

The
Age of the
Democratic
Revolution



PALMER

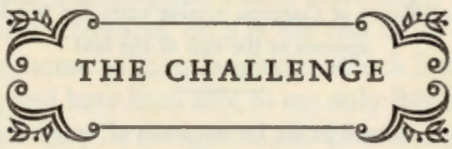
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The Age of the Democratic Revolution

*A POLITICAL HISTORY OF
EUROPE AND AMERICA, 1760-1800*



BY R. R. PALMER

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PRINCETON, NEW JERSEY
PRINCETON UNIVERSITY PRESS

1959

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struggle was primarily between a revolutionary French government and the conservative governments and governing classes of Europe, with many Frenchmen opposed to the revolution, and many other Europeans and Americans in favor of it. At a more specialized level, there has been much research and writing in many countries. There are, for example, excellent studies of the Jacobin clubs in France, of the democratic-republican societies in the United States and of the radical societies in Great Britain, and we know that there were similar political clubs, at the same time, in Amsterdam, Mainz, Milan, and elsewhere. But only very recently has Professor Godechot undertaken to study such clubs as a whole, comparing their membership, their methods, and their stated aims. In all countries it has been the national history that has mainly occupied attention. The literature on the French Revolution is enormous, but most of it is focused on France. Italians have published abundantly on their *triennio*, the three revolutionary years in Italy from 1796 to 1799. Swiss, Belgians, Dutch, Irish, and many others have provided a wealth of materials on their respective histories at the time. The years from 1763 to 1800 have always been a staple of American historiography. But the work has been carried on in national isolation, compartmentalized by barriers of language or the particular histories of governments and states. All acknowledge a wider reality, but few know much about it. This book, in a way, is simply a putting together of hundreds of excellent studies already in existence.

Recently, probably because we live in a period of world revolution ourselves, there has been more tendency to see an analogous phenomenon at the close of the eighteenth century. Alfred Cobban and David Thomson in England have spoken of a kind of Democratic International at that time, and Louis Gottschalk of Chicago has stressed the idea of a world revolution of which the American and French Revolutions were a part. Only certain French scholars in the last decade, Lefebvre, Fugier, Godechot, have undertaken to develop the idea in detail.⁵ Godechot's recently published two volumes are a remarkable work, built upon extensive and difficult researches, and analyzing the revolutionary social classes, organizations, clubs, methods, propaganda devices, ideas, objectives, and achievements with great care. They are

⁵ G. Lefebvre, *La Révolution française* (Paris, 1951) in the series *Peuples et civilisations*, xiii; A. Fugier, *La Révolution française et l'Empire napoléonien* (Paris, 1954) in the series edited by P. Renouvin, *Histoire des relations internationales*, iv; and especially J. Godechot, *La Grande Nation: l'expansion révolutionnaire de la France dans le monde de 1789 à 1799* (Paris, 1956), 2 vols.

of democracy will continue. He is surprisingly like Tocqueville a century later in his view of French history—except that he is more unreservedly in favor of democracy than Tocqueville. We may note, too, in d'Argenson, the tendency to think of democracy as equality rather than as self-government, opposing it to "aristocracy," rather than to "monarchy." Both Helvétius and d'Argenson have left behind the traditional idea that only small and virtuous societies could be democratic.

The two nouns, "democrat" and "aristocrat," were coinages of the period, unknown before the 1780's. No "democrats" fought in the American Revolution; and the Age of Aristocracy, as long as it was unchallenged, heard nothing of "aristocrats." Neither word was current in English before 1789; in France, *aristocrate* crops up in the reign of Louis XVI, *démocrate* not until 1789. It may be that the words were first coined by the Dutch. It seems certain, in any case, that their first currency was in the Low Countries, in the Dutch revolution of 1784-1787 and the Belgian revolution of 1789-1791. We find *aristocraten* used by Dutch burghers as early as 1784. The Rotterdam patrician, van Hogendorp, writing in the French language in 1786, declares that his country is troubled by a cabal. "People say," he adds, "that this cabal is divided into aristocrats and democrats." "Aristocrat" entered into popular parlance among the Dutch in these years; but "democrat" remained rare, the popular party calling itself Patriot. In Belgium, however, that is, the Austrian Netherlands, in the revolt of 1789 against the emperor, the advanced party came to call itself Democrat. By January 1791 its leaders were speaking of *les braves Démocrates* and *les bons Démocrates*. One even wrote, "*Vive la Démocratie!*"

The extreme frequency of "aristocrat" in France during the Revolution is well known, and it seems to us to have been applied indiscriminately, and in fact falsely, to a great many people. To us the word means a member of an aristocratic class; it does not mean one who is an adherent of, or believer in, an aristocratic society. There is no reason, however, why it should not have had these meanings when it was coined. The word "democrat," conversely to "aristocrat," does not mean a member of a democratic class; it does mean an adherent of, or believer in, a democratic society. It is possible, therefore, that "aristocrat" was used less loosely and irrationally than is supposed, since there were undoubtedly millions of "aristocrats" in France in the extended and now obsolete sense of the word.

"Democrat" was rarely used in France, despite its currency in Bel-

over before it began, that it was the work of men's minds before they made it the work of their hands. This idea can be misleading, for with it one may miss the whole reality of struggle. The Revolution was not merely the attempt to realize in practice ideas which had already conquered in the realm of thought. No ideas had "conquered"; there was no "climate of opinion" of any specific social or political content. The Revolution was a conflict between incompatible conceptions of what the community ought to be, and it carried out with violence a conflict that had already come into being. There is no reason to suppose (if we put aside historical metaphysics) that one side in this conflict was moribund, the other abounding with vigor; one, old and doomed in any case to extinction, the other, new and already riding upon the wave of the future. It is sufficiently enlightening to see it simply as a conflict, in which either antagonist would prevail at the expense of the other. It is hoped that readers of this book, whichever way their own sympathies may lie, may at least agree, upon finishing it, on the reality of the conflict.

In the absence of better words, and not wishing to invent more colorless sociological terms, we think of the parties to this essential conflict, so far as they may be reduced simply to two sides, as the proponents of "aristocratic" and "democratic" forms of the community, emotionally overcharged or semantically ambiguous though these words may be. It is held that both democratic and aristocratic forces were gaining strength after about 1760, that revolution came because both were rising, and that they took the form of revolution and counterrevolution at the close of the century, and of democratically and conservatively oriented philosophies thereafter. It follows that conservatism and counterrevolution were no mere "reactions" against revolution, but eighteenth-century forces against which revolution was itself a reaction. This idea is not the invention of the present author: recent works on the American Revolution emphasize the growing conservatism in British Parliamentary circles before 1775; Professor Valjavec insists that conservatism in Germany antedated the agitation of the 1790's; French historians stress the "aristocratic resurgence" preceding the eruption of 1789.¹⁵

The next chapter sets up one of the guiding conceptions of the book,

¹⁵ Cf. C. R. Ritcheson, *British Politics and the American Revolution* (Norman, 1954); F. Valjavec, *Die Entstehung der politischen Strömungen in Deutschland, 1770-1815*; (Munich, 1951); and the writings of Mathiez, Lefebvre, J. Egret, and others on the French Revolution.

merchants and landowners, cobblers and lawyers, peers and gentry, canons and priests, professors and civil servants. They grouped themselves at various levels, local, municipal, provincial, national. For purposes of public representation they might come together, in some countries, into estates of the realm, in France as clergy, nobility, and Third Estate.

The constituted bodies did in fact often call themselves "orders" or "estates." Most of them had in fact originated in the Middle Ages. Persons did have rights as members of groups, not abstractly as "citizens," and all persons had some legal rights, which, however, approached the vanishing point for serfs in Eastern Europe and slaves in America. But whatever may have been true in the Middle Ages, a survey of the constituted bodies of the eighteenth century forces some emendation of Lousse's picture. It is true that something like a corporate society existed, but the most noticeable similarities in the constituted bodies are to be found in two other features. First, the concept of "order," as applied in practice in the eighteenth century, frequently meant that there were some orders of men whose function was to fill positions of governance, in state or church, as distinguished from other orders whose functions were different. Secondly, there was a strong tendency, about a century old in the 1760's, toward inheritance of position in this governing elite, either by law or in fact, a tendency for influence to accumulate in a few families, or, in more abstract terms, for the institution of the family to diffuse itself through the institutions of government, not to mention those of religion. The tendency in the constituted bodies was more toward the *Geburtsstand* than toward free association.

In short, the world had become more aristocratic. Aristocracy in the eighteenth century may even be thought of as a new and recent development, if it be distinguished from the older institution of nobility. In one way it was more exclusive than mere nobility. A king could create nobles, but, as the saying went, it took four generations to make a gentleman. In another way aristocracy was broader than nobility. Countries that had no nobles, like Switzerland or British America, or countries that had few nobles of importance, like the Dutch provinces, might have aristocracies that even nobles recognized as such. There were only two hundred actual nobles in England, but all Englishmen rich enough to travel seemed *milords anglais* on the Continent. Dutch regents, scorned as mere burghers at the Peace of Westphalia, were accepted as gentlemen a hundred years later. The grandfather

of Albert Gallatin was a citizen of republican Geneva who owned land across the French frontier, and who sat with the French nobility in the Estates General of 1789. Gouverneur Morris, the New York patrician, found the drawing rooms of England and the Continent open to him without condescension.

