governments show thus how successfully men can be imposed upon, even impose on themselves, for their own advantage. It is excellent, we must all allow. Yet this government never of itself furthered any enterprise, but by the alacrity with which it got out of its way. It does not keep

the country free. It does not settle the West. It does not educate. The character inherent in the American people has done all that has been accomplished; and it would have done somewhat more, if the government had not sometimes got in its way. For government is an expedient, by which men would fain succeed in letting one another alone; and, as has been said, when it is most expedient, the governed are most let alone by it. Trade and commerce, if they were not made of India-rubber, would never manage to bounce over obstacles which legislators are continually putting in their way; and if one were to judge these men wholly by the effects of their actions and not partly by their intentions, they would deserve to be classed and punished with those mischievous persons who put obstructions on the railroads.

But, to speak practically and as a citizen, unlike those who call themselves no-government men, I ask for, not at once no government, but at once a better government. Let every man make known what kind of government would command his respect, and that will be one step toward obtaining it.

After all, the practical reason why, when the power is once in the hands of the people, a majority are permitted, and for a long period continue, to rule is not because they are most likely to be in the right, nor because this seems fairest to the minority, but because they are physically the strongest. But a government in which the majority rule in all cases cannot be based on justice, even as far as men understand it. Can there not be a government in which the majorities do not virtually decide right and wrong, but conscience? In which majorities decide only those questions to which the rule of expediency is applicable? Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience then? I think that we should be men first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume is to do at anytime what I think right. It is truly enough said that a corporation has no conscience; but a corporation of conscientious men is a corporation with a conscience. Law never made men a whit more just; and, by means of their respect for it, even the well-disposed are daily made the agents of injustice. A common and natural result of an undue respect for the law is that you may see a file of soldiers, colonel, captain, corporal, privates, powder-monkeys, and all, marching in admirable order over hill and dale to the wars, against their wills, ay, against their common sense and consciences, which makes it very steep marching indeed, and produces a palpitation of the

heart. They have no doubt that it is a damnable business in which they are concerned; they are all peaceably inclined. Now, what are they? Men at all? Or small movable forts and magazines, at the service of some unscrupulous man in power? Visit the Navy Yard, and behold a marine, such a man as an American government can make, or such as it can make a man with its black arts—a mere shadow and reminiscence of humanity, a man laid out alive and standing, and already, as one may say, buried under arms with funeral accompaniment, though it may be,

Not a drum was heard, not a funeral note,
As his corse to the rampart we hurried;
Not a soldier discharged his farewell shot
O'er the grave where our hero was buried.

The mass of men serve the state thus, not as men mainly, but as machines, with their bodies. They are the standing army, and the militia, jailers, constables, posse comitatus, etc. In most cases, there is no free exercise whatever of the judgment or of the moral sense; but they put themselves on a level with wood and earth and stones; and wooden men can perhaps be manufactured that will serve the purpose as well. Such command no more respect than men of straw or a lump of dirt. They have the same sort of worth only as horses and dogs. Yet such as these even are commonly esteemed good citizens. Others—as most legislators, politicians, lawyers, ministers, and officeholders—serve the state chiefly with their heads; and, as they rarely make any moral distinctions, they are as likely to serve the devil, without intending it, as God. A very few—as heroes, patriots, martyrs, reformers in the great sense, and men—serve the state with their consciences also, and so necessarily resist it for the most part; and they are commonly treated as enemies by it. A wise man will only be useful as a man, and will not submit to be “clay,” and “stop a hole to keep the wind away,” but leave that office to his dust at least:

I am too high born to be propertied,
To be a second at control,
Or useful serving-man and instrument
To any sovereign state throughout the world.

He who gives himself entirely to his fellow men appears to them useless and selfish; but he who gives himself partially to them is pronounced a benefactor and philanthropist.

How does it become a man to behave toward the American government today? I answer, that he cannot without disgrace be associated with it. I cannot for an instant recognize that political organization as my government which is the slave's government also.

All men recognize the right of revolution; that is, the right to refuse allegiance to, and to resist, the government, when its tyranny or its inefficiency are great and unendurable. But almost all say that such is not the case now. But such was the case, they think, in the Revolution of '75. If one were to tell me that this was a bad government because it taxed certain foreign commodities brought to its ports, it is most probable that I should not make an ado about it, for I can do without them. All machines have their friction; and possibly this does enough good to counterbalance the evil. At any rate, it is a great evil to make a stir about it. But when the friction comes to have its machine, and oppression and robbery are organized, I say, let us not have such a machine any longer. In other words, when a sixth of the population of a nation which has undertaken to be the refuge of liberty are slaves, and a whole country is unjustly overrun and conquered by a foreign army, and subjected to military law, I think that it is not too soon for honest men to rebel and revolutionize. What makes this duty the more urgent is that fact that the country so overrun is not our own, but ours is the invading army.

Paley,* a common authority with many on moral questions, in his chapter on the "Duty of Submission to Civil Government," resolves all civil obligation into expediency; and he proceeds to say that "so long as the interest of the whole society requires it, that it, so long as the established government cannot be resisted or changed without public inconveniency, it is the will of God that the established government be obeyed—and no longer. . . . This principle being admitted, the justice of every particular case of resistance is reduced to a computation of the quantity of the danger and grievance on the one side, and of the probability and expense of redressing it on the other." Of this, he says, every man shall judge for himself. But Paley appears never to have contemplated those cases to which the rule of expediency does not apply, in which a people, as well as an individual, must do justice, *cost what it may*. If I have unjustly wrested a plank from a drowning man, I must restore it to him though I drown myself. This, according to Paley, would be inconvenient. But he that would save his life, in such a case, shall lose it. This people must cease

* William Paley, English moral philosopher.

to hold slaves, and to make war on Mexico, though it cost them their existence as a people.

In their practice, nations agree with Paley; but does anyone think that Massachusetts does exactly what is right at the present crisis?

A drab of state,
 a cloth-o'-silver slut,
 To have her train borne up,
 and her soul trail in the dirt.

Practically speaking, the opponents to a reform in Massachusetts are not a hundred thousand politicians at the South, but a hundred thousand merchants and farmers here, who are more interested in commerce and agriculture than they are in humanity, and are not prepared to do justice to the slave and to Mexico, cost what it may. I quarrel not with far-off foes, but with those who, neat at home, co-operate with, and do the bidding of, those far away, and without whom the latter would be harmless. We are accustomed to say that the mass of men are unprepared; but improvement is slow, because the few are not as materially wiser or better than the many. It is not so important that many should be good as you, as that there be some absolute goodness somewhere; for that will leaven the whole lump. There are thousands who are *in opinion* opposed to slavery and to the war, who yet in effect do nothing to put an end to them; who, esteeming themselves children of Washington and Franklin, sit down with their hands in their pockets, and say that they know not what to do, and do nothing; who even postpone the question of freedom to the question of free trade, and quietly read the prices-current along with the latest advices from Mexico, after dinner, and, it may be, fall asleep over them both. What is the price-current of an honest man and patriot today? They hesitate, and they regret, and sometimes they petition; but they do nothing in earnest and with effect. They will wait, well disposed, for others to remedy the evil, that they may no longer have it to regret. At most, they give up only a cheap vote, and a feeble countenance and Godspeed, to the right, as it goes by them. There are nine hundred and ninety-nine patrons of virtue to one virtuous man. But it is easier to deal with the real possessor of a thing than with the temporary guardian of it.

All voting is a sort of gaming, like checkers or backgammon, with a slight moral tinge to it, a playing with right and wrong, with moral questions; and

betting naturally accompanies it. The character of the voters is not staked. I cast my vote, perchance, as I think right; but I am not vitally concerned that that right should prevail. I am willing to leave it to the majority. Its obligation, therefore, never exceeds that of expediency. Even *voting for the right* is *doing* nothing for it. It is only expressing to men feebly your desire that it should prevail. A wise man will not leave the right to the mercy of chance, nor wish it to prevail through the power of the majority. There is but little virtue in the action of masses of men. When the majority shall at length vote for the abolition of slavery, it will be because they are indifferent to slavery, or because there is but little slavery left to be abolished by their vote. They will then be the only slaves. Only his vote can hasten the abolition of slavery who asserts his own freedom by his vote.

I hear of a convention to be held at Baltimore, or elsewhere, for the selection of a candidate for the presidency, made up chiefly of editors and men who are politicians by profession; but I think, what is it to any independent, intelligent, and respectable man what decision they may come to? Shall we not have the advantage of this wisdom and honesty, nevertheless? Can we not count upon some independent votes? Are there not many individuals in the country who do not attend conventions? But no: I find that the respectable man, so called, has immediately drifted from his position, and despairs of his country, when his country has more reasons to despair of him. He forthwith adopts one of the candidates thus selected as the only *available* one, thus proving that he is himself *available* for any purposes of the demagogue. His vote is of no more worth than that of any unprincipled foreigner or hireling native, who may have been bought. O for a man who is a man, and, and my neighbor says, has a bone in his back which you cannot pass your hand through!

Our statistics are at fault: the population has been returned too large. How many men are there to a square thousand miles in the country? Hardly one. Does not America offer any inducement for men to settle here? The American has dwindled into an Odd Fellow—one who may be known by the development of his organ of gregariousness, and a manifest lack of intellect and cheerful self-reliance; whose first and chief concern, on coming into the world, is to see that the almshouses are in good repair; and, before yet he has lawfully donned the virile garb, to collect a fund to the support of the widows and orphans that may be; who, in short, ventures to live only by the aid of the Mutual Insurance company, which has promised to bury him decently.

It is not a man's duty, as a matter of course, to devote himself to the eradication of any, even to most enormous, wrong; he may still properly have other concerns to engage him; but it is his duty, at least, to wash his hands of it, and, if he gives it no thought longer, not to give it practically his support. If I devote myself to other pursuits and contemplations, I must first see, at least, that I do not pursue them sitting upon another man's shoulders. I must get off him first, that he may pursue his contemplations, too. See what gross inconsistency is tolerated. I have heard some of my townsmen say, "I should like to have them order me out to help put down an insurrection of the slaves, or to march to Mexico—see if I would go"; and yet these very men have each, directly by their allegiance, and so indirectly, at least, by their money, furnished a substitute. The soldier is applauded who refuses to serve in an unjust war by those who do not refuse to sustain the unjust government which makes the war; is applauded by those whose own act and authority he disregards and sets at naught; as if the state were penitent to that degree that it hired one to scourge it while it sinned, but not to that degree that it left off sinning for a moment. Thus, under the name of Order and Civil Government, we are all made at last to pay homage to and support our own meanness. After the first blush of sin comes its indifference; and from immoral it becomes, as it were, unmoral, and not quite unnecessary to that life which we have made.

The broadest and most prevalent error requires the most disinterested virtue to sustain it. The slight reproach to which the virtue of patriotism is commonly liable, the noble are most likely to incur. Those who, while they disapprove of the character and measures of a government, yield to it their allegiance and support are undoubtedly its most conscientious supporters, and so frequently the most serious obstacles to reform. Some are petitioning the State to dissolve the Union, to disregard the requisitions of the president. Why do they not dissolve it themselves—the union between themselves and the State—and refuse to pay their quota into its treasury? Do not they stand in same relation to the State that the State does to the Union? And have not the same reasons prevented the State from resisting the Union which have prevented them from resisting the State?

How can a man be satisfied to entertain an opinion merely, and enjoy it? Is there any enjoyment in it, if his opinion is that he is aggrieved? If you are cheated out of a single dollar by your neighbor, you do not rest satisfied with knowing you are cheated, or with saying that you are cheated, or even with

petitioning him to pay you your due; but you take effectual steps at once to obtain the full amount, and see to it that you are never cheated again. Action from principle, the perception and the performance of right, changes things and relations; it is essentially revolutionary, and does not consist wholly with anything which was. It not only divided States and churches, it divides families; ay, it divides the *individual*, separating the diabolical in him from the divine.

Unjust laws exist: shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once? Men, generally, under such a government as this, think that they ought to wait until they have persuaded the majority to alter them. They think that, if they should resist, the remedy would be worse than the evil. But it is the fault of the government itself that the remedy is worse than the evil. It makes it worse. Why is it not more apt to anticipate and provide for reform? Why does it not cherish its wise minority? Why does it cry and resist before it is hurt? Why does it not encourage its citizens to put out its faults, and do better than it would have them? Why does it always crucify Christ and excommunicate Copernicus and Luther, and pronounce Washington and Franklin rebels?

One would think that a deliberate and practical denial of its authority was the only offense never contemplated by its government; else, why has it not assigned its definite, its suitable and proportionate, penalty? If a man who has no property refuses but once to earn nine shillings for the State, he is put in prison for a period unlimited by any law that I know, and determined only by the discretion of those who put him there; but if he should steal ninety times nine shillings from the State, he is soon permitted to go at large again.

If the injustice is part of the necessary friction of the machine of government, let it go, let it go: perchance it will wear smooth—certainly the machine will wear out. If the injustice has a spring, or a pulley, or a rope, or a crank, exclusively for itself, then perhaps you may consider whether the remedy will not be worse than the evil; but if it is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law. Let your life be a counter-friction to stop the machine. What I have to do is to see, at any rate, that I do not lend myself to the wrong which I condemn.

As for adopting the ways which the State has provided for remedying the evil, I know not of such ways. They take too much time, and a man's life will be gone. I have other affairs to attend to. I came into this world, not chiefly

to make this a good place to live in, but to live in it, be it good or bad. A man has not everything to do, but something; and because he cannot do *everything*, it is not necessary that he should do *something* wrong. It is not my business to be petitioning the governor or the legislature any more than it is theirs to petition me; and if they should not hear my petition, what should I do then? But in this case the State has provided no way: its very Constitution is the evil. This may seem to be harsh and stubborn and unconciliatory; but it is to treat with the utmost kindness and consideration the only spirit that can appreciate or deserves it. So is all change for the better, like birth and death, which convulse the body.

I do not hesitate to say that those who call themselves Abolitionists should at once effectually withdraw their support, both in person and property, from the government of Massachusetts, and not wait till they constitute a majority of one, before they suffer the right to prevail through them. I think that it is enough if they have God on their side, without waiting for that other one. Moreover, any man more right than his neighbors constitutes a majority of one already.

I meet this American government, or its representative, the State government, directly, and face to face, once a year—no more—in the person of its tax-gatherer; this is the only mode in which a man situated as I am necessarily meets it; and it then says distinctly, “Recognize me”; and the simplest, the most effectual, and, in the present posture of affairs, the indispensablest mode of treating with it on this head, of expressing your little satisfaction with and love for it, is to deny it then. My civil neighbor, the tax-gatherer, is the very man I have to deal with—for it is, after all, with men and not with parchment that I quarrel—and he has voluntarily chosen to be an agent of the government. How shall he ever know well that he is and does as an officer of the government, or as a man, until he is obliged to consider whether he will treat me, his neighbor, for whom he has respect, as a neighbor and well-disposed man, or as a maniac and disturber of the peace, and see if he can get over this obstruction to his neighborliness without a ruder and more impetuous thought or speech corresponding with his action. I know this well, that if one thousand, if one hundred, if ten men whom I could name—if ten *honest* men only—ay, if *one* HONEST man, in this State of Massachusetts, *ceasing to hold slaves*, were actually to withdraw from this co-partnership, and be locked up in the county jail therefore, it would be the abolition of slavery in

America. For it matters not how small the beginning may seem to be: what is once well done is done forever. But we love better to talk about it: that, we say, is our mission. Reform keeps many scores of newspapers in its service, but not one man. If my esteemed neighbor, the State's ambassador, who will devote his days to the settlement of the question of human rights in the Council Chamber, instead of being threatened with the prisons of Carolina, were to sit down the prisoner of Massachusetts, that State which is so anxious to foist the sin of slavery upon her sister—though at present she can discover only an act of inhospitality to be the ground of a quarrel with her—the Legislature would not wholly waive the subject of the following winter.

Under a government which imprisons unjustly, the true place for a just man is also a prison. The proper place today, the only place which Massachusetts has provided for her freer and less despondent spirits, is in her prisons, to be put out and locked out of the State by her own act, as they have already put themselves out by their principles. It is there that the fugitive slave, and the Mexican prisoner on parole, and the Indian come to plead the wrongs of his race should find them; on that separate but more free and honorable ground, where the State places those who are not *with* her, but *against* her—the only house in a slave State in which a free man can abide with honor. If any think that their influence would be lost there, and their voices no longer afflict the ear of the State, that they would not be as an enemy within its walls, they do not know by how much truth is stronger than error, nor how much more eloquently and effectively he can combat injustice who has experienced a little in his own person. Cast your whole vote, not a strip of paper merely, but your whole influence. A minority is powerless while it conforms to the majority; it is not even a minority then; but it is irresistible when it clogs by its whole weight. If the alternative is to keep all just men in prison, or give up war and slavery, the State will not hesitate which to choose. If a thousand men were not to pay their tax bills this year, that would not be a violent and bloody measure as it would be to pay them and enable the State to commit violence and shed innocent blood. This is, in fact, the definition of a peaceable revolution, if any such is possible. If the tax-gatherer, or any other public officer, asks me, as one has done, "But what shall I do?" my answer is, "If you really wish to do anything, resign your office." When the subject has refused allegiance, and the officer has resigned from office, then the revolution is accomplished. But even suppose blood shed when the conscience is wounded? Through this wound a

man's real manhood and immortality flow out, and he bleeds to an everlasting death. I see this blood flowing now.

I have contemplated the imprisonment of the offender, rather than the seizure of his goods—though both will serve the same purpose—because they who assert the purest right, and consequently are most dangerous to a corrupt State, commonly have not spent much time in accumulating property. To such the State renders comparatively small service, and a slight tax is wont to appear exorbitant, particularly if they are obliged to earn it by special labor with their hands. If there were one who lived wholly without the use of money, the State itself would hesitate to demand it of him. But the rich man—not to make any invidious comparison—is always sold to the institution which makes him rich. Absolutely speaking, the more money, the less virtue; for money comes between a man and his objects, and obtains them for him; it was certainly no great virtue to obtain it. It puts to rest many questions which he would otherwise be taxed to answer; while the only new question which it puts is the hard but superfluous one, how to spend it. Thus his moral ground is taken from under his feet. The opportunities of living are diminished in proportion as what are called the “means” are increased. The best thing a man can do for his culture when he is rich is to endeavor to carry out those schemes which he entertained when he was poor. Christ answered the Herodians according to their condition. “Show me the tribute-money,” said he—and one took a penny out of his pocket—if you use money which has the image of Caesar on it, and which he has made current and valuable, that is, *if you are men of the State*, and gladly enjoy the advantages of Caesar's government, then pay him back some of his own when he demands it. “Render therefore to Caesar that which is Caesar's and to God those things which are God's”—leaving them no wiser than before as to which was which; for they did not wish to know.

When I converse with the freest of my neighbors, I perceive that, whatever they may say about the magnitude and seriousness of the question, and their regard for the public tranquility, the long and the short of the matter is that they cannot spare the protection of the existing government, and they dread the consequences to their property and families of disobedience to it. For my own part, I should not like to think that I ever rely on the protection of the State. But, if I deny the authority of the State when it presents its tax bill, it will soon take and waste all my property, and so harass me and my children without end. This is hard. This makes it impossible for a man to live honestly,

and at the same time comfortably, in outward respects. It will not be worth the while to accumulate property; that would be sure to go again. You must hire or squat somewhere, and raise but a small crop, and eat that soon. You must live within yourself, and depend upon yourself always tucked up and ready for a start, and not have many affairs. A man may grow rich in Turkey even, if he will be in all respects a good subject of the Turkish government. Confucius said, "If a state is governed by the principles of reason, poverty and misery are subjects of shame; if a state is not governed by the principles of reason, riches and honors are subjects of shame." No: until I want the protection of Massachusetts to be extended to me in some distant Southern port, where my liberty is endangered, or until I am bent solely on building up an estate at home by peaceful enterprise, I can afford to refuse allegiance to Massachusetts, and her right to my property and life. It costs me less in every sense to incur the penalty of disobedience to the State than it would to obey. I should feel as if I were worth less in that case.

Some years ago, the State met me in behalf of the church, and commanded me to pay a certain sum toward the support of a clergyman whose preaching my father attended, but never I myself. "Pay," it said, "or be locked up in the jail." I declined to pay. But, unfortunately, another man saw fit to pay it. I did not see why the schoolmaster should be taxed to support the priest, and not the priest the schoolmaster; for I was not the State's schoolmaster, but I supported myself by voluntary subscription. I did not see why the lyceum should not present its tax bill, and have the State to back its demand, as well as the church. However, at the request of the selectmen, I condescended to make some such statement as this in writing: "Know all men by these presents, that I, Henry Thoreau, do not wish to be regarded as a member of any society which I have not joined." This I gave to the town clerk; and he has it. The State, having thus learned that I did not wish to be regarded as a member of that church, has never made a like demand on me since; though it said that it must adhere to its original presumption that time. If I had known how to name them, I should then have signed off in detail from all the societies which I never signed on to; but I did not know where to find such a complete list.

I have paid no poll tax for six years. I was put into a jail once on this account, for one night; and, as I stood considering the walls of solid stone, two or three feet thick, the door of wood and iron, a foot thick, and the iron grating which strained the light, I could not help being struck with the

foolishness of that institution which treated me as if I were mere flesh and blood and bones, to be locked up. I wondered that it should have concluded at length that this was the best use it could put me to, and had never thought to avail itself of my services in some way. I saw that, if there was a wall of stone between me and my townsmen, there was a still more difficult one to climb or break through before they could get to be as free as I was. I did not for a moment feel confined, and the walls seemed a great waste of stone and mortar. I felt as if I alone of all my townsmen had paid my tax. They plainly did not know how to treat me, but behaved like persons who are underbred. In every threat and in every compliment there was a blunder; for they thought that my chief desire was to stand the other side of that stone wall. I could not but smile to see how industriously they locked the door on my meditations, which followed them out again without let or hindrance, and they were really all that was dangerous. As they could not reach me, they had resolved to punish my body; just as boys, if they cannot come at some person against whom they have a spite, will abuse his dog. I saw that the State was half-witted, that it was timid as a lone woman with her silver spoons, and that it did not know its friends from its foes, and I lost all my remaining respect for it, and pitied it.

Thus the State never intentionally confronts a man's sense, intellectual or moral, but only his body, his senses. It is not armed with superior wit or honesty, but with superior physical strength. I was not born to be forced. I will breathe after my own fashion. Let us see who is the strongest. What force has a multitude? They only can force me who obey a higher law than I. They force me to become like themselves. I do not hear of *men* being *forced* to live this way or that by masses of men. What sort of life were that to live? When I meet a government which says to me, "Your money or your life," why should I be in haste to give it my money? It may be in a great strait, and not know what to do: I cannot help that. It must help itself; do as I do. It is not worth the while to snivel about it. I am not responsible for the successful working of the machinery of society. I am not the son of the engineer. I perceive that, when an acorn and a chestnut fall side by side, the one does not remain inert to make way for the other, but both obey their own laws, and spring and grow and flourish as best they can, till one, perchance, overshadows and destroys the other. If a plant cannot live according to nature, it dies; and so a man.

The night in prison was novel and interesting enough. The prisoners in their shirtsleeves were enjoying a chat and the evening air in the doorway,

when I entered. But the jailer said, "Come, boys, it is time to lock up"; and so they dispersed, and I heard the sound of their steps returning into the hollow apartments. My roommate was introduced to me by the jailer as "a first-rate fellow and clever man." When the door was locked, he showed me where to hang my hat, and how he managed matters there. The rooms were whitewashed once a month; and this one, at least, was the whitest, most simply furnished, and probably neatest apartment in town. He naturally wanted to know where I came from, and what brought me there; and, when I had told him, I asked him in my turn how he came there, presuming him to be an honest man, of course; and as the world goes, I believe he was. "Why," said he, "they accuse me of burning a barn; but I never did it." As near as I could discover, he had probably gone to bed in a barn when drunk, and smoked his pipe there; and so a barn was burnt. He had the reputation of being a clever man, had been there some three months waiting for his trial to come on, and would have to wait as much longer; but he was quite domesticated and contented, since he got his board for nothing, and thought that he was well treated.

He occupied one window, and I the other; and I saw that if one stayed there long, his principal business would be to look out the window. I had soon read all the tracts that were left there, and examined where former prisoners had broken out, and where a grate had been sawed off, and heard the history of the various occupants of that room; for I found that even there, there was a history and a gossip which never circulated beyond the walls of the jail. Probably this is the only house in the town where verses are composed, which are afterward printed in a circular form, but not published. I was shown quite a long list of young men who had been detected in an attempt to escape, who avenged themselves by singing them.

I pumped my fellow-prisoner as dry as I could, for fear I should never see him again; but at length he showed me which was my bed, and left me to blow out the lamp.

It was like travelling into a far country, such as I had never expected to behold, to lie there for one night. It seemed to me that I never had heard the town clock strike before, not the evening sounds of the village; for we slept with the windows open, which were inside the grating. It was to see my native village in the light of the Middle Ages, and our Concord was turned into a Rhine stream, and visions of knights and castles passed before me. They were the voices of old burghers that I heard in the streets. I was an involuntary

spectator and auditor of whatever was done and said in the kitchen of the adjacent village inn—a wholly new and rare experience to me. It was a closer view of my native town. I was fairly inside of it. I never had seen its institutions before. This is one of its peculiar institutions; for it is a shire town. I began to comprehend what its inhabitants were about.

In the morning, our breakfasts were put through the hole in the door, in small oblong-square tin pans, made to fit, and holding a pint of chocolate, with brown bread, and an iron spoon. When they called for the vessels again, I was green enough to return what bread I had left, but my comrade seized it, and said that I should lay that up for lunch or dinner. Soon after he was let out to work at haying in a neighboring field, whither he went every day, and would not be back till noon; so he bade me good day, saying that he doubted if he should see me again.

When I came out of prison—for someone interfered, and paid that tax—I did not perceive that great changes had taken place on the common, such as he observed who went in a youth and emerged a gray-headed man; and yet a change had come to my eyes over the scene—the town, and State, and country, greater than any that mere time could effect. I saw yet more distinctly the State in which I lived. I saw to what extent the people among whom I lived could be trusted as good neighbors and friends; that their friendship was for summer weather only; that they did not greatly propose to do right; that they were a distinct race from me by their prejudices and superstitions, as the Chinamen and Malays are that in their sacrifices to humanity they ran no risks, not even to their property; that after all they were not so noble but they treated the thief as he had treated them, and hoped, by a certain outward observance and a few prayers, and by walking in a particular straight though useless path from time to time, to save their souls. This may be to judge my neighbors harshly; for I believe that many of them are not aware that they have such an institution as the jail in their village.

It was formerly the custom in our village, when a poor debtor came out of jail, for his acquaintances to salute him, looking through their fingers, which were crossed to represent the jail window, “How do ye do?” My neighbors did not thus salute me, but first looked at me, and then at one another, as if I had returned from a long journey. I was put into jail as I was going to the shoemaker’s to get a shoe which was mended. When I was let out the next morning, I proceeded to finish my errand, and, having put on my mended

shoe, joined a huckleberry party, who were impatient to put themselves under my conduct; and in half an hour—for the horse was soon tackled—was in the midst of a huckleberry field, on one of our highest hills, two miles off, and then the State was nowhere to be seen.

This is the whole history of “My Prisons.”

I have never declined paying the highway tax, because I am as desirous of being a good neighbor as I am of being a bad subject; and as for supporting schools, I am doing my part to educate my fellow countrymen now. It is for no particular item in the tax bill that I refuse to pay it. I simply wish to refuse allegiance to the State, to withdraw and stand aloof from it effectually. I do not care to trace the course of my dollar, if I could, till it buys a man a musket to shoot one with—the dollar is innocent—but I am concerned to trace the effects of my allegiance. In fact, I quietly declare war with the State, after my fashion, though I will still make use and get what advantages of her I can, as is usual in such cases.

If others pay the tax which is demanded of me, from a sympathy with the State, they do but what they have already done in their own case, or rather they abet injustice to a greater extent than the State requires. If they pay the tax from a mistaken interest in the individual taxed, to save his property, or prevent his going to jail, it is because they have not considered wisely how far they let their private feelings interfere with the public good.

This, then, is my position at present. But one cannot be too much on his guard in such a case, lest his actions be biased by obstinacy or an undue regard for the opinions of men. Let him see that he does only what belongs to himself and to the hour.

I think sometimes, “Why, this people mean well, they are only ignorant; they would do better if they knew how: why give your neighbors this pain to treat you as they are not inclined to?” But I think again, “This is no reason why I should do as they do, or permit others to suffer much greater pain of a different kind.” Again, I sometimes say to myself, “When many millions of men, without heat, without ill will, without personal feelings of any kind, demand of you a few shillings only, without the possibility, such is their constitution, of retracting or altering their present demand, and without the possibility, on your side, of appeal to any other millions, why expose yourself to this overwhelming brute force? You do not resist cold and hunger, the winds and the waves, thus obstinately; you quietly submit to a thousand similar

necessities. You do not put your head into the fire". But just in proportion as I regard this as not wholly a brute force, but partly a human force, and consider that I have relations to those millions as to so many millions of men, and not of mere brute or inanimate things, I see that appeal is possible, first and instantaneously, from them to the Maker of them, and, secondly, from them to themselves. But if I put my head deliberately into the fire, there is no appeal to fire or to the Maker of fire, and I have only myself to blame. If I could convince myself that I have any right to be satisfied with men as they are, and to treat them accordingly, and not according, in some respects, to my requisitions and expectations of what they and I ought to be, then, like a good Mussulman* and fatalist, I should endeavor to be satisfied with things as they are, and say it is the will of God. And, above all, there is this difference between resisting this and a purely brute or natural force, that I can resist this with some effect; but I cannot expect, like Orpheus,** to change the nature of the rocks and trees and beasts.

I do not wish to quarrel with any man or nation. I do not wish to split hairs, to make fine distinctions, or set myself up as better than my neighbors. I seek rather, I may say, even an excuse for conforming to the laws of the land. I am but too ready to conform to them. Indeed, I have reason to suspect myself on this head; and each year, as the tax-gatherer comes round, I find myself disposed to review the acts and position of the general and State governments, and the spirit of the people to discover a pretext for conformity.

We must affect our country as our parents,
 And if at any time we alienate
 Our love of industry from doing it honor,
 We must respect effects and teach the soul
 Matter of conscience and religion,
 And not desire of rule or benefit.

I believe that the State will soon be able to take all my work of this sort out of my hands, and then I shall be no better patriot than my fellow-countrymen. Seen from a lower point of view, the Constitution, with all its faults, is very good; the law and the courts are very respectable; even this State and this American government are, in many respects, very admirable, and rare things,

* A Muslim.

** Legendary musician from ancient Greece, whose music charmed all who heard it.

to be thankful for, such as a great many have described them; seen from a higher still, and the highest, who shall say what they are, or that they are worth looking at or thinking of at all?

However, the government does not concern me much, and I shall bestow the fewest possible thoughts on it. It is not many moments that I live under a government, even in this world. If a man is thought-free, fancy-free, imagination-free, that which is not never for a long time appearing to be to him, unwise rulers or reformers cannot fatally interrupt him.

I know that most men think differently from myself; but those whose lives are by profession devoted to the study of these or kindred subjects content me as little as any. Statesmen and legislators, standing so completely within the institution, never distinctly and nakedly behold it. They speak of moving society, but have no resting place without it. They may be men of a certain experience and discrimination, and have no doubt invented ingenious and even useful systems, for which we sincerely thank them; but all their wit and usefulness lie within certain not very wide limits. They are wont to forget that the world is not governed by policy and expediency. Webster* never goes behind government, and so cannot speak with authority about it. His words are wisdom to those legislators who contemplate no essential reform in the existing government; but for thinkers, and those who legislate for all time, he never once glances at the subject. I know of those whose serene and wise speculations on this theme would soon reveal the limits of his mind's range and hospitality. Yet, compared with the cheap professions of most reformers, and the still cheaper wisdom and eloquence of politicians in general, his are almost the only sensible and valuable words, and we thank Heaven for him. Comparatively, he is always strong, original, and, above all, practical. Still, his quality is not wisdom, but prudence. The lawyer's truth is not Truth, but consistency or a consistent expediency. Truth is always in harmony with herself, and is not concerned chiefly to reveal the justice that may consist with wrongdoing. He well deserves to be called, as he has been called, the Defender of the Constitution. There are really no blows to be given him but defensive ones. He is not a leader, but a follower. His leaders are the men of '87. "I have never made an effort," he says, "and never propose to make an effort; I have never countenanced an effort, and never mean to countenance an effort, to disturb the arrangement as originally made, by which various States

* Daniel Webster, Massachusetts senator.

came into the Union.” Still thinking of the sanction which the Constitution gives to slavery, he says, “Because it was part of the original compact—let it stand.” Notwithstanding his special acuteness and ability, he is unable to take a fact out of its merely political relations and behold it as it lies absolutely to be disposed of by the intellect—what, for instance, it behooves a man to do here in America today with regard to slavery—but ventures, or is driven, to make some such desperate answer to the following, while professing to speak absolutely, and as a private man—from which what new and singular code of social duties might be inferred? “The manner,” says he, “in which the governments of the States where slavery exists are to regulate it is for their own consideration, under the responsibility to their constituents, to the general laws of propriety, humanity, and justice, and to God. Associations formed elsewhere, springing from a feeling of humanity, or any other cause, have nothing whatever to do with it. They have never received any encouragement from me and they never will.”

They who know of no purer sources of truth, who have traced up its stream no higher, stand, and wisely stand, by the Bible and the Constitution, and drink at it there with reverence and humanity; but they who behold where it comes trickling into this lake or that pool gird up their loins once more and continue their pilgrimage toward its fountainhead.

No man with a genius for legislation has appeared in America. They are rare in the history of the world. There are orators, politicians, and eloquent men by the thousand; but the speaker has not yet opened his mouth to speak who is capable of settling the much-vexed questions of the day. We love eloquence for its own sake, and not for any truth which it may utter, or any heroism it may inspire. Our legislators have not yet learned the comparative value of free-trade and of freed, of union, and of rectitude, to a nation. They have no genius or talent for comparatively humble questions of taxation and finance, commerce and manufactures, and agriculture. If we were left solely to the wordy wit of legislators in Congress for our guidance, uncorrected by the seasonable experience and the effectual complaints of the people, America would not long retain her rank among the nations. For eighteen hundred years, though perchance I have no right to say it, the New Testament has been written; yet where is the legislator who has wisdom and practical talent enough to avail himself of the light which it sheds on the science of legislation.