Aristocracy was nobility civilized, polished by that "refinement of manners" of which people talked, enjoying not only superiority of birth but a superior mode of life. It was a way of life as pleasing as any that mankind has ever developed, and which the middle classes were to imitate as much and as long as they could, a way of life characterized by dignified homes and by gardens and well-kept lawns, by private tutors and grand tours and sojourns at watering places, by annual migration between town and country and an abundance of respectful and unobtrusive servants. Indeed the date 1760 seems to mark a period even in the history of domestic service, at least for England. It appears that British servants were rowdy and insubordinate before this time, and terrorized house guests by their bold demand for tips; but about 1760 county meetings of the better families began to take the servant question seriously in hand, and "the transition to the more disciplined manservant of Victorian London began to take place."³

Aristocracy denoted also a concern for public business. The "aristocrat" (to borrow a term from eighteenth-century polemics) often had a public spirit, a desire to take part in organized government, hardly characteristic of the unruly noble of former times; or, perhaps, he only thought that governing others, being responsible for their welfare, in state or church, was the occupation most suited to a man of his standing whether or not he actually worked at this kind of occupation.

The following is a descriptive survey of the constituted bodies of the middle of the eighteenth century, with especial reference to their membership and recruitment. We move from east to west.

The Diets of Eastern Europe

The absence from Russia of bodies of the kind here described is only one of the signs that Russia, at the middle of the eighteenth century, did not belong to the region of Western Civilization. It was, however, moving in that direction. When the Empress Catherine, in

³ D. Marshall, "The Domestic Servants of the 18th Century," in *Economica*, ix (1929), 15-40.

Trade did not derogate, as at Milan; nor did its upper class earn a living by government, as at Bern. Half its people were citizens, half non-citizens, or *Hintersässen*, but no one received citizenship between 1763 and 1781, and in 1781 it was decided to admit no new citizens until 1790. Since the middle of the seventeenth century power had come into the hands of a few families, including the Burckhardts, to which the famous nineteenth-century historian belonged. Government was through a council which chose the magistrates and filled vacancies in its own ranks; politics within this council were dominated by the trade guilds. Of all magistrates chosen between 1529 and 1798 almost half belonged to the guild of big merchants known as the Key.¹¹

Geneva, the city of Calvin and Rousseau, renowned among European intellectuals as the model republic, was an independent little place of 25,000 people, in most ways not yet really united with the Swiss confederation. The much-traveled William Coxe thought it halfway between the aristocratic and popular cantons. Five orders of persons lived under its laws; at the top, the "citizens," who had the legal right to hold office, and of whom Rousseau was one; next, the "burghers," who had the right to vote but not to hold office; next the *habitants*, who had certain rights to carry on trades in the city, but no political rights; then the *natifs*, born in the city but not of citizen or burgher parentage; and finally the *sujets*, the rural people outside the city, and governed by it. Government was by a Small Council (of twenty-five members) and a large Council of Two Hundred. The latter elected, or in fact confirmed in office from year to year, the members of the Small Council, which in turn designated the membership of the Two Hundred. By this system of mutual co-optation a few families had come to monopolize office, and so to create what was in effect a sixth order of patricians. The remaining citizens, who had the right to hold office but never did so, became indistinguishable in practice from the burghers. Burghers and citizens, some 1,500 in number, met in a kind of town-meeting along the lines of direct democracy in a General Council, and there proceeded to elect four syndics or executive officers of the city; but they elected from a slate proposed by the Small Council of twenty-five, which always put up its own members as candidates. Democracy was thus held in a tight leash at Geneva, but it never submitted entirely. As the Encyclopedia Britannica put it in 1797, "during the whole of the last century the history of Geneva affords little more

¹¹ *Dict. . . . de la Suisse*, "Bâle."

than an account of the struggles between the aristocratical and popular parties."

The most famous of all citizens of Geneva, Jean-Jacques Rousseau, was of one of the lesser families whose members never held office. Albert Gallatin, Jefferson's Secretary of the Treasury, was born a Geneva patrician in 1761. We have observed how his grandfather mixed with the French nobility. Gallatin himself tells in his memoirs, as a good Jeffersonian democrat, how he chafed at the aristocratic surroundings of his boyhood, spurned his grandmother's offer to get him a commission in a Hessian regiment bound for America, and emigrated to the New World on his own initiative instead.¹²

The free cities of Germany, some fifty in number, were in some ways like the more urban of the Swiss cantons and are of interest for the light they throw on the German middle class. Like the Swiss towns, they varied. Nuremberg, for example, was highly aristocratic—"the very El Dorado of family rule right down to our own days," as a writer in the time of Bismarck said. Its governing council and higher offices were filled by members of twenty families. These patricians permitted no one but themselves to wear swords or hats with plumes. Their sons studied and traveled at public expense. Their daughters received dowries from the city treasury. Cologne was more democratic in that, as at Basel, the guilds had in principle a good deal of influence. The Cologne guilds elected the members of the town council. But here, too, the same tendency toward self-perpetuating magistracy was apparent. Resistance of the citizens to these usurpations, sporadic since 1680, began in earnest in 1774, and lasted until the arrival of the French armies in the war of the French Revolution. Similarly at Speier the guild rule of the fourteenth century became the rule of the Thirteen in the seventeenth century and of the Five in the eighteenth—and the French in 1792 were at first regarded by many as liberators.¹³

Frankfurt was a commercial and governmental city, with a population very mixed in religion. A proverb had it that at Frankfurt the Lutherans spent their time in government, the Catholics in prayer, and the Calvinists in making money. There was also a large Jewish community. The governing council chose its own members, who served for life. Any citizen, if a Lutheran and the son of a citizen, might legally be chosen, but in fact the usual family monopolies de-

¹² *Dict. . . . de la Suisse*, "Genève"; G. Vallette, *Jean-Jacques Rousseau Genevois* (Geneva and Paris, 1911).

¹³ Von Maurer, *op.cit.*, iv, 146-47, 160.

with nobles sent deputies to estates of the seven provinces; deputies of the provinces constituted their High Mightinesses the Estates General of the United Provinces, which, together with the stadtholder, presumably ruled the country, or at least represented it in foreign affairs. Before 1748 there had been a period of almost half a century without a stadtholder, called the Age of Freedom or *ware vrijheid* (as in Sweden), during which the town oligarchies became thoroughly entrenched. "Everything tended to the domination of the few."¹⁶ Ruling families, those holding office from generation to generation, were called regents. Each town had its regents, but those of Amsterdam were the most powerful, and had a general influence throughout the country. Their stronghold was the *vroedschap* or council of Amsterdam, a body of thirty-six men who sat for life. This council coopted its own members, chose the burgomasters of the city, and elected the deputies to the estates of Holland, which in turn preponderated in the Estates General of the union. "An alienation developed between rulers and ruled. The former became a class by itself, in which the admission of *homines novi* became very rare."¹⁷ Government became a source of income for this upper class. The Amsterdam regents had no less than 3,600 offices at their disposal; one made 22,820 guilders by the sale of offices in seven years.

Between the fragmented republicanism of the small states just described, the magnificent monarchy of France, and the parliamentary regime of Great Britain there were obviously great differences, but the tendency to self-perpetuation in office was universal. It is illuminating to glance at the towns in England and France. They resembled those of the Netherlands and central Europe; each had its peculiar variations, but all showed their common origin in the great town-building era of the Middle Ages, from which each derived some sort of council or councils and some faint vestiges of a former popular organ of government. In both England and France, it appears, the town councils became increasingly closed organizations, and in that sense more aristocratic; but in both countries in the eighteenth century they lost out in real power, since both the Bourbon monarchy and the British Parliament, using the authority of central government

¹⁶ I. H. Gosses and N. Japikse, *Handboek tot die staatkundige geschiedenis van Nederland* (The Hague, 1947), 637.

¹⁷ *Ibid.*, 635. See also J. E. Elias, *De vroedschap van Amsterdam 1578-1795*, 2 vols. (Haarlem, 1905) and the histories of the Netherlands in English by Blok and Edmundson.

share in legislation, claiming that they must register or "verify" every royal ordinance before it could take effect.