The authority of government, even such as I am willing to submit to—for

I will cheerfully obey those who know and can do better than I, and in many things even those who neither know nor can do so well—is still an impure one: to be strictly just, it must have the sanction and consent of the governed. It can have no pure right over my person and property but what I concede to it. The progress from an absolute to a limited monarchy, from a limited monarchy to a democracy, is a progress toward a true respect for the individual. Even the Chinese philosopher was wise enough to regard the individual as the basis of the empire. Is a democracy, such as we know it, the last improvement possible in government? Is it not possible to take a step further towards recognizing and organizing the rights of man? There will never be a really free and enlightened State until the State comes to recognize the individual as a higher and independent power, from which all its own power and authority are derived, and treats him accordingly. I please myself with imagining a State at last which can afford to be just to all men, and to treat the individual with respect as a neighbor; which even would not think it inconsistent with its own repose if a few were to live aloof from it, not meddling with it, nor embraced by it, who fulfilled all the duties of neighbors and fellow men. A State which bore this kind of fruit, and suffered it to drop off as fast as it ripened, would prepare the way for a still more perfect and glorious State, which I have also imagined, but not yet anywhere seen.

Chapter 21

Voltairine de Cleyre: Anarchism and American Traditions

*Voltairine de Cleyre (1866–1912) was an American anarchist
and feminist author.*

American traditions, begotten of religious rebellion, small self-sustaining communities, isolated conditions, and hard pioneer life, grew during the colonization period of one hundred and seventy years from the settling of Jamestown to the outburst of the Revolution. This was, in fact, the great constitution-making epoch, the period of charters guaranteeing more or less of liberty, the general tendency of which is well described by William Penn in speaking of the charter for Pennsylvania, “I want to put it out of my power, or that of my successors, to do mischief.”

The revolution is the sudden and unified consciousness of these traditions, their loud assertion, the blow dealt by their indomitable will against the counterforce of tyranny, which has never entirely recovered from the blow, but which from then till now has gone on remolding and regrappling the instruments of governmental power, that the Revolution sought to shape and hold as defenses of liberty.

To the average American of today, the Revolution means the series of battles fought by the patriot army with the armies of England. The millions of schoolchildren who attend our public schools are taught to draw maps of the siege of Boston and the siege of Yorktown, to know the general plan of the several campaigns, to quote the number of prisoners of war surrendered with Burgoyne; they are required to remember the date when Washington crossed the Delaware on the ice; they are told to “Remember Paoli,” to repeat “Molly Stark’s a widow,” to call General Wayne “Mad Anthony Wayne,” and to execrate Benedict Arnold; they know that the Declaration of Independence was

Voltairine de Cleyre, excerpted from *Selected Works of Voltairine de Cleyre*, (New York: New Earth Publishing Association 1914), ed. Alexander Berkman, 118–135. This essay first appeared in *Mother Earth* in 1909.

signed on the Fourth of July, 1776, and the Treaty of Paris in 1783; and then they think they have learned the Revolution—blessed be George Washington! They have no idea why it should have been called a “revolution” instead of the “English War,” or any similar title: it’s the name of it, that’s all. And name-worship, both in child and man, has acquired such mastery of them that the name “American Revolution” is held sacred, though it means to them nothing more than successful force, while the name “Revolution” applied to a further possibility, is a specter detested and abhorred. In neither case have they any idea of the content of the word, save that of armed force. That has already happened, and long happened, which Jefferson foresaw when he wrote:

The spirit of the times may alter, will alter. Our rulers will become corrupt, our people careless. A single zealot may become persecutor, and better men be his victims. It can never be too often repeated that the time for fixing every essential right, on a legal basis, is while our rulers are honest, ourselves united. *From the conclusion of this war we shall be going down hill.* It will not then be necessary to resort every moment to the people for support. They will be forgotten, therefore, and their rights disregarded. They will forget themselves in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights. The shackles, therefore, which shall not be knocked off at the conclusion of this war, will be heavier and heavier, till our rights shall revive or expire in a convulsion.

To the men of that time, who voiced the spirit of that time, the battles that they fought were the least of the Revolution; they were the incidents of the hour, the things they met and faced as part of the game they were playing; but the stake they had in view, before, during, and after the war, the real Revolution, was a change in political institutions which should make of government not a thing apart, a superior power to stand over the people with a whip, but a serviceable agent, responsible, economical, and trustworthy (but never so much trusted as not to be continually watched), for the transaction of such business as was the common concern, and to set the limits of the common concern at the line of where one man’s liberty would encroach upon another’s.

They thus took their starting point for deriving a minimum of government upon the same sociological ground that the modern Anarchist derives the no-government theory; *viz.*, that equal liberty is the political ideal. The difference lies in the belief, on the one hand, that the closest approximation to equal liberty might be best secured by the rule of the majority in those matters

involving united action of any kind (which rule of the majority they thought it possible to secure by a few simple arrangements for election), and, on the other hand, the belief that majority rule is both impossible and undesirable; that any government, no matter what its forms, will be manipulated by a very small minority, as the development of the States and United States governments has strikingly proved; that candidates will loudly profess allegiance to platforms before elections, which as officials in power they will openly disregard, to do as they please; and that even if the majority will could be imposed, it would also be subversive of equal liberty, which may be best secured by leaving to the voluntary association of those interested in the management of matters of common concern, without coercion of the uninterested or the opposed.

Among the fundamental likeness between the Revolutionary Republicans and the Anarchists is the recognition that the little must precede the great; that the local must be the basis of the general; that there can be a free federation only when there are free communities to federate; that the spirit of the latter is carried into the councils of the former, and a local tyranny may thus become an instrument for general enslavement. Convinced of the supreme importance of ridding the municipalities of the institutions of tyranny, the most strenuous advocates of independence, instead of spending their efforts mainly in the general Congress, devoted themselves to their home localities, endeavoring to work out of the minds of their neighbors and fellow-colonists the institutions of entailed property, of a State-Church, of a class-divided people, even the institution of African slavery itself. Though largely unsuccessful, it is to the measure of success they did achieve that we are indebted for such liberties as we do retain, and not to the general government. They tried to inculcate local initiative and independent action. The author of the Declaration of Independence, who in the fall of '76 declined a re-election to Congress in order to return to Virginia and do his work in his own local assembly, in arranging there for public education which he justly considered a matter of "common concern," said his advocacy of public schools was not with any "view to take its ordinary branches out of the hands of private enterprise, which manages *so much better* the concerns to which it is equal"; and in endeavoring to make clear the restrictions of the Constitution upon the functions of the general government, he likewise said, "Let the general government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to

commerce, *which the merchants will manage the better the more they are left free to manage for themselves*, and the general government may be reduced to a very simple organization, and a very inexpensive one; a few plain duties to be performed by a few servants.” This, then, was the American tradition, that private enterprise manages better all that to which it is equal. Anarchism declares that private enterprise, whether individual or co-operative, is equal to all the undertakings of society. And it quotes the particular two instances, education and commerce, which the governments of the States and of the United States have undertaken to manage and regulate, as the very two which in operation have done more to destroy American freedom and equality, to warp and distort American tradition, to make of government a mighty engine of tyranny, than any other cause, save the unforeseen developments of manufacture.

It was the intention of the Revolutionists to establish a system of common education, which should make the teaching of history one of its principal branches; not with the intent of burdening the memories of our youth with the dates of battles or the speeches of generals, nor to make the Boston Tea Party Indians the one sacrosanct mob in all history, to be revered but never on any account to be imitated, but with the intent that every American should know to what conditions the masses of people had been brought by the operation of certain institutions, by what means they had wrung out their liberties, and how those liberties had again and again been filched from them by the use of governmental force, fraud, and privilege. Not to breed security, laudation, complacent indolence, passive acquiescence in the acts of a government protected by the label “homemade,” but to beget a wakeful jealousy, a never-ending watchfulness of rulers, a determination to squelch every attempt of those entrusted with power to encroach upon the sphere of individual action—this was the prime motive of the revolutionists in endeavoring to provide for common education.

“Confidence,” said the revolutionists who adopted the Kentucky Resolutions, “is everywhere the parent of despotism; free government is founded in jealousy, not in confidence; it is jealousy, not confidence, which prescribes limited constitutions to bind down those whom we are obliged to trust with power; our Constitution has accordingly fixed the limits to which, and no further, our confidence may go. . . . In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.”

These resolutions were especially applied to the passage of the Alien laws by the monarchist party during John Adams' administration, and were an indignant call from the State of Kentucky to repudiate the right of the general government to assume undelegated powers, for, said they, to accept these laws would be "to be bound by laws made, not with our consent, but by others against our consent—that is, to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority." Resolutions identical in spirit were also passed by Virginia the following month; in those days the States still considered themselves supreme, the general government subordinate.

To inculcate this proud spirit of the supremacy of the people over their governors was to be the purpose of public education! Pick up today any common school history, and see how much of this spirit you will find therein. On the contrary, from cover to cover you will find nothing but the cheapest sort of patriotism, the inculcation of the most unquestioning acquiescence in the deeds of government, a lullaby of rest, security, confidence—the doctrine that the Law can do no wrong, a *Te Deum** in praise of the continuous encroachments of the powers of the general government upon the reserved rights of the States, shameless falsification of all acts of rebellion, to put the government in the right and the rebels in the wrong, pyrotechnic glorifications of union, power, and force, and a complete ignoring of the essential liberties to maintain which was the purpose of the revolutionists. The anti-Anarchist law of post-McKinley passage, a much worse law than the Alien and Sedition acts which roused the wrath of Kentucky and Virginia to the point of threatened rebellion, is exalted as a wise provision of our All-Seeing Father in Washington.

Such is the spirit of government-provided schools. Ask any child what he knows about Shays' rebellion, and he will answer, "Oh, some of the farmers couldn't pay their taxes, and Shays led a rebellion against the courthouse at Worcester, so they could burn up the deeds; and when Washington heard of it, he sent over an army quick and taught 'em a good lesson."

"And what was the result of it?"

"The result? Why—why—the result was—Oh yes, I remember—the result was they saw the need of a strong federal government to collect the taxes and pay the debts."

* A Christian hymn.

Ask if he knows what was said on the other side of the story, ask if he knows that the men who had given their goods and their health and their strength for the freeing of the country now found themselves cast into prison for debt, sick, disabled, and poor, facing a new tyranny for the old; that their demand was that the land should become the free communal possession of those who wished to work it, not subject to tribute, and the child will answer “No.”

Ask him if he ever read Jefferson’s letter to Madison about it, in which he says:

Societies exist under three forms, sufficiently distinguishable. 1. Without government, as among our Indians. 2. Under government wherein the will of everyone has a just influence; as is the case in England in a slight degree, and in our States in a great one. 3. Under government of force, as is the case in all other monarchies, and in most of the other republics. To have an idea of the curse of existence in these last, they must be seen. It is a government of wolves over sheep. It is a problem not clear in my mind that the first condition is not the best. But I believe it to be inconsistent with any great degree of population. The second state has a great deal of good in it. . . . It has its evils too, the principal of which is the turbulence to which it is subject. . . . But even this evil is productive of good. It prevents the degeneracy of government, and nourishes a general attention to public affairs. I hold that a little rebellion now and then is a good thing.

Or to another correspondent, “God forbid that we should ever be twenty years without such a rebellion! . . . What country can preserve its liberties if its rulers are not warned from time to time that the people preserve the spirit of resistance? Let them take up arms. . . . The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure.” Ask any schoolchild if he was ever taught that the author of the Declaration of Independence, one of the great founders of the common school, said these things, and he will look at you with open mouth and unbelieving eyes. Ask him if he ever heard that the man who sounded the bugle note in the darkest hour of the Crisis, who roused the courage of the soldiers when Washington saw only mutiny and despair ahead, ask him if he knows that this man also wrote, “Government at best is a necessary evil, at worst an intolerable one,” and if he is a little better informed than the average, he will answer, “Oh well, he was an infidel!” Catechize him about the merits of the Constitution which he has

* The “infidel” is Thomas Paine.

learned to repeat like a poll-parrot, and you will find his chief conception is not of the powers withheld from Congress, but of the powers granted.

Such are the fruits of government schools. We, the Anarchists, point to them and say: If the believers in liberty wish the principles of liberty taught, let them never entrust that instruction to any government; for the nature of government is to become a thing apart, an institution existing for its own sake, preying upon the people, and teaching whatever will tend to keep it secure in its seat. As the fathers said of the governments of Europe, so say we of this government also after a century and a quarter of independence: “The blood of the people has become its inheritance, and those who fatten on it will not relinquish it easily.”

Public education, having to do with the intellect and spirit of a people, is probably the most subtle and far-reaching engine for molding the course of a nation; but commerce, dealing as it does with material things and producing immediate effects, was the force that bore down soonest upon the paper barriers of constitutional restriction, and shaped the government to its requirements. Here, indeed, we arrive at the point where we, looking over the hundred and twenty five years of independence, can see that the simple government conceived by the revolutionary republicans was a foredoomed failure. It was so because of: (1) the essence of government itself; (2) the essence of human nature; (3) the essence of commerce and manufacture.

Of the essence of government, I have already said, it is a thing apart, developing its own interests at the expense of what opposes it; all attempts to make it anything else fail. In this, Anarchists agree with the traditional enemies of the Revolution, the monarchists, federalists, strong government believers, the Roosevelts of today, the Jays, Marshalls, and Hamiltons of then—that Hamilton, who, as Secretary of the Treasury, devised a financial system of which we are the unlucky heritors, and whose objects were twofold: To puzzle the people and make public finance obscure to those that paid for it; to serve as a machine for corrupting the legislatures; “for he avowed the opinion that man could be governed by two motives only, force or interest”; force being then out of the question, he laid hold of interest, the greed of the legislators, to set going an association of persons having an entirely separate welfare from the welfare of their electors, bound together by mutual corruption and mutual desire for plunder. The Anarchist agrees that Hamilton was logical, and understood the core of government; the difference is, that while strong governmentals

believe this is necessary and desirable, we choose the opposite conclusion, NO GOVERNMENT WHATEVER.

As to the essence of human nature, what our national experience has made plain is this, that to remain in a continually exalted moral condition is not human nature. That has happened which was prophesied: we have gone downhill from the Revolution until now; we are absorbed in “mere money-getting.” The desire for material ease long ago vanquished the spirit of ’76. What was that spirit? The spirit that animated the people of Virginia, of the Carolinas, of Massachusetts, of New York, when they refused to import goods from England; when they preferred (and stood by it) to wear coarse, homespun cloth, to drink the brew of their own growths, to fit their appetites to the home supply, rather than submit to the taxation of the imperial ministry. Even within the lifetime of the Revolutionists, the spirit decayed. The love of material ease has been, in the mass of men and permanently speaking, always greater than the love of liberty. Nine hundred and ninety-nine women out of a thousand are more interested in the cut of a dress than in the independence of their sex; nine hundred and ninety-nine men out of a thousand are more interested in drinking a glass of beer than in questioning the tax that is laid on it; how many children are not willing to trade the liberty to play for the promise of a new cap or a new dress? That it is which begets the complicated mechanism of society; that it is which, by multiplying the concerns of government, multiplies the strength of government and the corresponding weakness of the people; this it is which begets indifference to public concern, thus making the corruption of government easy.

As to the essence of commerce and manufacture, it is this: to establish bonds between every corner of the earth’s surface and every other corner, to multiply the needs of mankind, and the desire for material possession and enjoyment.

The American tradition was the isolation of the States as far as possible. Said they: We have won our liberties by hard sacrifice and struggle unto death. We wish now to be let alone and to let others alone, that our principles may have time for trial; that we may become accustomed to the exercise of our rights; that we may be kept free from the contaminating influence of European gauds, pageants, distinctions. So richly did they esteem the absence of these that they could in all fervor write: “We shall see multiplied instances of Europeans coming to America, but no man living will ever see an instance of an American removing to settle in Europe, and continuing there.” Alas! In

less than a hundred years the highest aim of a “Daughter of the Revolution” was, and is, to buy a castle, a title, and rotten lord, with the money wrung from American servitude! And the commercial interests of America are seeking a world empire!

In the earlier days of the revolt and subsequent independence, it appeared that the “manifest destiny” of America was to be an agricultural people, exchanging food stuffs and raw materials for manufactured articles. And in those days, it was written: “We shall be virtuous as long as agriculture is our principal object, which will be the case as long as there remain vacant lands in any part of America. When we get piled upon one another in large cities, as in Europe, we shall become corrupt as in Europe, and go to eating one another as they do there.”* Which we are doing, because of the inevitable development of commerce and manufacture, and the concomitant development of strong government. And the parallel prophecy is likewise fulfilled: “If ever this vast country is brought under a single government, it will be one of the most extensive corruption, indifferent and incapable of a wholesome care over so wide a spread of surface.” There is not upon the face of the earth today a government so utterly and shamelessly corrupt as that of the United States of America. There are others more cruel, more tyrannical, more devastating; there is none so utterly venal.

And yet even in the very days of the prophets, even with their own consent, the first concession to this later tyranny was made. It was made when the Constitution was made; and the Constitution was made chiefly because of the demands of commerce. Thus it was at the outset a merchant’s machine, which the other interests of the country, the land and labor interests, even then foreboded would destroy their liberties. In vain their jealousy of its central power made enact the first twelve amendments. In vain they endeavored to set bounds over which the federal power dare not trench. In vain they enacted into general law the freedom of speech, of the press, of assemblage and petition. All of these things we see ridden roughshod upon every day, and have so seen with more or less intermission since the beginning of the nineteenth century. At this day, every police lieutenant considers himself, and rightly so, as more powerful than the General Law of the Union; and that one who told Robert Hunter that he held in his fist something stronger than the Constitution, was perfectly correct. The right of assemblage is an American tradition which has

* Letter from Thomas Jefferson to James Madison, Dec. 20, 1787.

gone out of fashion; the police club is now the mode. And it is so in virtue of the people's indifference to liberty, and the steady progress of Constitutional interpretation towards the substance of imperial government.

It is an American tradition that a standing army is a standing menace to liberty; in Jefferson's presidency the army was reduced to 3,000 men. It is American tradition that we keep out of the affairs of other nations. It is American practice that we meddle with the affairs of everybody else from the West to the East Indies, from Russia to Japan; and to do it we have a standing army of 83,251 men.

It is American tradition that the financial affairs of a nation should be transacted on the same principles of simple honesty that an individual conducts his own business; *viz.*, that debt is a bad thing, and a man's first surplus earning should be applied to his debts; that offices and officeholders should be few. It is American practice that the general government should always have millions [of dollars] of debt, even if a panic or a war has to be forced to prevent its being paid off; and as to the application of its income, officeholders come first. And within the last administration it is reported that 99,000 offices have been created at an annual expense of \$63,000,000. Shades of Jefferson! "How are vacancies to be obtained? Those by deaths are few; by resignation none." Roosevelt* cuts the knot by making 99,000 new ones! And few will die—and none resign. They will beget sons and daughters, and Taft** will have to create 99,000 more! Verily a simple and a serviceable thing is our general government.

It is American tradition that the judiciary shall act as a check upon the impetuosity of legislatures, should these attempt to pass the bounds of Constitutional limitation. It is American practice that the judiciary justifies every law which trenches on the liberties of the people and nullifies every act of the legislature by which the people seek to regain some measure of their freedom. Again, in the words of Jefferson: "The Constitution is a mere thing of wax in the hands of the judiciary, which they may twist and shape in any form they please." Truly, if the men who fought the good fight for the triumph of simple, honest, free life in that day, were now to look upon the scene of their labors, they would cry out together with him who said: "I regret that I am now to die in the belief that the useless sacrifices of themselves by the

* Theodore Roosevelt.

** William Howard Taft.

generation of '76 to acquire self-government and happiness to their country, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be that I shall not live to see it."

And now, what has Anarchism to say to all this, this bankruptcy of republicanism, this modern empire that has grown up on the ruins of our early freedom? We say this, that the sin our fathers sinned was that they did not trust liberty wholly. They thought it possible to compromise between liberty and government, believing the latter to be "a necessary evil," and the moment the compromise was made, the whole misbegotten monster of our present tyranny began to grow. Instruments which are set up to safeguard rights become the very whip with which the free are struck.

Anarchism says, make no laws whatever concerning speech, and speech will be free; so soon as you make a declaration on paper that speech shall be free, you will have a hundred lawyers proving that "freedom does not mean abuse, nor liberty license"; and they will define and define freedom out of existence. Let the guarantee of free speech be in every man's determination to use it, and we shall have no need of paper declarations. On the other hand, so long as the people do not care to exercise their freedom, those who wish to tyrannize will do so; for tyrants are active and ardent, and will devote themselves in the name of any number of gods, religious and otherwise, to put shackles upon sleeping men.

The problem then becomes, is it possible to stir men from their indifference? We have said that the spirit of liberty was nurtured by colonial life; that the elements of colonial life were the desire for sectarian independence, and the jealous watchfulness incident thereto; the isolation of pioneer communities which threw each individual strongly on his own resources, and thus developed all-around men, yet at the same time made very strong such social bonds as did exist; and, lastly, the comparative simplicity of small communities.

All this has disappeared. As to sectarianism, it is only by dint of an occasional idiotic persecution that a sect becomes interesting; in the absence of this, outlandish sects play the fool's role, are anything but heroic, and have little to do with either the name or the substance of liberty. The old colonial religious parties have gradually become the "pillars of society," their animosities have died out, their offensive peculiarities have been effaced, they are as like one another as beans in a pod, they build churches—and sleep in them.

As to our communities, they are hopelessly and helplessly interdependent,

as we ourselves are, save that continuously diminishing proportion engaged in all-around farming; and even these are slaves to mortgages. For our cities, probably there is not one that is provisioned to last a week, and certainly there is none which would not be bankrupt with despair at the proposition that it produce its own food. In response to this condition and its correlative political tyranny, Anarchism affirms the economy of self-sustenance, the disintegration of the great communities, the use of the earth.

I am not ready to say that I see clearly that this *will* take place; but I see clearly that this *must* take place if ever again men are to be free. I am so well satisfied that the mass of mankind prefer material possessions to liberty, that I have no hope that they will ever, by means of intellectual or moral stirrings merely, throw off the yoke of oppression fastened on them by the present economic system, to institute free societies. My only hope is in the blind development of the economic system and political oppression itself. The great characteristic looming factor in this gigantic power is manufacture. The tendency of each nation is to become more and more a manufacturing one, an exporter of fabrics, not an importer. If this tendency follows its own logic, it must eventually circle round to each community producing for itself. What, then, will become of the surplus product when the manufacturer shall have no foreign market? Why, then mankind must face the dilemma of sitting down and dying in the midst of it, or confiscating the goods.

Indeed, we are partially facing this problem even now; and so far we are sitting down and dying. I opine, however, that men will not do it forever, and when once by an act of general expropriation they have overcome the reverence and fear of property, and their awe of government, they may waken to the consciousness that things are to be used, and therefore men are greater than things. This may rouse the spirit of liberty.

If, on the other hand, the tendency of invention to simplify, enabling the advantages of machinery to be combined with smaller aggregations of workers, shall also follow its own logic, the great manufacturing plants will break up, population will go after the fragments, and there will be seen not indeed the hard, self-sustaining, isolated pioneer communities of early America, but thousands of small communities stretching along the lines of transportation, each producing very largely for its own needs, able to rely upon itself, and therefore able to be independent. For the same rule holds good for societies as for individuals—those may be free who are able to make their own living.

In regard to the breaking up of that vilest creation of tyranny, the standing army and navy, it is clear that so long as men desire to fight, they will have armed force in one form or another. Our fathers thought they had guarded against a standing army by providing for the voluntary militia. In our day, we have lived to see this militia declared part of the regular military force of the United States, and subject to the same demands as the regulars. Within another generation we shall probably see its members in the regular pay of the general government. Since any embodiment of the fighting spirit, any military organization, inevitably follows the same line of centralization, the logic of Anarchism is that the least objectionable form of armed force is that which springs up voluntarily, like the Minutemen of Massachusetts, and disbands as soon as the occasion which called it into existence is past: that the really desirable thing is that all men—not Americans only—should be at peace; and that to reach this, all peaceful persons should withdraw their support from the army, and require that all who make war shall do so at their own cost and risk; that neither pay nor pensions are to be provided for those who choose to make man-killing a trade.

As to the American tradition of non-meddling, Anarchism asks that it be carried down to the individual himself. It demands no jealous barrier of isolation; it knows that such isolation is undesirable and impossible; but it teaches that by all men's strictly minding their own business, a fluid society, freely adapting itself to mutual needs, wherein all the world shall belong to all men, as much as each has need or desire, will result.

And when Modern Revolution has thus been carried to the heart of the whole world—if it ever shall be, as I hope it will—then may we hope to see a resurrection of that proud spirit of our fathers which put the simple dignity of Man above the gauds of wealth and class, and held that to be an American was greater than to be a king.

In that day, there shall be neither kings nor Americans—only Men; over the whole earth, MEN.

Chapter 22

U.S. Justice Department: Opinion on the Right to Keep and Bear Arms

The Second Amendment of the Constitution provides: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” You have asked for the opinion of this Office on one aspect of the right secured by this Amendment. Specifically, you have asked us to address the question whether the right secured by the Second Amendment belongs only to the States, only to persons serving in state-organized militia units like the National Guard, or to individuals generally. This memorandum memorializes and expands upon advice that this Office provided to you on this question in 2001.

As relevant to the question addressed herein, courts and commentators have relied on three different interpretations of the Second Amendment. Under the “individual right” view, the Second Amendment secures to individuals a personal right to keep and to bear arms, whether or not they are members of any militia or engaged in military service or training. According to this view, individuals may bring claims or raise challenges based on a violation of their rights under the Second Amendment just as they do to vindicate individual rights secured by other provisions of the Bill of Rights. Under the “collective right” view, the Second Amendment is a federalism provision that provides to States a prerogative to establish and maintain armed and organized militia units akin to the National Guard, and only States may assert this prerogative. Finally, there is a range of intermediate views according to which the Amendment secures a right only to select persons to keep and bear arms in connection with their service in an organized state militia such as the National Guard. Under one typical formulation, individuals may keep arms only if they are “members of a functioning, organized state militia” and the State has not provided the necessary arms, and they may bear arms only “while and as a

part of actively participating in” that militia’s activities. In essence, such a view would allow a private cause of action (or defense) to some persons to vindicate a State’s power to establish and maintain an armed and organized militia such as the National Guard. We therefore label this group of intermediate positions the “quasi-collective right” view.

The Supreme Court has not decided among these three potential interpretations, and the federal circuits are split.* The Executive Branch has taken different views over the years. . . .

In contrast, the burgeoning scholarly literature on the Second Amendment in the past two decades has explored the meaning of the Second Amendment in great detail. The collective-right and quasi-collective-right positions have many adherents, although the preponderance of modern scholarship appears to support the individual-right view. . . .

“The Right of the People”

The Second Amendment’s recognition of a “right” that belongs to “the people” indicates a right of individuals. The word “right,” standing by itself in the Constitution, is clear. Although in some contexts entities other than individuals are said to have “rights,” the Constitution itself does not use the word “right” in this manner. Setting aside the Second Amendment, not once does the Constitution confer a “right” on any governmental entity, state or federal. Nor does it confer any “right” restricted to persons in governmental service, such as members of an organized military unit. In addition to its various references to a “right of the people” discussed below, the Constitution in the Sixth Amendment secures “right[s]” to an accused person, and in the Seventh secures a person’s “right” to a jury trial in civil cases. By contrast, governments, whether state or federal, have in the Constitution only “powers” or “authority.” It would be a marked anomaly if “right” in the Second Amendment departed from such uniform usage throughout the Constitution.

In any event, any possible doubt vanishes when “right” is conjoined with “the people,” as it is in the Second Amendment. Such a right belongs to individuals: The “people” are not a “State,” nor are they identical with the “Militia.” Indeed, the Second Amendment distinctly uses all three of these terms, yet it secures a “right” only to the “people.” The phrase “the right of the people” appears two other

* Until 2008; see chapter 23.

times in the Bill of Rights, and both times refers to a personal right, which belongs to individuals. The First Amendment secures “the right of the people peaceably to assemble, and to petition the Government for a redress of grievances,” and the Fourth safeguards “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” In addition, the Ninth Amendment refers to “rights . . . retained by the people.” We see no reason to read the phrase in the Second Amendment to mean something other than what it plainly means in these neighboring and contemporaneous amendments. . . .

The only truly “collective” use of “the people” at the time of the Founding was to refer to the people as they existed *apart from* government or any service to it. The Declaration of Independence refers to “one People” dissolving their political bonds with another and forming their own nation, and “We the people” created the Constitution in ratifying conventions chosen “by the People” of each State. Thus, even in this context, the “people” are distinguished from “the government” or “the State”; nor can the term plausibly be limited to the “Militia.” And when “the people” appears in the phrase “the right of the people” in the Constitution, we conclude that it indicates a personal right of individuals, whether that be a right to assemble and petition, to be secure in one’s person and property, or to keep and bear arms.

“To Keep and Bear Arms”

The “right of the people” that the Second Amendment secures is a right “to keep and bear Arms.” As the previous subpart showed, those who hold the right are, according to the text, “the people”—individuals—not the government or even the militia. The phrase “to keep and bear Arms” is consistent with this conclusion: The phrase “keep . . . Arms” reinforces it, and the phrase “bear Arms” is not inconsistent with it. . . .

In eighteenth-century English, an individual could “keep arms,” and keep them for private purposes, unrelated to militia duty, just as he could keep any other private property, and the phrase was commonly used in this sense. For example, in *Rex v. Gardner* (K.B. 1738), a defendant charged with “keeping a gun” in violation of a 1706 English statute (which prohibited commoners from keeping specified objects or “other engines” for the destruction of game) argued that “though there are many things for the bare keeping of which a man may be convicted; yet they are only such as can only be used for destruction of the game, whereas a gun is necessary for defense of a house, or for a farmer

to shoot crows.” The court agreed, reasoning that “a gun differs from nets and dogs, which can only be kept for an ill purpose.” The Court of Common Pleas six years later treated Gardner as having “settled and determined” that “a man may keep a gun for the defense of his house and family,” and in 1752 the King’s Bench reiterated that “a gun may be kept for the defense of a man’s house, and for divers other lawful purposes.” The same usage appeared in an earlier prosecution of a man for “keeping of a gun” contrary to a statute that barred all but the wealthy from privately owning small handguns. . . .

Colonial and early state statutes similarly used “keep” to “describe arms possession by individuals in all contexts,” including requiring those exempt from militia service (such as the over-aged) to “keep” arms in their homes for both law enforcement and “the defense of their homes from criminals or foreign enemies.” . . .

In short, the phrase “keep arms” was commonly understood to denote ownership of arms by private citizens for private purposes. When that phrase is read together with its subject—the right of the people—the evidence points strongly toward an individual right. Had the Constitution meant not to protect the right of the whole “people” to “keep” arms but instead to establish a “right” of the States or of only the members of their militias to store them, presumably it would have used different language. . . .

To “bear” was, at the Founding as now, a word with numerous definitions—used with great “latitude” and “in very different senses,” as Samuel Johnson noted in his dictionary. Its basic meaning was simply to “carry” or “wear” something, particularly carrying or wearing in a way that would be known to others, such as in bearing a message, bearing another person, or bearing something as a mark of authority or distinction. As a result, “bear,” when taking “arms” as its object, could refer to multiple contexts in which one might carry or wear arms in this way. It is true that “bear arms” often did refer to carrying arms in military service. But the phrase was not a term of art limited to this sense. Arms also could be “borne” for private, non-military purposes, principally tied to self-defense. For example, an early colonial statute in Massachusetts required every “freeman or other inhabitant” to provide arms for himself and anyone else in his household able to “beare armes,” and one in Virginia required “all men that are fittige to beare armes” to “bring their pieces” to church.

There are also several examples closer to the Founding. In 1779, a committee of eminent Virginians including Thomas Jefferson and George Mason, charged

with revising the new State's laws, authored a bill penalizing any person who, within a year of having violated a restriction on hunting deer, "shall bear a gun out of his inclosed ground, unless whilst performing military duty." This bill demonstrates that to "bear a gun" was not limited to "performing military duty." James Madison submitted this bill to the Virginia legislature in 1785. Many early state constitutions, including some written before the Founding (Pennsylvania's and Vermont's) and one written a month after Secretary of State Jefferson declared the Bill of Rights ratified (Kentucky's), protected an individual right to "bear arms" in "defense of himself and the State" or in "defense of themselves and the State," indicating that a person might be said to "bear arms" in self-defense. A 1780 opinion of London's Recorder (the city's legal adviser and the primary judge in its criminal court) on the legality of a private self-defense association acknowledged "the rights of the people of this realm to bear arms, and to instruct themselves in the use of them, collectively," albeit within limits. In a newspaper commentary published in major cities after Madison introduced the Bill of Rights in Congress, a friend of his wrote that the proposed Second Amendment would "confirm" the people's "right to keep and bear their private arms." Supreme Court Justice Joseph Story, in his 1833 *Commentaries on the Constitution of the United States*, paraphrased as a "right to bear arms" the right of English "subjects . . . [to] have arms for their defence," an individual right not tied to service in the militia. Finally, other examples of contemporaneous uses of "bear arms" to denote actions of individuals appear in cases from the early 1800s up to the Civil War. . . .

In sum, although "bear arms" often referred to carrying or wearing arms in connection with military duty, it was not limited to such a meaning. When, as in the Second Amendment, those words are used in conjunction with "keep arms," which commonly did refer to private action, and the whole phrase "to keep and bear Arms" is used in the context of a "right of the people," we conclude that the core, operative text of the Amendment secures a personal right, which belongs to individuals. We next consider whether the Amendment's prefatory language requires a different conclusion.

**"A Well Regulated Militia, Being Necessary to
the Security of a Free State"**

A feature of the Second Amendment that distinguishes it from the other rights that the Bill of Rights secures is its prefatory subordinate clause, declaring:

“A well regulated Militia, being necessary to the security of a free State, . . .” Advocates of the collective-right and quasi-collective-right interpretations rely on this declaration, particularly its reference to a well-regulated militia. On their interpretation, the “people” to which the Second Amendment refers is only the “people” in a collective, organized capacity as the state governments, or a small subset of the “people” actively organized by those governments into military bodies. “People” becomes interchangeable with the “State” or its “organized militia.”