Seats in the parlement were for the most part owned as personal property. Members were thus neither elected nor appointed, but sat by personal right, and they could not be removed even by the King. The institution of property in office, though known almost everywhere in Europe, had been most fully developed in France and had been growing for over two hundred years. Hence, in the eighteenth century far more seats in parlement were inherited than were purchased. The King no longer sold them; they could be bought only from owners or heirs, who most often bequeathed them to sons, nephews, or sons-in-law. The *parlementaires* by 1750 thus constituted a hereditary magistracy going back three or four generations. They were now also nobles, and freely mixed and intermarried with the *noblesse de race*, descendants of the formerly feudal nobility. Their income came mainly from land ownership, and was sustained by the usual noble tax exemptions. With their legal education, their better habits of work, their living as neighbors in cities, their daily participation in public issues, their channels of regular access to the King and his ministers, and their facilities for meeting privately as recognized bodies in their several courts, the parliamentary nobility by the middle of the eighteenth century had assumed a leadership over the French nobility as a whole, with which they now generally made common cause. The older landed nobility at the same time obtained a kind of trained professional leadership that it had never had before.²¹

The Parlement of Paris was the most influential, with by far the largest territorial area. It consisted of 25 "presidents" and 165 councillors, who divided up as benches of judges to hear lawsuits, and came together to discuss and act upon political questions. In addition, the 49 peers of France belonged to the Parlement of Paris; they took no part in judicial business unless the case of a very high nobleman were involved, but sat with the others, at will, if greater political matters were at stake, such as resistance to measures taken by the King or his ministers. There will be much to say of the Parlement of Paris in later chapters.

The Parlement of Dauphiny, or Grenoble, is the one of which most is known from recent historical study. It consisted of 10 "presidents"

²¹ See F. L. Ford, *Robe and Sword: the Regrouping of the French Aristocracy after Louis XIV* (Cambridge, Mass., 1953), 188-201; J. Egret, "L'aristocratie parlementaire française à la fin de l'ancien régime," in *Revue historique*, 208 (1952), 1-14; F. Bluche, *L'origine des magistrats du Parlement de Paris au 18^e siècle* (Paris, 1956).

and 54 councillors, plus 3 royal prosecuting attorneys; the bishop of Grenoble also had a right to sit, without a vote. In 1756 only 11 of the 67 were "new men," that is non-nobles or nobles of the first generation. In that year some people in the French government had the idea of a "commercial nobility," like the one dear to Goethe's uncle at Frankfurt, and such as existed in restricted form at Lyons and a few other mercantile centers—a nobility designed as an incentive to businessmen, by which they could become nobles while still remaining in business. "The very thought of a commercial nobility," announced the *parlementaires* of Grenoble, "has revolted one of the best constituted parlements of the kingdom." It was now as long ago as 1600 that most of them had had bourgeois among their progenitors. In 1762 the parlement, which like many other such councils in Europe enjoyed a free hand in determining its own membership, ruled that henceforth new members must have either parliamentary ancestry or four generations of nobility in the paternal line. Lawyers of the Grenoble bar, seeing a natural outlet for their ambitions thus blocked more than ever, protested. The parlement made a concession: it might accept a barrister on the same basis as a noble if his father, grandfather, and great-grandfather had also been barristers and if his own "merit, fortune and marriage alliances" were sufficiently worthy. The Grenoble lawyers remained dissatisfied. "It is certainly not hard to find men with four generations of nobility to make magistrates of them," one of them wrote, "but it would be impossible to find a lawyer of merit who was the fourth generation of famous lawyers."²²

Parliaments and Assemblies in the British Isles and America

The familiar picture of the British Parliament in the eighteenth century can be profitably looked at in the context of the other constituted bodies of Europe. It consisted of King, Lords, and Commons. As Blackstone put it, the King sat in Parliament with "the three estates of the realm," the higher clergy, nobility, and commons; they and the King constituted "the great corporation or body politic of the kingdom."²³ Parliament governed; it was sovereign. "Men are con-

²² J. Egret, *Le Parlement de Dauphiné et les affaires publiques dans la deuxième moitié du 18^e siècle* (Grenoble and Paris, 1942), I, 21-24.

²³ W. Blackstone, *Commentaries on the Laws of England*, first published in 1765. Blackstone's views on Parliament are given in Chapter II of Book I. Porritt, *Unreformed House of Commons* (Cambridge, Eng., 1903) is still standard. For most statistical data

ected with each other," said Blackstone in speaking of Parliament, "as governors and governed; or, in other words, as magistrates and people." Parliament was not supposed to follow the wishes of voters or other influences "out of doors." Representation meant that certain people assembled from various parts of the country, as in Languedoc or Württemberg, but how they were selected was hardly a matter for Parliament to concern itself with. Hence the methods by which the House of Commons was recruited seemed less peculiar to contemporaries than to modern critics who see in the House an ancestor of democratic representation.

The King in Parliament was no legal fiction, as will be seen. The House of Lords in 1760 consisted of about 230 members. Twenty-six of these were the bishops of the Church of England. Like those of Languedoc they were mostly administrators rather than religious leaders, and spent their most constructive efforts on matters of state. Each of the 200 lay lords belonged to the House by personal right; most had inherited their seats, for the frequent creation of new peers began later with the younger Pitt, but the inheritance of most of them went back no further than the preceding century, so that their noble lineage was scarcely more ancient than that of French *parlementaires*.

The House of Commons consisted of 558 members, sent up from boroughs and counties. In every county all men possessing a freehold worth forty shillings a year appeared by personal right in a county assembly, where they chose two "knights of the shire" to represent them in Parliament. Copyhold, as a form of property in land considered inferior to the freehold, did not carry with it the right of suffrage. An attempt to give the vote to copyholders in the 1750's was defeated.

Four-fifths of the members of the House of Commons sat for the boroughs, but most "burgesses" in the eighteenth century were in fact country gentlemen. It has been estimated that three-fourths of all members of the House of Commons, from 1734 to 1832, drew their main income from landed rents. In some boroughs, notably Westminster, freemen in considerable numbers actually elected their burgesses; but in most, as is well known, other and diverse methods were used

used here I am indebted to G. P. Judd, *Members of Parliament, 1734-1832* (New Haven, 1955). See also H. E. Witmer, *Property Qualifications of Members of Parliament* (N.Y., 1943). It will be evident to the alert reader that I do not share the revisionist admiration shown by L. B. Namier for the old House of Commons in his *Structure of Politics at the Accession of George III* (London, 1929) and other writings.

to designate the incumbents. No town had received the borough right since 1678.

Since about the year 1600 members paid their own expenses and received no remuneration, so that only men of independent income, or those patronized by the wealthy, could afford to sit in the House. An Act of 1710, by which the landed aristocracy tried to check the moneyed and business interest, held that to qualify as a knight of the shire one must own land of an annual rental value of £600, and that even to qualify as a burgess one must own land of an annual rental value of £300. It was estimated in 1740 that there were only 2,800 men in all England with £600 a year from land, and hence able legally to sit for the English counties. The Act of 1710 was often evaded (though not fully repealed until 1858); landless men did sit in the eighteenth-century House, but only through the sponsorship or connivance of landowners.

The House of Commons was elected, in a sense, and thus differed from the more purely self-perpetuating and closed constituted bodies of the Continent. But Parliament as a whole may almost be said to have recruited its own members, especially when we consider that the King, through his ministers, was part of the Parliament, and remember that the Lords really named many members of the Commons. Many elections saw no contest at all. In seven general elections from 1760 to 1800 less than a tenth of the county seats were contested. Of the boroughs, some were purely inert in that their owners sold the seats or appointed the members without question; some seats were as much a property as seats in the French parlements. A few boroughs saw relatively democratic electoral contests; and in others small cliques and factions fought savagely, but without regard to public issues, to put their own men in the House. It may be added that Scotland sent forty-five members to the House of Commons. But the Scotch counties had fewer voters than the English, since the modern equivalent of forty fourteenth-century shillings was required in land. There were only 2,665 county voters in all Scotland, of whom 1,318 were what was frankly called "nominal and fictitious," that is, temporarily provided with land by some magnate in order to deliver a vote. The Scotch boroughs were generally "closed"; 25 men, with a quorum of 13, chose the members from Edinburgh.

The eighteenth-century House of Commons has lately been subjected to statistical analysis. It appears that over half of all persons who sat in it for the century from 1734 to 1832 had a close blood rela-

tive in the House before them; if more were known of more distant relationships the proportion would be higher. There were 21 Manneses, 17 Townshends, and 13 Grenvilles. A Wyndham sat in every Parliament but three from the Restoration to 1800, and indeed in half of all Parliaments from 1439 to 1913. After 1790 the number who had had fathers, grandfathers or greatgrandfathers in the House of Commons perceptibly increased. The trend in the eighteenth century, that is, was toward more family rule. A quarter of all members were baronets or sons of peers at the time they sat (i.e., noble by Continental standards); almost half were peers, sons of peers, or baronets when they died. The trend was toward an increase in this direction. The House elected in 1796 had 220 knights, baronets, sons of peers, and actual peers (that is, Scotch and Irish peers not sitting in the House of Lords). There was also a rising proportion of men who had been to the English public schools and to Oxford and Cambridge, where they absorbed the group spirit of a governing class. More also tended to be career officers in the army or navy. In 1754 career officers in the House outnumbered those trained in the law. The House elected in 1790 had 85 professional military officers, almost a sixth of its membership. On the other hand—and the point is very significant—an increasing proportion of the members had commercial interests, either as their sole economic concern or in addition to their interest in the land. Here the turning point came in the 1760's and gives weight to the old idea of an Industrial Revolution setting in at about that time. Before 1761 only 60 or 70 of the members had any financial interest in commerce, as had been true as far back as Elizabeth. By the 1780's the figure was 110, and it continued to rise.