This argument misunderstands the proper role of such prefatory declarations in interpreting the operative language of a provision. A preface can illuminate operative language but is ultimately subordinate to it and cannot restrict it.

Wholly apart from this interpretive principle, this argument also rests on an incomplete understanding of the preface’s language. Although the Amendment’s prefatory clause, standing alone, might suggest a collective or possibly quasi-collective right to a modern reader, when its words are read as they were understood at the Founding, the preface is fully consistent with the individual right that the Amendment’s operative language sets out. The “Militia” as understood at the Founding was not a select group such as the National Guard of today. It consisted of all able-bodied male citizens. The Second Amendment’s preface identifies as a justification for the individual right that a necessary condition for an effective citizen militia, and for the “free State” that it helps to secure, is a citizenry that is privately armed and able to use its private arms. . . .

As used in the Second Amendment, and elsewhere in the Constitution, “Militia” referred to a body consisting of all adult male citizens up to a certain age (anywhere from forty-five to sixty), the goal being to include all who were physically capable of service. It was not limited to a select force of persons in active military duty. This entire population of able-bodied male citizens was involuntarily “enrolled” by local militia officials, somewhat as men now register for the selective service (except that enrollment required no action by the citizen), and all enrolled citizens were required by law to join occasional “exercise”—to which they were expected to bring their own, private arms—but they otherwise remained in civilian life. The militia “rest[ed] upon the shoulders of the people,” because, as then understood, it consisted of a large number of the “people” at any one time and of all of the able-bodied white

men for a substantial portion of their lives. It was the people embodied as an armed force. Thus, a key aspect of the term “Militia” was the composition of the force to which it referred. As a result, the reference to the “Militia” in the Second Amendment’s preface “agrees with” the individual right that the Amendment’s operative text sets out, because securing to “the people” a right to keep and to bear their own arms made such a broad-based, privately armed force more likely to exist and to be effective. . . .

Nor does the preface’s phrase “well regulated” alter this sense of “Militia”; rather, it presupposes it. Having an armed citizenry, which the operative text protects by establishing a right of individuals, becomes a necessary (albeit not sufficient) condition for a well-regulated militia once one properly defines “Militia.” As one academic commentator has put it: “The Second Amendment simply forbids one form of inappropriate regulation,” which would ensure a militia that was *not* well regulated, namely “disarming the people from whom the militia must necessarily be drawn. . . . The one thing the government is forbidden to do is infringe the right of the people, who are the source of the militia’s members, to keep and bear arms.” A militia composed of the whole body of able-bodied male citizens and only infrequently meeting for state-sponsored exercise is more likely to be “well regulated” in the bearing of arms, and can more readily be trained and disciplined, if its members possess their private arms and are accustomed to them from usage for private purposes between exercises. And an individual right of the people to have arms has the indirect effect of securing the ability of States at least to have their militias armed. As the Court stated in *Miller*, the Second Amendment seeks “to assure the continuation and *render possible* the effectiveness of” the militia of “all males physically capable of acting in concert for the common defense.” It protects the minimum for a well-regulated citizen militia. . . .

The “Security of a Free State”

The preface’s express linking of the “well regulated Militia” to the ultimate necessity of “the security of a free State” is also fully consistent with the conclusion that the “right of the people to keep and bear Arms” is a personal one. The security of a free state at the Founding no doubt was understood to include those things necessary to the security of any state, such as “to execute the Laws . . . suppress Insurrections and repel Invasions.” But the security of a *free* State was not just these things. It also was understood to

include the security of freedom in a state. Thus, while Blackstone^{*} recognized the individual liberty of the press as “essential to the nature of a free state,” pre-1787 state constitutions described the same right as “essential to the security of freedom in a state.” The Preamble of the Constitution states the goal of making “secure the Blessings of Liberty,” and the Fourth Amendment highlights the importance of the individual “right of the people to be secure in their persons, houses, papers, and effects.” A secure *free* State was one in which liberties and rights were secure. . . .

Contemporaneous writers across the political spectrum acknowledged the link between the citizen militia and securing the freedom of a state. The *Republican* praised “a militia of freemen” as among the “principal circumstances which render liberty secure,” and singled out as “a capital circumstance in favor of our liberty” that “the people themselves are the military power of our country,” having “arms in their hands” and “military knowledge.” *The Federal Farmer* listed among the “military forces of a free country” the “militia,” by which he meant “the people themselves . . . when properly formed.” A citizen militia was critical to “the duration of a free and mild government.” Absent it, and in the face of an “anti-republican” select militia, “the substantial men, having families and property, will generally be without arms, without knowing the use of them, and defenseless; whereas, to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them.” James Burgh, a Scotsman whose 1774 *Political Disquisitions* were well-known in America, including being cited in *The Federalist*, wrote that a “good militia” formed “the chief part of the constitution of every free government” and would “preserve the public liberty.” He added that “the possession of arms is the distinction between a freeman and a slave. . . . He who thinks he is his own master, and has anything he may call his own, ought to have arms to defend himself and what he possesses, or else he lives precariously and at discretion.” Thus, “every male” should be trained in the use of arms, or at least “all men of property.”

Second, and related, the freedom of a state was understood at the time of the Founding to include a citizen’s individual right of self-defense (that is, defense of his right to life and personal security) when the state cannot assist him. An individual right to arms such as that secured by the Second Amendment’s operative text helps to preserve this basic right and thus a free

* William Blackstone, leading legal authority in America at the Founding

state. As the preface indicates, the existence of a well-regulated citizen militia further secures the link between such an individual right and this aspect of a free State (by increasing the number of persons equipped and trained to exercise the right well), but, as the discussion of the militia in the previous paragraph suggests, this link was not understood to be confined to one's actions while participating in even such a broad-based entity. Blackstone's summary of key English rights explains this point. With no mention of the militia, he described the "right of having and using arms for self-preservation and defense" as the last security of individual English subjects for keeping the state, including themselves, free:

The rights, or, as they are frequently termed, the liberties of Englishmen . . . consist primarily, in the free enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation, it is necessary, that the constitution of parliament be supported in its full vigour; and limits, certainly known, be set to the royal prerogative. And lastly, to vindicate these rights, when actually violated or attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning the king and parliament for redress of grievances; and, lastly, to the right of having and using arms for self-preservation and defense.

This right to arms, Blackstone added, facilitates self-defense "when the sanctions of society and laws are found insufficient to restrain the violence of oppression." John Locke, although not explicitly discussing arms, similarly explained the individual right of self-defense that a free society allows. Discussing the right of self-defense against a robber, he wrote: "I have no reason to suppose that he who would take away my liberty, would not, when he had me in his power, take away everything else." Therefore "the law, which was made for my preservation, where it cannot interpose to secure my life from present force, which if lost, is capable of no reparation, permits me my own defense."

It is therefore reasonable to conclude that the ability of a "right of the people to keep and bear Arms" to further the Second Amendment preface's ultimate end of the "security of a free State" consisted not merely in the

existence of a trained band ready to act as soldiers should the State's *government* call upon them, but also in the ability of the citizens (many of them part of the privately armed citizen militia), by individually keeping and bearing arms, to help secure the freedoms of the State and its citizens. Thus, the "people" in the Second Amendment were distinct from the "Militia" and a "State," but a right of the people to keep and bear arms was understood both to facilitate a well-regulated militia and to help maintain a State that was free. By contrast, the collective-right and quasi-collective-right views would sanction not only the creation of a select militia (to the exclusion of the citizen militia) but also the disarming of the rest of the citizenry, a result antithetical to the true "Militia" as understood at the Founding and to the "free State" that the Founding generation understood it to secure.

The Bill of Rights

The Second Amendment is embedded within the Bill of Rights. Every one of the other rights and freedoms set forth in the first nine amendments of the Bill—whether or not phrased as a "right of the people"—protects individuals, not governments; none of its provisions protects persons only in connection with service to the government. As Thomas Cooley summarized, writing of the Bill's first eight amendments, "It is declared that certain enumerated liberties of the people shall not be taken away or abridged." It is therefore reasonable to interpret the Second Amendment to protect individuals just as the rest of these nine amendments do.

More particularly, the Second Amendment is located within a subset of the Bill of Rights amendments, the First through Fourth, that relates most directly to personal freedoms (as opposed to judicial procedure regulating deprivation by the government of one's life, liberty, or property)—the amendments that, in Story's words in his *Commentaries*, "principally regard subjects properly belonging to a bill of rights." These four amendments concern liberties that are tied to the right of individuals to possess and use certain property (the printing "press" in the First Amendment, "house[s]" in the Third's restriction on quartering soldiers, and "houses, papers, and effects" in the Fourth's restriction on searches and seizures), or otherwise to act without undue governmental interference (worship, speech, assembly, and petition). Again, it seems reasonable to interpret the Second Amendment, consistently with this context, to set out another personal liberty (keeping

and bearing) and privileged form of individual property (arms), useful for protecting not only the citizen's person but also the "houses" that the Third and Fourth Amendments guard.

Finally, the right in the Second Amendment immediately follows the right to assemble and petition, which concludes the First Amendment. The latter right is undeniably personal and individual, not depending on governmental organization, regulation, or service. And the two are aligned, not only in their placement but also in their origin, purpose, and limitations. Antecedents of both appeared in proximity in the English Bill of Rights of 1689. Blackstone, in the passage block-quoted in the previous subpart, discussed in immediate succession their dual utility as guards of the great individual rights of life, liberty, and property, and he did likewise in discussing the criminal law's limitations on abuses of those rights. St. George Tucker, the first leading American commentator on Blackstone and the Constitution . . . noted that both rights had been transplanted to the United States from England, both stripped of many English restrictions. It follows that the former right—that secured by the Second Amendment—also would be individual. . . .

The Original Understanding of the Right to Keep and Bear Arms

The right to arms that colonial Americans inherited from England had been set out first in the English Declaration of Rights of 1689, and then had been expounded by William Blackstone in his authoritative *Commentaries on the Laws of England* in the decade before the American Revolution. Both the Declaration and Blackstone made clear that the English right was a personal, individual one, not a "right" belonging to any government or restricted to persons in governmental service. The English right could not have been a federalism provision, because England lacked a federal structure; and neither the Declaration nor the law as expounded by Blackstone conditioned the right on a subject's service in any militia. . . .

The English colonists in America recognized this right of individual subjects to have and use arms, and they retained it as they broke from the mother country. They also recognized that it furthered the citizen militia to which they looked as a security for their freedom. These related ideas of an individual right to arms and regard for the citizen militia formed the backdrop for the Second Amendment. . . .

Many lauded the citizen militias that fought in the Revolution. American

General Nathanael Greene, writing to Thomas Jefferson, remarked on the “Enterprize and Spirit” of “this Great Bulwark of Civil Liberty [that] promises Security and Independence to this Country.” Americans credited crucial early victories to the citizen militias, even while recognizing their limitations. Well after the war, James Madison could argue in *The Federalist* that an oppressive army would be no match for citizen militias, as “those who are best acquainted with the late successful resistance of this country against the British arms” would recognize. He also pointed to “the advantage of being armed, which the Americans possess over the people of almost every other nation,” governments in most of the world being “afraid to trust the people with arms.” . . .

The Development of the Second Amendment

Every recommendation in these state conventions regarding the right to arms sought to protect an individual right—not a “right” to maintain well-regulated state militias, whether belonging to the States or to those serving in such entities (much less belonging just to those serving in well-regulated select militias). Virginia, New York, and North Carolina also appended declaratory clauses to the right suggesting that it would benefit the citizen militia, preserve the freedom of the state, and reduce the need for or risk from a standing army. But those States that wanted to protect state authority to maintain militias (Virginia and North Carolina) followed the lead of the Pennsylvania Minority by proposing separate amendments doing so directly, intended not for the bill of rights but for the body of the Constitution. Thus, regarding the right to arms, those who ratified the Constitution did nothing novel, but rather followed the path marked by the state declarations and the earlier right from England. They proposed an individual right, not a “right” of States and not a right restricted to their militias or militiamen. As the First Congress met, it had before it numerous proposals for an individual right to arms and a few proposals for safeguarding state militias by directly protecting state authority, but none for protecting that authority through a collective or quasi-collective “right” to arms. . . .

Others also understood Madison’s proposal to secure an individual right to keep and bear arms. Leading Federalist Congressman Fisher Ames wrote: “Mr. Madison has introduced his long expected Amendments. . . . It contains a Bill of Rights . . . [including] the right of the people to bear arms.” Elsewhere he wrote: “The rights of conscience, of bearing arms, of changing the government, are declared to be inherent in the people.” Tench Coxe took

the same view in his *Remarks on the First Part of the Amendments to the Federal Constitution*, published in the major cities. Writing as “A Pennsylvanian” (a pseudonym that he had used during the ratification debates), he explained the right that Madison’s proposal protected as follows:

As civil rulers, not having their duty to the people duly before them, may attempt to tyrannize, and as the military forces which must be occasionally raised to defend our country, might pervert their power to the injury of their fellow citizens, the people are confirmed by the . . . article in their right to keep and bear their private arms.

Coxe recognized that the “right” of “the people” belonged to the “citizens,” who could both keep and bear “private” arms. He sent his *Remarks* to Madison the day that they were published, and Madison six days later returned thanks for his “explanatory strictures” and the “co-operation of your pen,” noting from New York City that the *Remarks* “are already I find in the Gazettes here.” Neither Madison nor, it appears, anyone else disputed Coxe’s interpretation. . . .

The Early Interpretations

In the first few decades after the Second Amendment was drafted and ratified, each of the three leading commentators on the Constitution addressed it: St. George Tucker, William Rawle, and Joseph Story. Each agreed that it protects an individual right. Less prominent early commentators also concurred with this interpretation.

Tucker, a judge and law professor from Virginia, published in 1803 an edition of Blackstone’s *Commentaries* to which he had added annotations and essays explaining the relation of American law, including the new Constitution, to England’s. *Tucker’s Blackstone* quickly became the leading American authority on both Blackstone and American law.

Tucker addressed the Second Amendment at several points. He first did so, repeatedly, in his introductory View of the Constitution of the United States. He tied the federal right, as Blackstone had the English one, to the individual, natural right of self-defense and to the freedom of the state. After quoting the Amendment, he wrote:

This may be considered as the true palladium of liberty . . . The right of self defense is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to

keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction. . . .

Second, in annotating Blackstone's description, in Book I, Chapter 1, of the individual English subject's right to have and use arms for self-defense, . . . Tucker praised the Second Amendment "right of the people" for being "without any qualification as to their condition or degree, as is the case in the British government" (under England's Bill of Rights) and again denounced the game laws, by which "the right of keeping arms is effectually taken away from the people of England." Finally, in a note to one of Blackstone's (critical) discussions of the game laws, Tucker once more attacked them, because "it seems to be held" that no one but the very rich has "any right to keep a gun in his house" or "keep a gun for their defense," the result being that "the whole nation are completely disarmed, and left at the mercy of the government," and "the mass of the people" are kept "in a state of the most abject subjection." By contrast, "in America we may reasonably hope that the people will never cease to regard the right of keeping and bearing arms as the surest pledge of their liberty."

Like the commentators, the early case law also treated the Second Amendment as securing a right of individuals, not a right of governments or those in its service. Without taking any position on the correctness of the courts' holdings or the constitutionality, under the Second Amendment, of any particular limitations on owning, carrying, or using firearms, we find it significant that these decisions consistently understood the right to be an individual one. The earliest cases, although not numerous, consistently recognized that the right to "bear" arms belonged to individuals, just as the right to "keep" them did. Judicial treatment became more common beginning in the 1840s, mostly because of new prohibitions on carrying weapons concealed. The courts upheld these prohibitions (some courts applying the Second Amendment and some applying similar state provisions), but in so doing they all recognized an individual right to arms. All of the decisions recognized an individual right to keep private arms; nearly all, including the leading cases, recognized a right of individuals to "bear" those arms for private purposes; and all recognized some manner of individual right to bear them. Most notably, the Supreme Court of Georgia twice unanimously ruled in favor of individuals on the basis of the Second Amendment.

Reconstruction

As the Civil War ended in 1865, Southern governments enacted “black codes,” which, among other things, either directly prohibited the newly freed slaves from keeping and bearing arms or imposed stringent permit systems. In addition, armed white mobs, sometimes including the militias, frequently disarmed the freed blacks. Such practices, coupled with blacks’ lack of citizenship, prompted the Thirty-Ninth Congress to take several actions securing the rights of the newly freed slaves and reaffirming the understanding that the right to keep and bear arms was a personal right.

The first action was enactment of the Civil Rights Act of 1866. One goal of many who sought its passage, noted by them and lamented by their opponents, appears to have been to secure to freedmen the Second Amendment’s right to keep and bear arms. Both representatives and senators highlighted disarmament of blacks and argued that the Act, by making blacks citizens, would secure to them that right. Senator Trumbull, Chairman of the Judiciary Committee and a sponsor of the Act, explained that it would counteract those portions of the black codes that “prohibit any negro or mulatto from having fire-arms.” In the House, Representative Clarke quoted the Second Amendment and declared, “I shall insist that the reconstructed rebels of Mississippi respect the Constitution in their local laws”; he also decried that newly formed Southern governments had been “allowed to rob and disarm our [black] veteran soldiers.” Representative Raymond argued, in favor of the Act, that making blacks citizens would give to them “every right which you or I have,” including “a right to bear arms.”

The second congressional action was passage of the Fourteenth Amendment in June 1866. Senator Pomeroy, in addressing an early draft, listed as among the “safeguards of liberty . . . under our Constitution” the right of “the freedman” to “bear arms for the defense of himself and family and his homestead,” even suggesting that Congress’s power to enforce the Thirteenth Amendment’s ban on slavery might justify it in protecting this right in the South. One of the Fourteenth Amendment’s sponsors, in listing the rights of citizenship that its Privileges or Immunities Clause would extend to blacks, pointed to “the personal rights guaranteed and secured by the first eight amendments of the Constitution; such as the freedom of speech and of the press; . . . [and] the right to keep and to bear arms.” *The New York Times* and other leading newspapers reprinted these comments, including the reference to the Second Amendment, and praised them. . . .

Beyond Reconstruction

. . . The understanding of the right to keep and bear arms as an individual right continued beyond the Civil War and Reconstruction. Although we do not provide an exhaustive survey of the post-war period, we find it significant that the modern alternative views of the right did not take hold until the twentieth century, well over a century after the Second Amendment was ratified. Before that, the views of the leading constitutional-law scholar of the period, Thomas Cooley, were in accord with his predecessors Tucker, Rawle, and Story, in recognizing an individual right. And the Supreme Court, although making no holding regarding the substance of the Amendment, suggested in dicta that it protected an individual right. . . .

Conclusion

For the foregoing reasons, we conclude that the Second Amendment secures an individual right to keep and to bear arms. Current case law leaves open and unsettled the question of whose right is secured by the Amendment. Although we do not address the scope of the right, our examination of the original meaning of the Amendment provides extensive reasons to conclude that the Second Amendment secures an individual right, and no persuasive basis for either the collective-right or quasi-collective-right views. The text of the Amendment's operative clause, setting out a "right of the people to keep and bear Arms," is clear and is reinforced by the Constitution's structure. The Amendment's prefatory clause, properly understood, is fully consistent with this interpretation. The broader history of the Anglo-American right of individuals to have and use arms, from England's Revolution of 1688–1689 to the ratification of the Second Amendment a hundred years later, leads to the same conclusion. Finally, the first hundred years of interpretations of the Amendment, and especially the commentaries and case law in the pre-Civil War period closest to the Amendment's ratification, confirm what the text and history of the Second Amendment require.

Chapter 23

U.S. Supreme Court: Upholding the Individual's Rights of the 2nd Amendment

District of Columbia law bans handgun possession by making it a crime to carry an unregistered firearm and prohibiting the registration of handguns; provides separately that no person may carry an unlicensed handgun, but authorizes the police chief to issue one-year licenses; and requires residents to keep lawfully owned firearms unloaded and disassembled or bound by a trigger lock or similar device. Respondent Heller, a D. C. special policeman, applied to register a handgun he wished to keep at home, but the District refused. He filed this suit seeking, on Second Amendment grounds, to enjoin the city from enforcing the ban on handgun registration, the licensing requirement insofar as it prohibits carrying an unlicensed firearm in the home, and the trigger-lock requirement insofar as it prohibits the use of functional firearms in the home. The District Court dismissed the suit, but the D. C. Circuit reversed, holding that the Second Amendment protects an individual's right to possess firearms and that the city's total ban on handguns, as well as its requirement that firearms in the home be kept nonfunctional even when necessary for self-defense, violated that right.

Held:

1. The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home.

(a) The Amendment's prefatory clause announces a purpose, but does not limit or expand the scope of the second part, the operative clause. The operative clause's text and history demonstrate that it connotes an individual right to keep and bear arms.

(b) The prefatory clause comports with the Court's interpretation of the operative clause. The "militia" comprised all males physically capable of acting

in concert for the common defense. The Antifederalists feared that the federal government would disarm the people in order to disable this citizens' militia, enabling a politicized standing army or a select militia to rule. The response was to deny Congress power to abridge the ancient right of individuals to keep and bear arms, so that the ideal of a citizens' militia would be preserved.

(c) The Court's interpretation is confirmed by analogous arms-bearing rights in state constitutions that preceded and immediately followed the Second Amendment.

(d) The Second Amendment's drafting history, while of dubious interpretive worth, reveals three state Second Amendment proposals that unequivocally referred to an individual right to bear arms.

(e) Interpretation of the Second Amendment by scholars, courts and legislators, from immediately after its ratification through the late nineteenth century also supports the Court's conclusion.

(f) None of the Court's precedents forecloses the Court's interpretation. Neither *United States v. Cruikshank*, 92 U. S. 542, 553, nor *Presser v. Illinois*, 116 U. S. 252, 264–265, refutes the individual rights interpretation. *United States v. Miller*, 307 U. S. 174, does not limit the right to keep and bear arms to militia purposes, but rather limits the type of weapon to which the right applies to those used by the militia, *i.e.*, those in common use for lawful purposes.

2. Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court's opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. *Miller's* holding that the sorts of weapons protected are those "in common use at the time" finds support in the historical tradition of prohibiting the carrying of dangerous and unusual weapons.

3. The handgun ban and the trigger-lock requirement (as applied to self-defense) violate the Second Amendment. The District's total ban on handgun possession in the home amounts to a prohibition on an entire class of "arms" that Americans overwhelmingly choose for the lawful purpose of self-defense.

Under any of the standards of scrutiny the Court has applied to enumerated constitutional rights, this prohibition—in the place where the importance of the lawful defense of self, family, and property is most acute—would fail constitutional muster. Similarly, the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional. Because Heller conceded at oral argument that the D.C. licensing law is permissible if it is not enforced arbitrarily and capriciously, the Court assumes that a license will satisfy his prayer for relief and does not address the licensing requirement. Assuming he is not disqualified from exercising Second Amendment rights, the District must permit Heller to register his handgun and must issue him a license to carry it in the home.

478 F. 3d 370, affirmed.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, and ALITO, JJ., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined. BREYER, J., filed a dissenting opinion, in which STEVENS, SOUTER, and GINSBURG, JJ., joined.

PART VIII

OPEN AMERICA

Chapter 24

Emma Lazarus: Poem on the Statue of Liberty

Emma Lazarus (1849–1887) was an American poet.

Not like the brazen giant of Greek fame,
With conquering limbs astride from land to land;
Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame
Is the imprisoned lightning, and her name
Mother of Exiles. From her beacon-hand
Glow world-wide welcome; her mild eyes command
The air-bridged harbor that twin cities frame.
“Keep ancient lands, your storied pomp!” cries she
With silent lips. “Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!

Chapter 25

John Quincy Adams: On Foreign Policy

John Quincy Adams (1767–1848) was an American Secretary of State and later president.

And now, friends and countrymen, if the wise and learned philosophers of the elder world, the first observers of nutation and aberration, the discoverers of maddening ether and invisible planets, the inventors of congreve rockets and shrapnel shells, should find their hearts disposed to enquire what has America done for the benefit of mankind?

Let our answer be this: America, with the same voice which spoke herself into existence as a nation, proclaimed to mankind the inextinguishable rights of human nature, and the only lawful foundations of government. America, in the assembly of nations, since her admission among them, has invariably, though often fruitlessly, held forth to them the hand of honest friendship, of equal freedom, of generous reciprocity.

She has uniformly spoken among them, though often to heedless and often to disdainful ears, the language of equal liberty, of equal justice, and of equal rights. She has, in the lapse of nearly half a century, without a single exception, respected the independence of other nations while asserting and maintaining her own. She has abstained from interference in the concerns of others, even when conflict has been for principles to which she clings, as to the last vital drop that visits the heart. She has seen that probably for centuries to come, all the contests of that Aceldama the European world, will be contests of inveterate power, and emerging right.

Wherever the standard of freedom and independence has been or shall be unfurled, there will her heart, her benedictions, and her prayers be. But she goes not abroad in search of monsters to destroy. She is the well-wisher to the freedom and independence of all. She is the champion and vindicator only

of her own. She will commend the general cause by the countenance of her voice, and the benignant sympathy of her example. She well knows that by once enlisting under other banners than her own, were they even the banners of foreign independence, she would involve herself beyond the power of extrication, in all the wars of interest and intrigue, of individual avarice, envy, and ambition, which assume the colors and usurp the standard of freedom.

The fundamental maxims of her policy would insensibly change from liberty to force. . . .

She might become the dictatress of the world. She would be no longer the ruler of her own spirit. . . .

[America's] glory is not dominion, but *liberty*. Her march is the march of the mind. She has a spear and a shield: but the motto upon her shield is, *Freedom, Independence, Peace*. This has been her declaration: this has been, as far as her necessary intercourse with the rest of mankind would permit, her practice.

Chapter 26

Rose Wilder Lane: Give Me Liberty

Rose Wilder Lane (1886–1968) was an American journalist.

In 1919 I was a communist. My Bolshevik friends of those days are scattered now; some are bourgeois, some are dead, some are in China and Russia, and I did not know the last American chiefs of the Third International, who now officially embrace democracy. They would repudiate me even as a renegade comrade, for I was never a member of The Party. But it was merely an accident that I was not. . . .

I was in Transcaucasian Russia at the time,* drinking tea with cherry preserves in it and trying to hold a lump of sugar between my teeth while I did so. It's difficult. My plump Russian hostess and her placid, golden-bearded husband beamed at me, and a number of round-cheeked children stared in wonder at the American. Their house was a century old, and charming. Icons hung on thick walls whiter than snow; featherbeds rounded upward in the bed-niche of the large brick alcove, which was also white-washed. Every fabric was embroidered; my host's collar and his wife's gown were works of art. There was an American sewing machine, and the samovar was a proud samovar.

The village was communist, of course; it has always been communist. The sole source of wealth was land, and it had never occurred to these villagers that land could be privately owned.

These plains of Russian Georgia are a great deal like those of Illinois. The Russians came into them as pioneers about the same time that Americans were moving into Illinois. They came in the same way, on foot, goading the oxen that pulled the slow wagons over roadless prairies. Industrious, thrifty, good-natured, and eminently sensible people, the Russians moved in groups, settled in villages, cultivated the good land in common, and prospered.

Rose Wilder Lane, excerpted from "Give Me Liberty," *Saturday Evening Post*, March 7, 1936.

*Circa 1921.

In Illinois, every settler paid for his land. There was no free land for Americans until 1862. Here in Russia, the land was free. Each village cultivated as much as it needed. Within the village, each family tilled an allotted acreage. When in the course of natural events, the size of the families altered so that the division of land was unsatisfactory, all the villagers assembled in town-meeting and wrangled out a new division. This happened every ten years or so, depending on births, marriages, and deaths.

These people had never been oppressed by landowners; most of the villages had no experience of landowners and none of them had had any real contact with the Czar's government. Once a year, in the fall, they had been accustomed to paying a tax-collector a tenth of the year's yield from the grain fields. The tax-collector came riding across the plains, collected the taxes in ox wagons, and rode away. The young men occasionally went to war, usually to a little private war with a Tartar village. Most of these Russians were primitive Christians, opposed to war; they had come or had been driven from old Russia because they would not send their sons to the Czar's armies. But with the passing of a century, their opposition had weakened; the young men had sometimes been willing enough to be conscripted for war. Thus, occasionally, an officer rode into the village, young men rode away with him, and when some returned months or years later they brought the news of where they had been and what they had done and seen. . . .

The Bolsheviks had then been nearly four years in power, and the village taxes had not been increased, nor any more young men taken for the army than during the Czar's regime. These villages depended hardly at all upon Tiflis, the nearest city, but even Tiflis was at the moment reviving under NEP, Lenin's New Economic Policy of a temporary breathing spell for capitalism.

My host reminded me by the force with which he said that he did not like the new government. I could hardly believe that a lifelong communist, with the proofs of successful communism thick about us, was opposed to a communist government. He repeated that he did not like it. "No! No!"

His complaint was government interference with village affairs. He protested against the growing bureaucracy that was taking more and more men from productive work. He predicted chaos and suffering from the centralizing of economic power in Moscow. These were not words, but that was what he meant. . . .

I came out of the Soviet Union no longer a communist, because I believed

in personal freedom. Like all Americans, I took for granted the individual liberty to which I had been born. It seemed as necessary and as inevitable as the air I breathed; it seemed the natural element in which human beings lived.

The thought that I might lose it had never remotely occurred to me. And I could not conceive that multitudes of human beings would ever willingly live without it.

It happened that I spent many years in the countries of Europe and Western Asia, so that at last I learned something, not only of the words that various peoples speak, but of the real meanings of those words. No word, of course, is ever exactly translatable into another language; the words we use are the most clumsy symbols for meanings, and to suppose that such words as “war,” “glory,” “justice,” “liberty,” “home,” mean the same in two languages is an error.

Everywhere in Europe I encountered the living facts of medieval caste and of the static medieval social order. I saw them resisting, and vitally resisting, individual freedom and the industrial revolution.

It was impossible to know France without knowing that the French demand order, discipline, the restraint of traditional forms, the bureaucratic regulation of human lives by centralized police power, and that the fierce French democracy is not a cry for individual liberty but an insistence that the upper classes shall not too harshly exploit the lower classes.

I saw in Germany and in Austria scattered and leaderless sheep running this way and that, longing for the lost security of the flock and the shepherd.

Resisting step by step, I was finally compelled to admit to my Italian friends that I had seen the spirit of Italy revive under Mussolini. And it seemed to me that this revival was based on a separation of individual liberty from the industrial revolution whose cause and source is individual liberty. I said that in Italy, as in Russia, an essentially medieval, planned and controlled economic order was taking over the fruits of the industrial revolution while destroying its root, the freedom of the individual.

“Why will you talk about the rights of individuals!” Italians exclaimed, at last impatient. “An individual is nothing. As individuals we have no importance whatever. I will die, you will die, millions will live and die, but Italy does not die. Italy is important. Nothing matters but Italy.”

This rejection of one’s self as an individual was, I knew, the spirit animating the members of the Communist Party. I heard that it was the spirit beginning

to animate Russia. It was the spirit of Fascism, the spirit that indubitably did revive Italy. Scores, hundreds of the smallest incidents revealed it.

In 1920, Italy was a fleas nest of beggars and thieves. They fell on the stranger and devoured him. There was no instant in which baggage could be left unguarded; every bill was an overcharge and no service however small was unaccompanied by a bill; taxis dodged into vacant streets and boats stopped midway to ships, that drivers and boatmen might terrorize timid passengers into paying twice. Every step in Italy was a wrangle and a fight.

In 1927, my car broke down after nightfall in the edge of a small Italian village. Three men, a waiter, a charcoal burner, and the uniformed chauffeur of wealthy travelers sleeping in the inn worked all night on the engine. When it was running smoothly in the bleak dawn, all three refused to take any payment. Americans in a similar situation would have refused from human friendliness and personal pride. The Italians said firmly, “No, *signora*. We did it for Italy.” This was typical. Italians were no longer centered in themselves, but in that mythical creation of their imaginations unto which they poured their lives: Italy, immortal Italy.

I began at last to question the value of this personal freedom which had seemed so inherently right. I saw how rare, how new in history, is a recognition of human rights. From Brittany to Basra, I considered the ruins of brilliant civilizations whose peoples had never glimpsed the idea that men are born free. In sixty centuries of human history, that idea was an element of Jewish-Christian-Muslim religious faith, never used as a political principle.

It has been a political principle to only a few men on earth, for little more than two centuries. Asia did not know it. Africa did not know it. Europe had never wholly accepted it, and was now rejecting it.

I began to question, “What is individual liberty?”

When I asked myself, “Am I truly free?” I began slowly to understand the nature of man and man’s situation on this planet. I understood at last that every human being is free; that I am endowed by the Creator with inalienable liberty as I am endowed with life; that my freedom is inseparable from my life, since freedom is the individual’s self-controlling nature. My freedom is my control of my own life-energy, for the uses of which I, alone, am therefore responsible.

But the exercise of this freedom is another thing, since in every use of my life-energy I encounter obstacles. Some of these obstacles, such as time,

space, weather, are eternal in the human situation on this planet. Some are self-imposed and come from my own ignorance of realities. And for all the years of my residence in Europe, a great many obstacles were enforced upon me by the police-power of the men ruling the European States.

I hold the truth to be self-evident, that all men are endowed by the Creator with inalienable liberty, with individual self-control and responsibility for thoughts, speech and acts, in every situation. The extent to which this natural liberty can be exercised depends upon the amount of external coercion imposed upon the individual. No jailer can compel any prisoner to speak or act against that prisoner's will, but chains can prevent his acting, and a gag can prevent his speaking.

Americans have had more freedom of thought, of choice, and of movement than other peoples have ever had. We inherited no limitations of caste to restrict our range of desires and of ambition to the class in which we were born.

We had no governmental bureaucracy to watch our every move, to make a record of friends who called at our homes and the hours at which they arrived and left, in order that the police might be fully informed in case we were murdered. We had no officials who, in the interests of a just and equitable collection of gasoline taxes, stopped our cars and measured the gasoline in the tanks whenever we entered or left an American city.

We were not obliged, as Continental Europeans have been, to carry at all times a police card, renewed and paid for at intervals, bearing our pictures properly stamped and stating our names, ages, addresses, parentage, religion and occupation.

American workers were not classified; they did not carry police cards on which employers recorded each day they work; they have no places of amusement separate from those of higher classes, and their amusements are not subject to interruption by raiding policemen inspecting their workingmen's cards and acting on the assumption that any workingman is a thief whose card shows he has not worked during the past week.