The distinctive thing about the British Parliament, in contrast to similar bodies on the Continent, was, first, its very real power, since it governed the country, the King's ministers being part of it; and, second, the mixing of commercial and landed interests in it, even sons of peers sometimes having some activity in business, so that class lines were blurred, with gentry not altogether scorning the marts of trade, and the greater businessmen sometimes mixing with or even related to gentry. The easy exchangeability of landed and commercial property, and the attitude toward productivity and profit through rational management, shared by landowners and businessmen, gave a common ground of understanding. Nevertheless, the land and the aristocratic outlook continued to dominate.

Ireland was constitutionally a separate kingdom from Great Britain,

having an autonomous though subordinate parliament of its own. "Everything was sweetly and harmoniously disposed through both islands," according to the somewhat visionary picture drawn by Edmund Burke, "for the conservation of English liberties." Hence, wishing well to the Americans, he could offer Ireland "as my model with regard to America." The Irish Parliament, like the English, had two Houses, Lords and Commons. The Lords consisted of 142 temporal peers and 22 Anglican bishops, though the population was of course mainly Catholic. The Commons consisted of 300 members from counties and boroughs, as in England; some of the boroughs were in even worse shape than those of England, that of Tulske being described as a cluster of mud huts. In the Commons of 1775 the Duke of Leinster owned 11 seats, Mr. John Ponsonby 22. About 100 persons, 50 peers and 50 commoners, controlled two-thirds of the seats in the Irish Commons. No Catholic could be elected, and after 1727 no Catholic could vote. In any case most of a lifetime might pass without an election, since an Irish parliament lasted (until 1768) for a whole reign without renewal. In the reigns of George I and II there were no general elections except at the accession of those sovereigns.²⁴

British America, and especially New England, as John Adams remarked in 1774, had "a hereditary apprehension of and aversion to lordships, temporal and spiritual."²⁵ There were no lords in the British colonies, except occasional Englishmen visiting or stationed there; and no bishops. But there was a good deal of hereditary standing, with an apparent trend, as in Europe, toward its increase.

Each colony had a governor's council and an elected assembly. The councils were very important: they sat as supreme courts of law, they advised the governor, and they acted as upper chambers in legislation. Individual councillors often had great influence upon elections to the assemblies. Councillors, usually twelve in each colony, were appointed by governors; and the governors, normally Englishmen appointed in England and strange to the colony, naturally chose the leading local men to help them govern. A list of all who served on the councils before the Revolution, according to the estimate of Professor Labaree, would include ninety per cent of the "first families," that is the socially prominent families, of the colonial period. By the 1760's in most colonies these families had repeatedly intermarried, until "their gene-

²⁴ W. Hunt, *The Irish Parliament: 1775* (London, 1907), vii-xii, 54. Burke, *Writings* (1901), II, 171 (Conciliation with America, 1775). Lecky, *Leaders of Public Opinion in Ireland* (London, 1903), I, 78.

²⁵ *Works* (Boston, 1851), IV, 54, "Novanglus."

alogical trees became veritable jungles of interwoven branches, the despair of the researcher but the pride of their descendants."²⁶

Visitors to the restored buildings at Colonial Williamsburg can call the scene to mind. The capitol of the royal province of Virginia stands at the end of Duke of Gloucester Street, as it stood before the American Revolution. Its floor plan is like the cross-section of a dumbbell. At one end is the room where the elected assembly, the House of Burgesses, sat on rows of benches. The other end of the building was used by the governor's council. At this end, on the second floor, is a room with twelve high-backed armchairs. Here the council sat as an upper legislative house. Directly below, on the ground floor, is a courtroom, with twelve more high-backed armchairs. Here the council sat as the supreme provincial court. The point is that the same 12 men occupied both sets of chairs. We can easily picture them gathering also, by threes and fours, in the adjoining committee rooms or at the palace half a mile away, to consult with the governor on executive business. The 12 were appointed by the governor, and while governors came and went the councillors sat, in most cases, until death or extreme old age. They were a close-knit group. Ten of them, in the year 1775, as they looked across at their assembled colleagues in the high-backed armchairs, upstairs or downstairs, saw the familiar countenances of their own relatives by blood or marriage. Ten of them knew that their own fathers or grandfathers had sat in these same seats. In the whole period from 1660 to 1774, 91 persons were appointed to the council. Nine surnames accounted for almost a third of them—Page, Byrd, Carter, Lee, and 5 others.

It was much the same in the other British American provinces. In Maryland, in 1753, 8 out of 11 sitting members had fathers or grandfathers on the council before them. In New York, 25 out of 28 councillors appointed from 1750 to 1776 bore the names of great Hudson Valley landowners. When John Wentworth, a native of the colony, became governor of New Hampshire in 1766, he had on his council his father, an uncle, two uncles by marriage, a first cousin, a first cousin once removed, a step-cousin and the husband of a cousin—8 out of 12. By 1773, after filling a number of vacancies in the interim, he had raised the number of his relatives on his council to 9. In Connecticut, the councillors were elected by the freemen. There was less of a clearly marked and intermarried governing group in this highly republican colony, but the freemen, like those of Uri in Switzer-

²⁶ L. W. Labaree, *Conservatism in Early American History* (N.Y., 1948), 3.

land, elected and reelected men of the same families year after year. "The holders of twenty-five surnames occupied two-thirds of all the places in the Connecticut magistracy. These figures coincide almost exactly with those for Virginia." A Pitkin was elected 98 times; an Allyn, 77; a Walcott, 63. Nor is it to be supposed that the whole number of persons with these names was especially large. It may be pertinent, and may satisfy those methodologists who urge the historian to divulge his own prepossessions, to remark that a few years later there were in all Connecticut only 27 families by the name of Pitkin, whereas there were 160 families by the name of Palmer, none of whose offspring seems ever to have enjoyed the slightest political importance.²⁷ In neighboring Rhode Island, erratic in this as in other respects, there was more turnover in governing personnel.

If the American councils, like comparable bodies in Europe, showed a strong tendency toward self-perpetuation and aristocracy, the same cannot be said with equal force for the elected assemblies. The assemblies had limited powers; each was only one part of its colonial government structure; the right to elect assemblymen was usually restricted to property owners, who, however, were often very numerous; and apathy, inconvenience, lack of time, or the badness of roads often meant that the right was not used. Representation by towns and counties, as in Britain and Europe, was very uneven. Nevertheless, in a comparative view, having in mind how the House of Commons, the Estates of Württemberg, or the Third Estate of Languedoc was recruited, remembering that in Holland or Switzerland there were few real elections at all, and recalling that the political zeal of Poles and Hungarians was possible for not more than a tenth of the population, it seems certain that the Anglo-American colonial assemblies, before the American Revolution, were the most nearly democratic bodies to be found in the world of European civilization. Practice varied from one colony to another, and more is known about some colonies than others. In New Jersey, for example, where the election of 1754 aroused enough public interest to draw out most of the voters, it is known that almost all the freeholders, or about half the adult white males, voted in Middlesex county.²⁸ In New England, where there were few slaves and indentured servants, and where ownership of small farms was very common, almost every adult male had the right to vote.

²⁷ U.S. Bureau of the Census: *Heads of Families at the First Census . . . 1790: Connecticut* (Washington, 1908).

²⁸ R. McCormick, *History of Voting in New Jersey* (New Brunswick, 1953), 63.

Actual voting was sporadic, but over 90 per cent of all men over twenty-one years of age actually voted at Watertown, Massachusetts, in 1757; and over 80 per cent at Weston in 1773.²⁹

For completeness it is worth while to mention the *cabildos* or town councils of Spanish America. The *cabildo* was the one institution in the Spanish empire allowing a measure of public representation. Some of its members were appointed by royal authority, others owned or inherited their seats by property right, so that family groups infiltrated the councils here as elsewhere. In the eighteenth century, however, with the bureaucratic development under the Spanish Bourbons, the *cabildos* of America, like the *cortes* in Spain itself, no longer enjoyed their former activity and importance. They were not to revive until the eve of the wars of independence.³⁰

In summary, and here one may agree with Professor Lousse and the corporatist school already mentioned, nothing was more characteristic of the eighteenth century than constituted bodies of parliamentary or conciliar type. They existed everywhere west of Russia and Turkey. They were more universal than the institution of monarchy, more widespread than the famous middle class. All defended their liberties as they understood them; there was in many places a busy political life; discussion, protest, airing of grievances and refusal of taxes were very common. No one except a few disgruntled literary men supposed that he lived under a despotism. In defending their rights and justifying their pretensions, the constituted bodies elaborated a good deal of political theory. It was a political theory of a strongly historical kind, making much of the agreements, compacts, statutes, and charters of former times. It is not true that all eighteenth-century thought was unduly abstract or rationalistic; or, if some thinkers became belligerently rationalistic, it was because historical arguments were preempted by groups which made no secret of their exclusiveness. Nor did political thought arise merely from an emancipation of the mind, as a process of intellectual enlightenment, from the books of thinkers who defied the authorities of their time. It devel-

²⁹ R. E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691-1780* (Ithaca, 1955), 46; F. B. Tolles, "The American Revolution Considered as a Social Movement: a Re-evaluation," in *American Historical Review* (Oct. 1954), 1-12.

³⁰ J. M. Ots Capdequí, "Interpretación institucional de la colonización española en América," in Pan American Institute of Geography and History, *Ensayos sobre la historia del nuevo mundo*, 304-07; see also the remarks of C. C. Griffin, 110-11. Ots Capdequí, *Nuevos aspectos del siglo XVIII español en América* (Bogotá, 1946), 22.

offices from them. This was enough to arouse Saint-Simon. Normally the first to scorn such inferior nobles as owed their nobility to government service or outright purchase by their own grandfathers, Saint-Simon now rushed to the defense of the *parlementaires*. They were, he said, a useful "check" or "barrier" against the pretensions of the papacy and the usurpations of the King.²

The Peerage Bill failed to pass, and the power of creating new peers remained in the British crown. The Prince Regent's ideas for abolishing property in judicial office came to nothing, and the French parlements remained predominantly hereditary. But in both countries the same response had been aroused. A commonplace of eighteenth-century political thought had been stated: that nobility was a necessary bulwark of political freedom. Whether in the interest of a more open nobility, as with Walpole, or of a more closed and impenetrable nobility, as with Saint-Simon, the view was the same. Nobility as such, nobility as an institution, was necessary to the maintenance of a free constitution.

*Montesquieu, Réal de Curban,
Blackstone, Warburton*

Here, in the remarks of two practical observers, lay the germ of the thought of Montesquieu, a nobleman of the ancient stock who had inherited a seat in the Parlement of Bordeaux, was active in that parlement in the days of the Regency, and announced his ideas in systematic form in *The Spirit of Laws* some thirty years later. The strength of Montesquieu's book, published in 1748, lay in its firmly weaving together many diverse strands, each strand representing the position taken by actually existing institutions or groups of men. He combined the arguments of the old feudal and the new parliamentary nobility in France. He put together England and France, showing that each in its way had the institutions necessary for political liberty, England through its balance of King, Lords, and Commons, France through the moderating influence of "intermediate bodies" upon the crown. He transcended a purely nobiletarian view because he included groups of all kinds among these intermediate bodies: not only the nobility, but the French parlements as associations of judges, the seigniorial and ecclesiastical courts as distinct from the royal power, the clergy and the innumerable smaller corporations within the

² Saint-Simon, *Mémoires*, xxxvi, 308-09.

church, the provinces and towns as corporate entities, the guilds and professional associations of all kinds. Each of these, according to Montesquieu (anticipating the views already quoted from Professor Lousse), had its own rights, legal powers, and privileges. These were no mere grants from either a sovereign people or a sovereign King. Such rights could not lawfully be curtailed; they balanced each other, and prevented the undue concentration of power. "Abolish in a monarchy," said Montesquieu, "the prerogatives of manorial lords (*seigneurs*), clergy, nobility and towns, and you will soon have either a popular or a despotic state."

But Montesquieu, in wishing to concede appropriate rights to all, thought it appropriate to allow more extended rights for the more powerful elements in society. His reading of French history, and indeed of world history as he knew it, taught him that if the "great" did not have a great share in government they would rebel against it. They were ungovernable except on their own terms; if their interests were not protected they would not be loyal. Here is what he says in his famous chapter on the British constitution:

"There are always in a state some people distinguished by birth, wealth or honors; but, if they are confounded with the rest of the people, if they have only one vote like others, the common liberty will be slavery for them, and they will have no interest in defending it. . . . Their share in legislation should therefore be proportionate to their other advantages in the state."³

It is hard to deny the wisdom of this observation, or the truth of the historical perceptions on which it rested: the whole interminable story of barons' wars and noble rebellions lay behind it. It may be contrasted, however, with the thought of Rousseau, when he maintained, in the *Social Contract*, that the very fact that the force of *things* tended to destroy equality was a reason why the force of *law* should be used to maintain it.

The important personages would have their proportionate share in legislation, Montesquieu went on to say, "if they form a body which has the right to check the enterprises of the people, as the people have the right to check theirs." So he recommends that the legislative power "be confided both to a body of nobles, and to a body chosen to represent the people, with the two bodies having separate assemblies and deliberations apart, and separate views and interests." And, he adds,

³ *Esprit des lois*, Book xi, chapter vi. See also Carcassonne, *Montesquieu et le problème de la constitution française au 18^e siècle* (Paris, 1926), 76-77, 84-85.

since the judiciary is in a sense "null," it is the nobles who are especially suited to balance the executive and legislative powers. This telling passage suggests a number of elucidations. First, Montesquieu was no believer in one-class rule; he really thought that the "people," i.e., persons not noble, should have a role in the state.⁴ Second, he wanted to keep the classes distinct, with "separate views and interests." Third, by abstract analysis of the prerequisites of a free society, Montesquieu produces the Lords and Commons of England, with the *noblesse* and *roture* of France also present in his mind. Fourth, when he thinks of the separation or balance of powers in government, he is not thinking of the balance of executive, legislative, and judicial function, for the judicial power is in a sense "null"; he is thinking of the balance between King, nobility, and Commons, and nobility is the key element in this balance. If the French parlements serve as a balance, they are able to do so not because they are judges but because they are nobles—and hereditary nobles at that. Fifth, the later influence of Montesquieu in America should not be exaggerated. The idea of the judiciary as an equal third member in a system of government seems to have been developed by the Americans more than by Montesquieu, who saw no such staying-power in judicial office itself, unfortified by hereditary position or noble rank. Nor did all American partisans of an upper legislative chamber, during the formative years after the American Revolution, think that the role of a senate was to give proportionately greater political influence to men who already had a great share of social and economic power. Many did think so; but John Adams, at least, gave precisely the opposite reasons for creating an upper chamber, namely to prevent aristocracy by segregating the big people, "ostracizing" them to a separate chamber so that they could not infiltrate and pervert the popular house.⁵ Adams, too, had read the history of Europe, and had learned from it what Montesquieu had not learned, but what is now the commonplace of our textbooks and the view more congenial

⁴ Not that Montesquieu was without an extreme class consciousness. Cf. the note he made in 1729 on arriving in London from Holland, on a journey made in company with the Earl of Chesterfield: "A Londres, liberté et égalité. La liberté de Londres est la liberté des honnêtes gens, en quoi elle diffère de celle de Venise, qui est la liberté de vivre obscurément avec des p----- et de les épouser: l'égalité de Londres est aussi l'égalité des honnêtes gens, en quoi elle diffère de la liberté de Hollande, qui est la liberté de la canaille." *Oeuvres* (1955), III, 284-85. It is hard to see what Montesquieu could have meant by his reference to the Dutch, except that he preferred the English aristocracy (*honnêtes gens*) to the Dutch patricians, whom he seems to have regarded as *canaille*. As for the reference to the Venetians, p----- means w-----s.

⁵ *Defense of the Constitutions of the United States* (1786) in *Works* (1851), IV, 290-91. See also below, pp. 271-75.

to the modern mind, namely, that a strong executive is necessary to defend the many against the few. Nothing could be more remote from the thinking of Montesquieu.

In Montesquieu's system it was "honor" that supported free monarchies, and "virtue" that supported republics, whereas despotism, the third of his three categories of states, was maintained by "fear." By "virtue" he meant civic spirit, a lack of personal ambition, a certain self-effacement when necessary for the public welfare. By "honor," on the other hand, he meant a kind of self-assertion, a consciousness of one's rank in society, a desire for recognition and public esteem, an enjoyment of external marks of high position, a sense of obligation imposed by one's standing or the known deeds of one's ancestors, a greater readiness to accept danger than to incur disgrace, a refusal to be humiliated even by a king. Because noblemen had such a sense of honor they could not succumb to the fear by which despots ruled. They would resist their own debasement, and so protect the liberties of all. There is doubtless more truth in this diagnosis than is palatable to popular equalitarians. Palatable or not, there is no disputing that for Montesquieu the preservation of political liberty presupposed a hierarchic form of society and an aristocratic code of personal honor.

The *Spirit of Laws* set forth, in an amplified and cogent form, what members of the constituted bodies of Europe had long been saying in more fragmentary ways; it was therefore immediately popular, and influential in the formulation of constitutional thought. It has often been said that Montesquieu misunderstood England; it has been alleged that the growth of cabinet government in England, and the increasing power of the House of Commons, had already put Montesquieu's emphasis on a balance between King, Lords, and Commons out of date. It seems likely, however, that Montesquieu interpreted eighteenth-century England more correctly than some later writers who sought to make England prematurely democratic. There is ground for believing that the Prime Minister was more dependent on the King than on either house of Parliament. To Holdsworth, the authority on English legal and constitutional history, it seemed that Montesquieu, and along with him Delolme, Vattel, Blackstone, and Burke, were quite right in holding the separation and balance of powers, between King, Lords, and Commons, to be the distinctive feature of the British eighteenth-century constitution, as, he says, it remained down to 1832.⁶

⁶ W. S. Holdsworth, "The Conventions of the 18th Century Constitution," in *Iowa Law Review*, XVIII, 2 (Jan. 1932), 161-80. See also below, Chapter VI.