In 1922, as a foreign correspondent in Budapest, I accompanied such a police raid. The chief of police was showing the mechanisms of his work to a visiting operative from Scotland Yard. We set out at ten o'clock at night, leading sixty policemen who moved with the beautiful precision of soldiers.

They surrounded a section of the workingmen's quarter of the city and

closed in, while the chief explained that this was ordinary routine; the whole quarter was combed in this way every week.

We appeared suddenly in the doorways of workingmen's cafes, dingy places with sawdust on earthen floors where one musician forlornly tried to make music on a cheap fiddle and men and women in the gray rags of poverty sat at bare tables and economically sipped beer or coffee. Their terror at the sight of uniforms was abject. All rose and meekly raised their hands. The policemen grinned with that peculiar enjoyment of human beings in possessing such power.

They went through the men's pockets, making some little jest at this object and that. They found the Labor cards, inspected them, thrust them back in the pockets. At their curt word of release, the men dropped into chairs and wiped their foreheads.

In every place, a few cards failed to pass the examination. No employer had stamped them during the past three days. Men and women were loaded into the patrol wagon.

Now and then, at our entrance, someone tried to escape from back door or window and ran, of course, into the clutch of policemen. We could hear the policemen laughing. The chief accepted the compliments of the British detective. Everything was perfectly done; no one escaped.

Several women frantically protested, crying, pleading on their knees, so that they had almost to be carried to the wagon. One young girl fought, screaming horribly. It took two policemen to handle her; they were not rough, but when she bit at their hands on her arms, a third slapped her face. In the wagon she went on screaming insanely. I could not understand Hungarian. The chief explained that some women objected to being given prostitutes' cards.

When a domestic servant had been several days without work, the police took away the card that identified her as a working girl and permitted her to work; they gave her instead a prostitute's card. Men who had not worked recently were sentenced to a brief imprisonment for theft. Obviously, the chief said, if they were not working, they were prostitutes and thieves; how else were they living?

Perhaps on their savings? I suggested.

Working people make only enough to live on from day to day, they cannot save, the chief said. Of course, if by any remarkable chance one of them had got some money honestly and could prove it, the judge would release him.

Having gone through all the cafes, we began on the tenements. I have lived in the slums of New York and of San Francisco. Americans who have not seen European slums have not the slightest idea of what slums are.

Until dawn, the police were clambering through those filthy tenements and down into their basements, stirring up masses of rags and demanding from staring faces their police cards. We did not capture so many unemployed there, because it costs more to sleep under a roof than to sit in a cafe; the very fact that these people had any shelter argued that they were working. But the police were thorough and awakened everyone. They were quiet and good-humored; this raid had none of the violence of an American police raid. When a locked door was not opened, the police tried all their master keys before they set their shoulders to the door and went in.

The Scotland Yard man said, "Admirable, sir, admirable. Continental police systems are marvelous, really. You have absolute control over here." Then his British pride spoke, deprecatingly, as it always speaks. "We could never do anything like this in London, don't you know. An Englishman's home is his castle, and all that. We have to have a warrant before we can search the premises or touch a man's person. Beastly handicap, you know. We have nothing like your control over here on the Continent."

This is the only police search of workingmen's quarters that I saw in Europe. I do not believe that regimentation elsewhere went so far then as to force women into prostitution, and it may be that it no longer does so in Hungary. But that the systematic surrounding and searching of workingmen's quarters went on normally everywhere in Europe, and that unemployment was assumed to push them over the edge of destitution into crime, I do know.

Like everyone else domiciled in Europe, I was many times stopped on my way home by two courteous policemen who asked to see my identification card. This became too commonplace to need explanation. I knew that my thoroughly respectable, middle-class quarter was surrounded, simply as a matter of police routine, and that everyone in it was being required to show police cards.

Nevertheless, I question whether there was less crime in police-controlled Europe than in America. Plenty of crimes were reported in brief paragraphs of small type in every paper. There is no section of an American city which I would fear to go into alone at night. There were always many quarters of European cities that were definitely dangerous after nightfall, and whole

classes of criminals who would kill any moderately well-dressed man, woman or child for the clothes alone.

The terrible thing is that the motive behind all this supervision of the individual is a good motive, and a rational one. How is any ruler to maintain a social order without it?

There is a certain instinct of orderliness and of self-preservation which enables multitudes of free human beings to get along after a fashion. No crowd leaves a theater with any efficiency, nor without discomfort, impatience and wasted time, yet we usually reach the sidewalk without a fight. Order is another thing. Any teacher knows that order cannot be maintained without regulation, supervision, and discipline. It is a question of degree; the more rigid and autocratic the discipline, the greater the order. Any genuine social order requires, as its first fundamental, the classification, regulation, and obedience of individuals. Individuals being what they are, infinitely various and willful, their obedience must be enforced.

The serious loss in a social order is in time and energy. Sitting around in waiting rooms until one can stand in line before a bureaucrat's desk seems to any American a dead loss, and living in a social order thus shortens every person's life. Outside the bureaucrat's office, too, these regulations for the public good constantly hamper every action. It is as impossible to move freely in one's daily life as it is to saunter or hasten while keeping step in a procession.

In America, commercial decrees did not hamper every clerk and customer, as they did in France, so that an extra half-hour was consumed in every department-store purchase. French merchants are as intelligent as American, but they could not install vacuum tubes and a swift accounting system in a central cashier's department. "What is the use?" they asked you. They would still be obliged to have every purchase recorded in writing in a ledger, in the presence of both buyer and seller, as Napoleon decreed.

It was an intelligent decree, too, when Napoleon issued it. Could French merchants change it now? It is to laugh, as they say; a phrase with no mirth in it. The decree was entangled with a hundred years of bureaucratic complications, and besides, think how much unemployment its repeal would have caused among those weary cashiers, dipping their pens in the prescribed ink, setting down the date and hour on a new line and asking, "Your name, *madame*?" writing. "Your address?" writing. "You pay cash?" writing. "You will take the purchase with you? Ah, good," writing. "Ah, I see. One reel of thread, cotton,

black, what size?” writing. “You pay for it how much?” writing. “And you offer in payment—Good; one franc,” writing. “From one franc, perceive, *madame*, I give you fifty centimes change. Good. And you are satisfied, *madame*?”

No one considered how much unemployment this caused to the daily multitudes of patiently waiting customers, nor that if these clerks had never been thus employed they might have been doing something useful, something creative of wealth. Napoleon wished to stop the waste of disorganization, of cheating and quarreling, in the markets of his time. And he did so. The result is that so much of France was permanently fixed firmly in Napoleon’s time. If he had let Frenchmen waste and quarrel, and cheat and lose, as Americans were then doing in equally primitive markets, French department stores certainly would have been made as briskly efficient and time-saving as America’s.

No one who dreams of the ideal social order, the economy planned to eliminate waste and injustice, considers how much energy, how much human life, is wasted in administering and in obeying the best of regulations. No one considers how rigid such regulations become, nor that they must become rigid and resist change because their underlying purpose is to preserve men from the risks of chance and change in flowing time.

Americans have had in our country no experience of the discipline of a social order. We speak of a better social order when, in fact, we do not know what any social order is. We say that something is wrong with this system, when in fact we have no system. We use phrases learned from Europe, with no conception of the meaning of those phrases in actual living experience.

In America, we do not have even universal military training, that basis of a social order which teaches every male citizen his subservience to The State and subtracts some years from every young man’s life, and has thereby weakened the military power of every nation that has adopted it.

An apartment lease in America is legal when it is signed; it is not necessary to take it to the police to be stamped, nor to file triplicate copies of it with the collector of internal revenue, so that for taxation purposes our incomes may be set down as ten times what we pay for rent. In economic theory, no doubt it is not proper to pay for rent more than 10 percent of income, and perhaps it is economic justice that anyone so extravagant as to pay more should be fined by taxation. It was never possible to quarrel with the motives behind these bureaucracies of Europe; they were invariably excellent motives.

An American could look at the whole world around him and take what he wanted from it, if he were able. Only criminal law and his own character, abilities and luck restrained him.

That is what Europeans meant when, after a few days in this country, they exclaimed, "You are so free here!" And it was the most infinite relief to an American returning after long living abroad, to be able to move from hotel to hotel, from city to city, to be able to rush into a store and buy a spool of thread, to decide at half past three to take a four o'clock train, to buy an automobile if one had the money or the credit and to drive it wherever one liked, all without making any reports whatever to the government.

But anyone whose freedom has been, as mine has always been, freedom to earn a living if possible, knows that this independence is another name for responsibility.

The American pioneers phrased this clearly and bluntly. They said, "Root, hog, or die."

There can be no third alternative for the shoat let out of the pen, to go where he pleases and do what he likes. Individual liberty is individual responsibility. Whoever makes decisions is responsible for results. When common men were slaves and serfs, they obeyed and they were fed, but they died by thousands in plagues and famines. Free men paid for their freedom by leaving that false and illusory security.

The question is whether personal freedom is worth the terrible effort, the never-lifted burden, and the risks, the unavoidable risks, of self-reliance.

For each of us, the answer to that question is a personal one. But the final answer cannot be personal, for individual freedom of choice and of action cannot long exist except among multitudes of individuals who choose it and who are willing to pay for it.

Multitudes of human beings will not do this unless their freedom is worth more than it costs, not only in value to their own souls but also in terms of the general welfare and the future of their country, which means the welfare and the future of their children.

The test of the worth of personal freedom, then, can only be its practical results in a country whose institutions and ways of life and of thought have grown from individualism. The only such country is the United States of America.

Here, on a new continent, peoples with no common tradition founded

this republic on the rights of the individual. This country was the only country in the Western world whose territory was largely settled and whose culture is dominated by those northwestern Europeans from whom the idea of individual liberty came into the world's history as a political principle.

When one thinks of it, that's an odd fact. Why did this territory become American? How did it happen that those British colonists released from England spread across half this continent?

Spaniards were in Missouri before Englishmen were in Virginia or Massachusetts. French settlements were old in Illinois, French mines in Missouri were furnishing the Western world with bullets, French trading posts were in Arkansas half a century before farmers fired on British soldiers at Lexington.

Why did Americans, spreading westward, not find a populated country, a vigorous colony to protest in France against the sale of Louisiana?

This is an important fact: Americans were the only settlers who built their houses far apart, each on his own land. America is the only country I have seen where farmers do not live today in close, safe village-groups. It is the only country I know where each person does not feel an essential, permanent solidarity with a certain class, and with a certain group within that class. The first Americans came from such groups in Europe, but they came because they were individuals rebelling against groups. Each in his own way built his own house at a distance from others in the American wilderness. This is individualism.

The natural diversity of human beings, the natural tendency of man to go into the future like an explorer finding his own way, was released in those English colonies on the Atlantic coast. Men from the British islands rushed so eagerly toward that freedom that Parliament and the king refused to open any more land for settlement; the statistics of the time proved clearly that a western expansion of the American colonies would depopulate England.

Nevertheless, before tea went overboard in Boston harbor, the lawless settlers had penetrated to the crests and valleys of the Appalachians and were scouting into forbidden lands beyond.

There was no plan that these young United States should ever cover half this continent. The thought of New York and Washington lagged far behind that surge. It was the released energies of individuals that poured westward at a speed never imagined, sweeping away and overwhelming settlements of more

cohesive peoples and reaching the Pacific in the time that Jefferson thought it would take to settle Ohio.

I have no illusions about the pioneers. My own people for eight generations were American pioneers, and when as a child I remembered too proudly an ancestry older than Plymouth, my mother would remind me of a great-great-uncle, jailed for stealing a cow.

The pioneers were by no means the best of Europe. In general they were troublemakers of the lower classes, and Europe was glad to be rid of them. They brought no great amount of intelligence or culture. Their principal desire was to do as they pleased, and they were no idealists. When they could not pay their debts, they skipped out between two days. When their manners, their personal habits, or their loudly expressed and usually ignorant opinions offended the gently bred, they remarked, "It's a free country, ain't it?" A frequent phrase of theirs was "free and independent." They also said, "I'll try anything once," and "Sure, I'll take a chance!"

They were riotous speculators; they gambled in land, in furs, in lumber and canals and settlements. They were town-lot salesmen for towns that did not yet exist and, more often than not, never did materialize. They were ignorant peasants, prospectors, self-educated teachers and lawyers, ranting politicians, printers, lumberjacks, horse thieves, and cattle rustlers.

Each was out to get what he could for himself, and devil take the hindmost. At every touch of adversity they fell apart, each on his own; there was human pity and kindness, but not a trace of community spirit. The pioneer had horse sense, and card sense, and money sense, but not a particle of social sense. The pioneers were individualists. And they did stand the gaff.

This was the human stuff of America. It was not the stuff one would have chosen to make a nation or an admirable national character. And Americans today are the most reckless and lawless of peoples. We are also the most imaginative, the most temperamental, the most infinitely varied people. We are the kindest people on earth; kind every day to one another and sympathetically responsive to every rumor of distress. It is only in America that a passing car will stop to lend a stranded stranger a tire-tool. Only Americans ever made millions of small personal sacrifices in order to pour wealth over the world, relieving suffering in such distant places as Armenia and Japan.

Everywhere, in shops, streets, factories, elevators, on highways and on

farms, Americans are the most friendly and courteous people. There is more laughter and more song in America than anywhere else. Such are a few of the human values that grew from individualism while individualism was creating this nation. . . .

For years now, I have been looking at America. I had spent more than thirty years in my own country, before; I had traveled over it everywhere and had lived in many of its States, but I had never seen it. Americans should look at America. Look at this vast, infinitely various, completely unstandardized, complex, subtle, passionate, strong, weak, beautiful, inorganic and intensely vital land.

How could we be so bemused by books and by the desire of our own minds to make a pattern, as to apply to these United States the ideology of Europe?

With some rough approximation to fact, Europeans can think in terms of labor, capital, system, and The State. One can speak of labor in Paris, where the working class is rigidly distinct from other classes; in England, where their very speech, their clothing and their schooling set them apart; in Rome, where workingmen are proud to know that even a workingman's ordained life serves Italy; and in Venice, where only the son of a gondolier has ever been permitted to be a gondolier.

Capitalist is a word of some meaning in those countries where, within a social framework only slightly shaken, men with money have climbed to those upper levels held yesterday by the aristocrat. There is a profit system where business has seeped into and replaced the feudal system. The State is a shorthand symbol for many facts where bureaucracies control a regimented social-economic order.

In America a man works, but he is not Labor. A hundred million men, working, are not Labor. They are a hundred million individuals with a hundred million backgrounds, characters, tastes, ambitions and degrees of ability. Each of them, amid the uncertainties, dangers, risks, opportunities and catastrophes of a free society, has been creating his own life and his own status as best he could.

An American raised wheat, but he was not The Wheatgrower. In every State in this union, men of every race and circumstance and mind, by every possible variety of method and with many varying needs and many ends in views, raise wheat. All of them together are not The Wheatgrower. Men raise cotton, men grow oranges, men plant soy beans; they are not Agriculture.

Agriculture, used as a word applied to human beings, means a class of men attached to the soil. There is no such class in America. Excepting only the old landed aristocracy of the South, which was already vanishing when Lincoln was born, there has never been such a class in this country. From the first, Americans were gamblers, speculators. They gambled in land when the gambling was good in land; they were never genuinely attached to the soil, to one bit of earth, these fields, this woodland, this stream, this sky, these changing seasons that became their own because they loved them and their life was in them. There is the European peasant; there has never been an American peasant.

An American farmed if he hoped to make money farming. He sold his land when he could sell it at a profit. He mortgaged it if he thought he could buy more land on a rising market, or get into a good gamble in wheat, oil, mines, livestock or Wall Street. On a falling market, he got out from under if he could, and ran a filling station, sold automobiles, started a grocery store or a restaurant. His son might become anything from a Dillinger to a Henry Ford.

The Capitalist cannot be found; he does not exist. Men of many different minds and for many purposes, or by accident or luck or the skill of a pirate, created huge business and financial organizations and fought to make them bigger and to draw bigger profits from them. But here everything was fluid, changing and uncertain; nothing was static and secure. Here was no solidly established class, placed in a social order and holding lower classes steady like cows to be milked. To capture control over the American multitudes was not possible because no control existed to be captured.

As long as our form of government stands, there can be no such control. Every business and financial undertaking must serve the unpredictable multitudes of common men and swiftly change to serve their changing demands and desires, tomorrow and tomorrow and tomorrow, or rivals will rise from those multitudes and destroy it.

Ownership must constantly be fought for and defended, and in this very struggle ownership of the great corporations has melted away; it has become so scattered and diffused through the multitudes that no one can say where it begins or ends, and the ultimate destination of profits from industry, if there be one, cannot be discovered.

Economic interests intermingle, the debtor is also the creditor, the producer is the consumer, the insurance company raises wheat, the farmer is selling short on the board of trade. Everything meets itself coming and going; no one can

understand it, and every picture made neat and orderly against this chaos is false.

A few thousand men in this struggle and confusion apparently possess enormous sums of money. But look for this money and it is not there; it is not solid actuality; it is not the tangible property, unmortgaged and secure, of a rentier class, not the Junker's hold on vast stretches of earth and many villages. It is dynamic power pouring through business and industry, and like the power that drives a machine, if it is stopped it vanishes.

These vast fortunes exist only as dynamic power, and this power, too, must serve the multitudes. American wealth is innumerable streams of power, fed by small sources and great ones, flowing through the mechanisms that produce the vast quantities of goods consumed by the multitudes, and the men who are called the owners can hardly be said even to control the wealth that stands recorded as theirs, for its very existence depends upon satisfying chaotic wants and pleasing unpredictable tastes. Fortunes that were making good hairpins vanished when American women cut their hair.

Some thousands of men in America directed fragments of economic power as best they could, and these men drew out of the streams of this dynamic power as much tangible wealth as they and their families could consume. Many of them drew out huge sums, beyond any man's power to consume, and used these sums to build libraries, hospitals, museums, or for unique and inestimable service to music, science, public health.

Many of them spent stupidly and wastefully as much as can possibly be spent in the most luxurious and decadent manners of living, and this spectacle is infuriating. Many a time when my bills and my debts have been piling up and my most frantic efforts have failed to dig a dollar or any hope out of this chaos, so that the nights were harder to live through than the desperate days, I have thought of those jeweled women carelessly dripping handfuls of gold pieces on the tables of Monte Carlo, of those quite charming necklaces worth a hundred thousand dollars and the fur coats for only \$25,000. Did I say infuriating? The word is mild.

I was once at heart a revolutionist, and you can tell me nothing about poverty, nothing about suffering, the injustices, the hunger, the apparently needless cruelties that exist from coast to coast of this country. But you can tell me no longer that they are the result of a capitalist system, because there is no system here.

All these men who in various ways, for various purposes and with widely varying results to the welfare and happiness of others, struggle to direct American industry, are expensive. They are expensive in that they draw large amounts of actual money from the streams of productive power and pour these sums back into the streams again by spending them for their own individual purposes.

But if this chaos were replaced by a system, a social order so perfect that there would be no trace of selfishness in it, an order perfectly functioning for the sole purpose of serving the public good, these men must be replaced by a bureaucracy. And a bureaucracy is expensive, too.

The bureaucracy that is necessary to controlling detail, and according to a plan devised by men possessing centralized economic power, all the processes of business, industry, finance, and agriculture in a modern state is stupendously expensive.

Such a bureaucracy is costly not only in ever-increasing payrolls but in human energy. For it must take great and ever-increasing numbers of men from productive activity and set them to dreary work amid coils of red tape and masses of papers recording what other men have done and may perhaps be permitted to do, and ordered to do.

Also bureaucracies are stupid and sluggish impediments to the whole range of human activities, as anyone knows who has struggled to move under their clogging weight in Europe. Bureaucracies slow down, impede, and postpone the realization of the multitude's desires because they are not compelled to serve those desires or perish.

AFTERWORD

The Idea of America: Somebody Ought to Try It

Can the idea of America be revived? I certainly hope that it can, but I have my doubts. Reading through world history, one finds so few examples of liberty that one quickly concludes that the liberty enjoyed by Americans from, say, 1786 to 1913 was a pure fluke. This sort of liberty has virtually never existed anywhere else under any sort of circumstances. In the civilized world, or at least in the modern civilized world, examples are few and far between of anybody enjoying anything like the liberty that Americans had. This suggests that it does not correspond to the way things are meant to be.

More optimistically, perhaps social trends follow long-term cycles or waves; for it is not just America that lost its liberty, all other Western countries lost theirs during the same period. Consider France. Despite the French Revolution and the Declaration of the Rights of Man, which sounded a bit like the Declaration of Independence, you wouldn't say, except in a rhetorical way, that this country had the same cultural and political tradition as the United States. Yet, the same anti-liberty trend has evolved in France during the twentieth century. We observe the same phenomenon in Britain, in all the English-speaking countries, and (as far as I can tell) in all European countries. Just think, for example, that civilized countries did not impose passports until the twentieth century. Their citizens were more or less free to come and go as they wanted, provided only that they pay for their travel. There was real freedom of circulation. The contemporary trend away from liberty appears to

be a major wave that rolls on without reference to what anybody in particular thinks about it.

The institutions of liberty were probably, as Friedrich Hayek argued, the product of human action but not really of human design. I fear that the institutions of tyranny are of the same making. Americans were very free even before the Revolution—or perhaps especially before the Revolution. Then, they consciously created institutions to protect their liberty—and soon lost it.

The liberty we enjoyed might be traceable, intellectually, to the Scottish Enlightenment, but it especially flourished in the New World, where it was very difficult to control people. And one might say that what happened over the next 200 years or so is that people simply reverted to what is more or less the natural state of mankind, which has always obtained in most of the world—that is, a situation where people are in chains.

This hypothesis is in sharp contrast with conventional wisdom at the beginning of the twentieth century. Freedom was seen as a natural progress for man. Surveys of business leaders and intellectuals all over America showed a general belief that freedom would increase along with material progress. People were very optimistic: they believed that war was a thing of the past, that poverty would be eliminated, that the state would shrink because—they thought—there was less and less for the state to do.

Then came World War I and, in a matter of months, all optimism died in the trenches. In fact, an anti-liberty momentum was already building up before World War I: remember that the income tax was imposed in America in 1913, the same year the Federal Reserve System was born. Instead of the twentieth century leading to more liberty, it led most of the world in the opposite direction.

We don't know why this happened, but everything seems to degrade over time. The institution of modern democracy was established in America and France—and, in different forms, in Britain and Germany—around the end of the eighteenth century. Since then, these democracies have evolved, but every step on the way was a step towards less individual liberty. Systems for regimentation, regulation and control were built slowly. It took a hundred years or more to establish the Internal Revenue Service or the Interstate Commerce Commission. Such monsters do not spring from the mind of man fully formed; they develop over time, eating away liberty one bite at a time.

What next? Perhaps, over time, the modern state becomes a heavier and heavier burden, fewer and fewer people do effective and productive work because more and more are on the state payrolls, and everything becomes more and more expensive. The state gets into a situation like under Louis XVI in France: the opposition mounts, you have some sort of blow-up, and a new form of state takes over. That you need a revolution every twenty years was Jefferson's idea: you need something to clear away heavy institutions and unproductive activities.

In France, the intelligentsia saw the election of George W. Bush in 2000 as a religious revolution. I think this is a mistaken view, but it invites an inquiry into what could be the contribution of religion to the revival of the idea of America. This inquiry is especially relevant given the place that religion held in the formation of America.

It does seem that the mass of people needs to believe in something. And they can either believe that standing in line for five hours in order to cast their ballots will make a better world, or believe in the teachings of a prophet like Jesus Christ.

Yet, the idea that Christians ought to follow a U.S. president is a very strange notion. Real Christians cannot do that: they are bound to another leader, and to rules that have nothing to do with what the secular authorities say. If you are a real Christian, you are supposed to do what Christ tells you to do. This principle was a key constituent of American liberty in the nineteenth and early twentieth century. America is still a very religious country, but the religion seems to have changed: it has become more convenient, more accommodating. People are perfectly happy to believe that religion and government can work hand in hand, as if Caesar and God could sit on the throne together, in partnership—like Rogers and Hammerstein, or Laurel and Hardy. Some people could imagine that George W. Bush, who is a born-again Christian, was doing God's work. But a true Christian could not possibly know who is doing God's work and who is not; only God knows.

How today's religiousness will express itself is another issue. Recall that, during the tenth century, Europe was very religious, and expressed it by sacking Constantinople and Jerusalem. Although it was not a very Christian act, people do that sort of thing from time to time. Mass sentiments often don't fit too well, either, with the logic of Christianity or with the logic of individual freedom. At any rate, it is not obvious that today's religion can help revive the idea of America.

Could elections revive freedom? Not likely. Typically, people do not vote for freedom; they vote for someone else's money.

Nor is an intellectual movement likely to restore liberty. Ideas matter, but they don't matter much. You can write down a constitution, but in doing so, you open the door to another constitution. Anything that is up for grabs is up for grabs. So once they wrote down the Bill of Rights, they invited somebody to interpret it, and others to write subsequent amendments, and so on. It was thus inevitable that the Bill of Rights would move forward with the whole society and become an instrument of the state against personal freedom. Indeed, of all the first ten Amendments, only the First Amendment really remains in force. And even the First Amendment has been chipped away. To the extent that it has remained unchallenged, I suspect that it is because it does not make much difference. People can say what they want, who cares? They voice all kinds of ideas, but we have learned over the years that ideas themselves are usually a feature of the prevailing trend—not the source of it.

In other words, it is not that people are less free today because someone had the bright idea that they should be less free and the idea just caught on. Instead, the trend was away from liberty, and people came up with many ideas and “reasons” that were consistent with it. Things just move forward, regardless of what people say.

Can we citizens do anything? Unfortunately, again, things don't work that way. Institutions have their own logic, which by and large escapes any identifiable influence. Things just go along. Thinking people have, at least in the short run, no influence at all. Again, think about World War I. After a couple of years, it became obvious what a complete and utter disaster, what a terrible waste, it was: by 1916, there were 10 million dead. The armies were bogged down; the soldiers, the general, the statesmen were sick of it all. Everybody was sick of it, and yet the trend did not allow for disengagement. Nobody could stop it. Victory was the only possible goal to be pursued. Any politician who stood up and argued, “I don't think we should win, I think we should just give up and go home,” would have been deemed a traitor. In public matters, people don't come to their senses the way they do in private matters. A private person will wake up one day, and say, “I have to stop drinking and go to a detox center,” and turn his life around. But a mass of people cannot do this.

Consider what is happening in public finance. An individual might say, “This country must stop spending so much money.” But he will not want

to give up his own public benefits—his Social Security, his Medicaid, all his government checks. He has no reason to give up his benefits, because it wouldn't make a dent in the problem. It is as if the whole nation had a single credit card. It does not make any sense for a single individual to take himself off the Social Security rolls. Thus, mass institutions have no way to correct their own courses; they must continue down the path to ruin. Eventually, the state runs out of money, goes to war, gets defeated, and comes out totally bankrupt. Argentina has been through this. At one time or another, nearly every country has followed this path, but not the United States—yet. This is why, I believe, Americans are so complacent, so positive, so optimistic, so bullish, so naïve. We are running the biggest current account deficit that any country has ever run, we owe more money to more people than any people ever owed, and people just think, “We'll work it out.” “We'll grow out of it,” say the supply-siders, “we'll lower taxes some more.” Americans believe that things will work themselves out without any pain or suffering. The bill will never become due.

These trends can last hundreds of years. Things go well for a long time—empires grow and grow—and then they don't go so well, and finally everything collapses. I suspect that the American society, the American economy, and the American state are close to the peak of the curve. The limit may soon be reached as to how much can be borrowed and promised. The state can't promise much more. It has no way to pay for it. America's emphasis on militarism may well be a result of the state being totally strapped and looking for emergency exits. We may be broke—in a sense, we are broke—but we are still the world superpower.

Like people, institutions get old, become expensive to maintain, and eventually they die.

We believe not only that our democracy is the best system in the world, but also that our mixed economy is the best thing that has ever been created. Francis Fukuyama, a neo-conservative thinker, dubbed this situation “the end of history,” because you couldn't improve on it, that's where progress rests. In fact, what is happening is that the both our democratic state and our mixed economy are adding institutional weight. Government in America has now promised to people benefits stretching out to when hell freezes over. The difference between what those benefits cost and what the government is likely to receive in revenues has been calculated at 54 trillion dollars. Now, there is

no way in the world that this gap can be closed in any reasonable way. You can't raise that much in taxes because people will revolt. And you can't say, "Well, we have decided simply not to pay Social Security benefits or health benefits," because people have built their lives on these entitlements.

I have been much influenced by John Flynn's *As We Go Marching*, in which the author explains how, once a country gets very deeply into debt, sustaining classical liberalism and individual liberty becomes very hard. Flynn argues that as Italy and Germany were sinking into deep debt at the end of the nineteenth century and the beginning of the twentieth, the only way to get the support of the conservative element in society was to add warfare programs to social programs. The same seems to be happening now in the United States. It used to be that if the federal government went deeply into debt, the Republicans, who were in favor of balanced budgets and sound public finances, would howl. But get yourself into a war, and the Republicans (as well as the conservatives in general) go silent.

A similar institutional logic seems to be at work in the economy. A current account deficit means that one country is getting richer than the other. God may not care whether the Chinese or the Americans own U.S. bonds, but whoever owns them is richer than the person who has to pay them. This is the difference between a lender and a borrower. In recent times, the United States has been a borrower, borrowing lots of money from overseas. Sooner or later, the United States is going to have either to cut back on its standard of living and pay off the foreign debt, or somehow renege on its obligations, which is the most likely outcome. It is true that, for a large part of its early history, America was a net debtor nation. English capitalists invested in American businesses, which implies that America ran a huge current account deficit. This was the period when America was growing. Capital inflows were invested in factories, which would later produce profits. Now, we are running a current account deficit not for the purpose of investing in factories or productive capacities, but in order to consume—in large part through the federal deficit. We are borrowing money to spend. We will be poorer at the end of the day, not richer.

The information revolution, including the Internet, is the great technological innovation of our time. Many people thought that the computer would be a liberator. In a way, it is. It certainly liberated me: I am now free to work where I want. But the revolution promised much more. It was suggested that people would no longer be held in submission as everybody had a laptop,

everybody could obtain whatever information he wanted, get the best prices, beat the regulators, and discover the glories of liberty—online. But so far, what we have seen is just the opposite. The technological revolution has not liberated individuals from the power of the state; on the contrary, it has given more power to the state. People are not only less free today than they were two hundred years ago; they are less free than they were three years ago. For example, they now scan your passport, which allows for much more rigorous and severe tracking.

Revolts are not pieces of cake. In order to have liberty, the institutions of control must be abolished, and they do not go gently into the starry night. Some kind of upheaval is required. Russia had it in 1917, and a whole new program of oppression followed. If you read Russian authors from the early 1920s, you see that freedom is what they thought they were after. They were free to remake the whole face of Russia, and they had new ideas—and the ideals of Marxism-Leninism—to guide them. Their assemblies were lively with everybody voicing his opinions. Gradually, however, the screws of authority were tightened up, and pretty soon freedom disappeared.

Today, ironically, Russia is freer than America in tax matters, and in many other ways too, simply because many of the Soviet-era control systems have disintegrated.

Back to the United States—and to Canada and the Anglo-Saxon countries. We observe the increasing weight of our institutions, which become more and more burdensome for individuals. In America, the apparatus of state control is heavier and heavier. The “Homeland” concept was invented to justify more control. And look at people around the world: they are not free. And when they had the opportunity to become free, they chose the other way instead.

In America, people show little interest in freedom, except as a campaign slogan. They stand in line happily to be searched. Standing in line is part of an irrational myth. People stand in line to vote, when clearly their individual votes are not going to make any difference—you will be struck by lightning many times before your vote changes the result of an election. At airports, people stay in line and watch grandmothers walk through full-body scanners.

In the St. Louis airport, I witnessed girl scouts being searched. Everybody in the line knew, as well as they can know anything, that these girl scouts posed no threats. Everybody knew that this was a farce, that there was no reason to search the girl scouts, who were obviously not going to blow up the plane. Yet

everybody was happy to see them searched. It's part of the myth: "I believe in the system so, of course, I believe in searching girl scouts. I know they won't find anything on the girl scouts, but that's the way the system works. It's got to be random because otherwise it wouldn't be fair. Otherwise, it would be selecting people on the basis that they might actually blow up the plane!"

Take another example. We are supposed to live a free society, but people are perfectly happy to tell others where they can smoke. You would think that a bar owner, a bartender, and their customers could decide among themselves. But instead, total strangers come in and say "No, you guys can't do that."

People in the land of the free and the home of the brave will go along with almost anything. They are perfectly willing to give up almost every trace of freedom as long as they have security and economic comfort.

I personally felt less obsessed by these matters when I lived abroad. I was happy on the other side of the globe. But then, when the wind came off the Atlantic, I sometimes got a whiff of it . . . a ghostly trace of what I once knew. I paused. I staggered. Then I remembered:

There a lot of exiles in this world. Each one has his own reasons. I had mine. *Long before I left America, the America I knew left me. I did not travel to get away from it, but to find it.*

We cosmopolitans don't know or care. We are cut off. Exiles from everywhere, and nearly everything. I worked in the office on the Fourth of July, and missed the Super Bowl, too. I had no voice in local politics. I was involved in no legal action committees. And I only read the local newspapers for entertainment. "What will those dumb frogs do next?" I asked. Meanwhile, the dumb things Yanks did irritated me so much I couldn't bear to read the headlines at all.

Was I lonely? Not so I noticed. Did I miss the Rose Bowl? I never watched it anyway. Was I starved for information? On the contrary, at a distance, I saw more clearly what went down in the homeland than people living in the middle of it.

But who protected me? Who looked out for me? Whom could I turn to get our highways and speeding tickets fixed? We exiles are exposed to harsh elements—always in danger of getting rounded up and shipped off. We are in danger of having our visas revoked, or having our property confiscated. But why would anyone want to get rid of me? I was no trouble. I could not vote. I did

not ask for services or benefits. I did not complain. What would have been the point? I spent money and paid taxes. Who could ask for a better citizen?

But the more cosmopolitan I became, the more I wondered about home.

Is there any sort of policy changes we could make to revive the idea of America? If it were somehow possible to motivate the Americans, to marshal their energies, what could be done? I don't know. But there is one thing I can say for sure, paraphrasing what Gandhi is reported to have said about Christianity: America is a very good idea; somebody ought to try it.

— *William Bonner*

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