Montesquieu's book went through half a dozen French editions in three years. It was immediately translated into English, in which it reached its tenth edition by 1773. It was the best-known modern French book in America. It appeared in Dutch in 1771, in Italian in 1777, in German in 1789, in Russian in 1801, doubtless encouraged in Russia by the young patrician reformers about Alexander I. A traveler saw it in Hungary as early as 1751, translated into Latin, the official political language of the Magyars.

The extent of an influence is best seen when we find it in unexpected places, in the minds of men who are thinking of other subjects. Edmund Gibbon offers an example. Gibbon of course knew France very well. In Paris in 1763, he found that intellectuals and men of high social standing mixed more easily in that country than in England; he was a little irked to be received in France as a writer only, instead of in the quality of "a man of rank for which I have such indisputable claims."⁷ Years later, as historian of the Roman Empire, he related how in A.D. 212 all subjects of the empire became Roman citizens. He found here one of the causes of subsequent despotism and degradation. He was moved to make a general observation, using some of the very language of Montesquieu. "The distinction of ranks and persons," he says, "is the firmest basis of a mixed and limited government. In France the remains of liberty are kept alive by the spirit, the honors and even the prejudices of 50,000 nobles. Two hundred families supply, in lineal descent, the second branch of the English legislature, which maintains, between the king and the commons, the balance of the constitution. . . . The perfect equality of men is the point at which the extremes of democracy and despotism are confounded."⁸ So we are offered the choice, with nothing between: hereditary rank on the one hand, or "perfect equality" (and despotism) on the other.

Montesquieu was not a true conservative, because he was not satisfied with the way the Bourbon monarchy had developed and was developing in his time. Nor were the French parlements which after the mid-century drew so many arguments from Montesquieu by any means conservative, as will be seen. The Parlement of Paris in 1764 was already using the phrase, "the Sovereign, the Law and the Nation"—a forecast of "the King, the Law and the Nation" to which men took the oath of allegiance in the first years of the Revolution.⁹

⁷ Quoted by Elinor G. Barber, *The Bourgeoisie in 18th Century France* (Princeton, 1955), 133.

⁸ *Decline and Fall of the Roman Empire*, chap. lxiv.

⁹ Flammermont, *Remontrances du parlement de Paris au 18^e siècle*, II, 436.

there must be subordination. Some must give orders, others follow them. Réal cites various minor arguments, such as that variety makes the beauty of the world, that social order is willed by God, and that all is "marvelously" disposed in a great harmony; but he is willing to meet his adversaries on their own ground. "Degrees of dependence have been established only for common utility." (This is almost the language of the Declaration of the Rights of Man and Citizen of 1789.) "Why not confer this authority which must be respected upon merit rather than on external qualities?" No one would choose a ship captain for his birth; why, then, choose our governors in this way? Unfortunately, says Réal, the critics of hereditary position would be right only if men were always reasonable and just. Given men as they are, there would be no agreement on merit; each would think himself or his own leader more meritorious than others; conflict and even civil war would follow. It is better to hold to some unmistakable even if arbitrary sign, such as birth. Moreover, if a man really rose by merit, his equals and competitors would take offense, for his success would be a constant and bitter reminder of their own failures. "But in making position (*la grandeur*) depend upon birth, we soothe the pride of inferiors and make high position much less difficult to accept. There is no shame in yielding when I may say: 'I owe this to my birth.' This argument convinces the mind, without injuring it by jealousy. . . ."¹¹ which is to say that a society which accepts hereditary position is free from the tension, frustration, disappointment, and bitterness of a society based on rivalry for "success."

One looks up from Réal's book with a feeling that if the French had a revolution it was not because they were not forewarned, and that if modern society has developed psychological difficulties, it is not because these were not foreseen. But no attention was paid to Réal at the time, nor was there much encouragement for anyone to hold conservative opinions, outside of religion. This is because, in France, the aristocratic school was not conservative. In France the aristocracy hoped for change. It became disaffected toward the monarchy long before the middle class.

Not so in England. Here those who took part in the chief constituted bodies, the Parliament and the established church, had won out in the preceding century both against the King and against uprisings from below. Their problem was to preserve the constitution as it was. It is

¹¹ *Ibid.*, III, 227-30.

worth a moment to glance at two representative thinkers who wrote just before the revolutionary disturbances began.

William Blackstone went to Oxford in 1758 to occupy the newly created Vinerian professorship of law. The lectures he gave there developed into his *Commentaries on the Laws of England*. In his opening lecture he explained why English law could better be studied at Oxford than at the Inns of Court. It was because law was a proper subject of study by gentlemen who must govern the country, because at Oxford "gentlemen may associate with gentlemen of their own rank and degree," and at Oxford were assembled the future peers, future members of the House of Commons, future justices of the peace, landowners, lawyers, and clergymen. At the Inns of Court the subject was approached in too technical and vocational a way. Properly considered, the study of law was a liberal subject, a "science which distinguishes the criterions of right and wrong." Blackstone therefore proposed to impart, in addition to a certain amount of purely legal lore, a philosophical comprehension of the subject.

The philosophical arguments of the book are somewhat as follows: English constitutional liberties are "the residuum of natural liberty." They are in a sense the rights of all mankind, but by an inscrutable dispensation have been debased elsewhere while they survive in England, being "in a peculiar and emphatical manner the rights of the people of England." They are mainly the rights of personal liberty, personal security, and private property, but include also, as secondary rights calculated to preserve the primary ones, certain political rights specifying the composition and powers of Parliament. By the Rights of Persons the people are divided into certain orders, clergy and laity, nobility and commonalty; about forty status levels, from duke to laborer, are described. Rank and honors, by offering an incentive to virtuous ambition, are useful in a well-ordered state. A "body of nobility" curbs and protects both crown and people. Parliament is an autonomous body; the lords sit in their own right, and the commons serve for the kingdom as a whole, with no such dependence on their constituents as obtains in the United Provinces. Locke was mistaken in believing that, if Parliament abused its trust, the people retained a supreme power to "remove or alter" it. "So long as the English constitution lasts, we may venture to affirm that the power of Parliament is absolute and without control."¹²

¹² *Commentaries*, I (Philadelphia, 1860), 128, 140 ff., 144, 153, 157-60. The American

Blackstone was certainly conservative enough, even believing that no rights or wrongs existed in England except those actionable under English law. He thought that no power except Parliament itself could make changes in Parliament; certainly Parliament could not lawfully be influenced by pressures from outside. But Blackstone was not as conservative as conservatives were soon to become in the face of American and European developments. He could conceive of the possibility, in the 1750's and 1760's, of parliamentary reform. He thought it "a misfortune that deserted boroughs should continue to be summoned," and observed that "if any alteration were to be wished or suggested in the present frame of Parliament, it should be in favor of a more complete representation of the people."¹³

William Warburton, who rose to be the Bishop of Gloucester, published his *Alliance between Church and State* in 1736. He reissued it in various editions, including in the one of 1766 a lively rejoinder to Rousseau. His purpose was to justify the establishment of the Church of England, and of the Test Act designed to keep non-Anglicans out of important office. Could one sufficiently know the political writings of all languages it would doubtless be possible to find similar works from all countries in which there were religious minorities that had any recognized existence at all; for in virtually all states the holding of office was limited to persons of a preferred religion. Warburton's arguments could probably be found in Calvinist Geneva or Amsterdam, in Lutheran Württemberg or Sweden, and even in the Catholic states in the eighteenth century.

Church and state, he holds, are equals in a federal pact. It is "Hobbist" to suppose that religion was invented to facilitate government, and "papist," in his opinion, to believe that government exists to advance the cause of religion. Neither can be reduced to the other. But the church, having no power of compulsion, needs to be protected by the state. A particular religion is protected not because of its truth but because of its social utility. To argue the case for an establishment on the ground of religious truth leads to endless theological disputation. The whole "key" or "clue" to the question is to understand that a religion is established "not to provide for the true faith, but for civil utility." All religious beliefs should be tolerated, and Warburton prides himself, fairly enough, on being more indulgent than the French

editor, Sharswood, takes care to explain, in his notes, that in the United States the legislative body is not supreme, but exercises only powers delegated by the people.

¹³ *Ibid.*, 171-80.

what to naïve common sense seemed very peculiar, or to sensitive consciences actually unjust.

Uses and Abuses of Social Rank

There were, however, certain problems and paradoxes created by the institution of nobility. The hierarchic character of society produced difficulties for aristocrats themselves, for those beneath them yet close enough to mix with them or aspire to join them, and for society as a whole considered as an association of human beings with practical needs to be met.

A distinction may be drawn between two kinds of rank. On the one hand there is (or was) a diffuse kind of rank, or social standing, generally derived by the individual from the family of his birth, built into his personality from childhood, conditioning his attitudes to other persons, above him, below him, or his equals; a rank or standing accompanying a person everywhere, showing in his bearing and in his clothing; in the street, in the shop, or in the drawing room; in public and in private; among his intimates and in the presence of strangers. The man of quality in the eighteenth century expected to be, and usually could be, promptly recognized as such. It was this kind of rank that Gibbon wished his French friends would see in him, when they received him merely as an accomplished man of letters. The other kind of rank may be called specific or functional. It is rank held for a particular purpose within a particular organization of limited scope, and without significance outside the organization; a rank, or position, conveying a certain authority and a certain responsibility for the achievement of certain ends, set above some ranks and below others, but only within a chain of command or a hierarchy set up for a particular purpose, and outside of which the individual is considered to be like others. A major-general in civilian clothing doing his Christmas shopping in a department store becomes merely a shopper; he takes his chances with others, and cannot expect any unusual deference. A bank president driving his car through city traffic becomes merely a driver; he takes or yields the right of way without consideration of social standing; he may grumble, but grumbling does him no good; basically he accepts, and must accept, the equality of all persons who are equally competent as drivers. Doubtless the two kinds of rank overlap, in that diffuse or social rank helps to determine occupation, and specific or functional or occupational rank carries over into personality and social

standing. But the two are distinct enough. As Thomas Paine was to say later in a highly inflammatory work, if a man is called a judge or a general one may form some impression of what he is and what he does, but if he is called a duke or a count one can form no idea of what he is or does, or even whether he is a man or a baby.¹⁷

All societies require systems of specific rank. And a sort of diffuse rank will doubtless always exist. The peculiarity of eighteenth-century society was that specific rank was so largely determined by diffuse rank. It is probable, quite apart from the ethical merits of aristocratic and democratic institutions, that a complex and highly articulated society, moving toward what are called modernization or industrialization, will operate more efficiently, with less friction, complaint, or grievance, and with more effective discharge of its multifarious business, if specific ranks are filled with the least possible regard to diffuse rank, if generals are chosen purely for military talents and their authority is confined to strictly military affairs, if people accept each other as generals, bank presidents, motorists, or shoppers, according to circumstances of the moment, having otherwise about the same regard for all.

Europe in the eighteenth century, and Western Europe more than Eastern Europe, was already a complicated society, with elaborate mechanisms operating in the fields of government, production, trade, finance, scientific research, church affairs, and education. The allocation of personnel to these enterprises on the basis of birth and social standing could not but hamper, and even pervert (one thinks of the established churches, some of the universities, and many branches of government), the achievement of the purposes for which such institutions were designed. The old feudal days were over. It was no longer enough for a lord to look locally after the needs of his people. The persistence and even the accentuation of an aristocratic outlook derived from earlier and simpler conditions presented problems for European society itself, as well as for the individuals and classes that made it up.

Nobility in the old sense had been corrupted, so to speak, or at least turned from its early character, by two new developments which now reached their height: its association with money and wealth, and its use by governments as an instrument of rule. Wealthy men, whose grandfathers had been bourgeois, and who still owned and managed their wealth in bourgeois manner, even when it was in land, now belonged to the nobility in France and elsewhere. In England men of the same kind, while they could rarely become peers because the

¹⁷ *Rights of Man*, Everyman edition, 60.

peerage was so small, belonged in many cases to the higher levels of aristocracy. In Holland they were regents; in Milan and elsewhere, patricians. To the advantages of money were thus added the advantages of social rank, and the inheritance of property might carry with it the inheritance of nobility or its equivalent. Wealth, thus ennobled, could give preferential access to public office, a favored position in taxation, and membership in a select body, thought to be peculiarly necessary to the freedom of the state. "Another reason operates," Turgot once said, "to render privilege most unjust and at the same time less worthy of respect. Where nobility can be acquired by a payment of money, there is no rich man that does not speedily become a noble, so that the body of the nobles includes the body of the rich, and the cause of the privileged is no longer the cause of distinguished families against a common class, but the cause of the rich against the poor."¹⁸

In many countries it seems that the rich were becoming richer in large measure because of their rights of special access to government—because of their favored position in an aristocratically oriented society, whether or not they enjoyed the titles of nobles. Thus even in America the families that could get on to the governors' councils, and remain there from one generation to the next, made fortunes in the eighteenth century by receiving grants of western land from the crown. In England the landowners, because of their control of Parliament, were the more able to enlarge their estates through statutory enclosures. In Bohemia the princely families added to their properties while the lesser nobles lost. The patricians of Bern made an income by governing their subject districts, and the regents of Amsterdam profited from the 3,200 offices at their disposal. In France, in the eighteenth century the King no longer commonly sold offices, which were now inherited by their owners; but he could give pensions and gratifications to whom he pleased. There was nothing specifically French in this practice. In England, too, the government did not sell offices; it gave them away as a means of maintaining its influence in Parliament or, in general, of mollifying the aristocratic class. In England by 1700 "the majority of great old families were drawing large income from various sources—colonelcies in the army, pensions, ambassadorships, etc."—which for many families equalled their incomes from landed estates.¹⁹ The income from a mastership in chancery rose from £150 a year in 1620 to £6,000 in 1720. Shortly after 1800 the office of Chief Clerk of the

¹⁸ Quoted by D. Dakin, *Turgot and the Ancient Regime* (London, 1939), 274.

¹⁹ Habakkuk, "English Landownership 1680-1740," in *Economic History Review*, x (1939), II.

King's Bench brought £6,200 a year to its owner, who paid £200 a year to a deputy to do the work.²⁰

Thus while it is true that in some ways men governed because they were rich, it is equally true, or more so, that men were rich because they governed. Either they were able to perform public duties because they had private means, like the justices of the peace in England, or army and navy officers of certain kinds and ranks in all countries, whose salaries were too small to support the necessary manner of life. Or government itself, or various emoluments incidental to government, formed a source of income for people who were in a position to obtain them. And the people in this position were not the small politicians and grafters on the fringes of respectable society who derive a somewhat similar kind of profit from operations of government today; they were definitely of the upper class, the very guardians of liberty and of the state, peculiarly sensitive to considerations of honor; and such income from government office, or from church benefices, was thought to be especially honorable for people of this kind.

The institution of nobility, or high hereditary social rank, had also become an object to be used and manipulated by governments as a means of rule. Nobles could be turned into courtiers, as at Versailles. Or a king could make use of their great social prestige to awe the populace or impress foreign rulers, and incidentally bind the nobles more closely to himself, by making them into ambassadors or lords lieutenant or military governors with a good many ceremonial functions in addition to the practical ones. They also made good army officers, since they grew up in the habit of command; there was the additional advantage, for the king, that a nobleman turned into an army officer came under a measure of discipline. There was an increasing tendency in the eighteenth century for royal governments, which had usually established their authority in former times by drawing on the middle class, to put nobles into important civilian office. Increasingly the French intendants were nobles. In Prussia, it was in the reign of Frederick the Great that the crown for the first time favored the nobility in high office, and this remained the general practice thereafter.

Kings also could raise commoners to the nobility, or promote lower nobles to higher grades. The Hapsburgs after the reconquest of Bohemia in the 1620's had created a new Bohemian nobility to help keep the country loyal. They did the same after the reconquest of central

²⁰ K. W. Swart, *Sale of Offices in the 17th Century* (The Hague, 1949), 55-57.

Hungary in 1699, where such families as the Esterhazys received princely status in the eighteenth century. The Irish peerage had been created by the British crown for much the same purpose; the union of Ireland with Great Britain in 1801 was made more acceptable to Irish magnates by the creation or promotion of new batches of Irish peers. Often governments created new nobles in order to weaken or dilute the old ones. Thus the French monarchy, especially before 1700, had sold patents of nobility not only to make money but also to reward its servants, to please the ambitious middle class, and to build strength against the older feudal nobility. In England the frequent creation of new peers began in the time of George III and especially under the younger Pitt. Here, too, one purpose was to combat the aristocracy already established by creating a new one. "Pitt swamped the Whig oligarchy in the House of Lords."²¹

In general there were two possible lines of development, toward segregation or toward assimilation. A nobility or a patriciate might become more exclusive, impenetrable and purely hereditary. Or it might from time to time assimilate newcomers from the next lower classes. Exclusiveness was most rigid in the aristocratic republics, such as Venice or Bern or Nuremberg or Holland, or in monarchical states at times when the King was weak, as chronically in Poland, or during the Freedom Era in Sweden, or in England during the Whiggish generations before 1760, during which very few new peers were created. The class line was also all but impassable in the small German princely states, which had as many nobles as they needed; in the larger ones, even Prussia, and in the Austrian empire, with their more complex governments, cases of commoners rising to nobility through government service were more frequent.

It had long been easiest, in all probability, to rise to the aristocracy in England and in France. Blackstone was able to quote a sixteenth-century writer, Sir Thomas Smith: "As for gentlemen, they be made good cheap in this kingdom: for whosoever studieth the laws of the realm, who studieth in universities, who professeth the liberal sciences, and, to be short, can live idly, and without manual labor, and will bear the port, charge and countenance of a gentleman, he shall be called master, and taken for a gentleman."²² Much the same could be said for France, where, however, the way to nobility had lain more through

²¹ A. S. Turberville, "The Younger Pitt and the House of Lords," in *History* n. s. xxi (1937), 355.

²² Blackstone, *Commentaries* (Philadelphia, 1860), I, 406.

government service or purchase of titles. And if in England anyone with the proper bearing could pass as a gentleman, so in France all kinds of plausible people gave themselves out to be noble.

There are signs, however, that passage from the mercantile to the aristocratic ranks was becoming less common in both countries about 1750. In England, as land ownership became more concentrated with the enclosure movement, it was the men who already owned land that were buying more land.²³ Unbreakable entails of landed estates, recognized in English law only since the Restoration, were now producing what amounted to family trusts in the third and fourth generation. There was less movement from city to country than in the Tudor period. City men who bought rural acreage often did so only to have a place of residence in the country, or meet the legal qualifications for election to Parliament; they did not become country gentry—the two classes remained distinct. "Gentlemen's sons were less commonly apprenticed in towns. By 1760 the stratification was not like a system of caste, but it roughly blocked out the division of functions between different groups of the community."²⁴ The justices of the peace, formerly appointed by the crown, were now appointed by the lord lieutenants of the counties, who were usually peers. "Hence by the end of the century we get a social exclusiveness amongst the justices which led them to object to anyone engaged in trade or manufacture."²⁵ At the highest level, that of the peerage, there was a certain opening of the gates after the Whig oligarchy lost control. The House of Lords increased in size by about fifty per cent during the two administrations of the Younger Pitt. Pitt, however, used elevation to the peerage as a reward for eminent military or diplomatic service, or to gain the support of those who controlled parliamentary boroughs. Such new peers originated in the landed class, and their elevation signified promotion within the aristocracy rather than entrance of new peers into it. The idea that elevation of businessmen to the peerage began with Pitt seems to be a groundless historical cliché, for only one of Pitt's creations was a banker and City of London man.²⁶ The social distance between landed and commercial classes had perhaps never been greater in England than in the days of Jane Austen and the eve of the First Reform Bill.

²³ Habakkuk, *op.cit.*

²⁴ G. N. Clark, *Wealth of England to 1760* (London, 1946), 161.

²⁵ W. S. Holdsworth, "The House of Lords 1689-1783," in *Law Quarterly Review*, XLV (1929), 438.

²⁶ Turberville, *op.cit.*

In France the *noblesse*, comprising tens of thousands of families, corresponded socially to what would be called gentility in England. The difference was that English gentility was a vague standing recognized by society, while French *noblesse* was a status recognized by law and defined or created by the royal power. The French noble also possessed tangible privileges such as tax advantages, which the English gentleman did not enjoy, at least not simply on any legal ground of being a gentleman. Nobility in France, however, was common enough to be the accepted symbol of prestige. Not to be noble, or nearly noble, might be almost as embarrassing in France as not to be considered of the gentry in England. Many bourgeois respelled their names with a genteel or noble flourish: Robespierre as de Robespierre, Danton as d'Anton, Brissot as Brissot de Warville, Roland as Roland de la Platière. Carnot vainly tried to prove himself noble to impress the family of the girl he hoped vainly to marry.

Since the King could create nobles it was theoretically possible, in France, for the royal government to bestow the accepted prestige-symbol on successful men in all walks of life. The *élites*, as the French say, might have been assimilated to the *noblesse*, or nobility itself might have been transformed into a kind of legion of honor for men of notable achievement. Had this happened, there might have been riots and peasant uprisings, but no French Revolution.²⁷

There were reformers in the French government who saw this possibility. In 1750 the government created a *noblesse militaire*. There were then about 4,000 bourgeois officers in the army, and the decree specified that all of them after thirty years' service should receive quasi-noble tax-exemptions, or nobility itself if theirs was the third generation of military service. The tendency of the government, that is, was still assimilationist rather than segregationist. But the tendency of the nobles, the "real" nobles, was more segregationist than assimilationist. The nobles by birth were often impecunious, and for economic as well as other reasons disliked bourgeois competition for military appointments. They obtained for themselves, in 1751, a new *école militaire*, in which poor boys of four generations of inherited nobility could receive education at public expense; and in 1781, just as the thirty-year period specified in the edict of 1750 came to an end, aristocratic pressure forced the government to issue the famous ordinance of that

²⁷ M. Reinhard, "Elite et noblesse dans la seconde moitié du 18^e siècle," in *Revue d'histoire moderne et contemporaine*, III (Jan.-Mar. 1956), 5-37; L. Tuetey, *Les officiers sous l'ancien régime* (Paris, 1908); E. Barber, *The Bourgeoisie in 18th Century France*, 60-62.

The same problem existed in civilian branches of government. In some countries, notably in Prussia and Russia, civil servants were assigned an assimilated military rank, or put in a stated order of social precedence. Even Lenin, much later, it may be recalled, was the son of a middle-class inspector of schools, who enjoyed the assimilated rank of major-general. In Germany in the eighteenth century many middle-class people were finding careers in officialdom, and facing the problem of associating with social superiors who were only their equals, or less, in official employment. The Prussian King ruled that his administrative boards should pay no attention to differences of class origin among their own members, all of whom, as civil servants, came to enjoy certain noble privileges. But the trend in other German states was the other way. In Hanover a ruling in force from 1670 to 1832 held that noble councillors should take precedence over non-noble members of the same councils; and a similar rule existed in the archbishopric of Cologne.²⁹

As to effect on professional competence of socially exclusive methods of recruitment, very little seems to be systematically known. Egret's recent work on the Parlement of Grenoble is illuminating. He makes it clear that, because the parlement insisted on recruiting itself from its own sons (or from the fourth generation of nobility), its standards inevitably and lamentably declined. A royal ordinance required a minimum age of twenty-five years for an ordinary councillor, and of forty for a president or presiding judge; but the pressure to establish young men of the right families was too strong to withstand; and in 1756 half the councillors and all the presidents had come to their positions with "dispensations" for age. Other ordinances forbade fathers, sons, and brothers to belong simultaneously to the parlement, but were automatically disregarded. Members were required to have a degree in law, but the universities gave the degree with absurd facility, even telling candidates the answers to examinations in advance. Men who had no interest in law and no vocation for it as a profession, or who led scandalous personal lives most unseemly in judges, or who rarely attended the sessions but simply lived idly on their country estates, nevertheless belonged to the Parlement of Grenoble; it was their "family occupation," an investment of capital, a badge of rank; such men could of course always turn up for a political meeting, to defend

²⁹ F. Valjavec, *Entstehung der politischen Strömungen in Deutschland, 1770-1815* (Munich, 1951), 79; H. Rosenberg, *Bureaucracy, Aristocracy and Autocracy: the Prussian Experience* (Cambridge, Mass., 1958), 137-74.

the privileges of their bench. It must be added in fairness that in serious cases, as when it unanimously condemned one of its own members to be executed for murder, the parlement tried to do what was right; but it is not the rectitude of individuals, but the effect of the system, that is in question.³⁰

It is hard not to believe that other oligarchies did not suffer from the same internal problems and produce similar disadvantages for the public. The British House of Commons, though far more broadly based than the Parlement of Dauphiny, is at least to be examined with this thought in mind. It has been argued, with a great assemblage of detailed evidence, that the system of controlled boroughs, however strange it may seem to modern eyes, did have the advantage of bringing the commercial as well as the landed interests into the House. It appears from statistical study, however, that most commercial men in the House were not the nominees of patrons but sat for the small number of open boroughs in which they were elected by actual voters. It is also argued, in favor of the eighteenth-century House of Commons, that the system allowed able young men to enter politics at an early age. This advantage, if it was one, was by no means limited to England. It was clearly due to the influence of aristocratic family connections; and was probably as widespread as this influence. In England the average age of commercial men on entrance into the House of Commons was 40, that of country gentlemen 32; in Silesia the average age of commoners upon appointment to the governing boards was 42, that of noblemen 27. Over half the members of the Parlement of Paris immediately before the French Revolution were under 35. We have just seen that half the members of the Parlement of Grenoble took their seats before their twenty-fifth birthday. In England it was only a quarter of the Commons who first took their seats at age 25 or before; but members who had had fathers or grandfathers in the House entered at an age averaging nine years younger than for others. We often hear of the youth of the French revolutionaries; we may fail to realize that the governing aristocracies of the eighteenth century were composed to a large extent of young men also.³¹

³⁰ Egret, *Parlement de Dauphiné*, 1, 19-27.

³¹ On the House of Commons see the works of Namier and Judd cited in note 23 of Chapter II. Holdsworth and Turberville also observe that the great Whigs hesitated to put into the cabinet, though not into Parliament, anyone who was not "one of themselves," and cite the fact that Edmund Burke never attained cabinet rank; see Holdsworth, *Law Quarterly Review*, XLV, 331. For Silesia see H. Rosenberg, *op.cit.*, 106; for France, J. Egret, "L'aristocratie parlementaire française à la fin de l'ancien régime," in *Revue historique*, 208 (1952), 1-14.

Ability cannot be so readily measured. There was William Pitt, prime minister at twenty-four, and a man of great talents and understanding in certain fields. It is impossible to say how many other youthful magistrates or politicians were like him, in England or elsewhere. What one knows of eighteenth-century Oxford makes one hesitate to generalize on the side of optimism; the studies at Oxford were no more difficult, and no more enlightening, than those required of young men at Grenoble. And as for the practical wisdom not to be learned at school, even Holdsworth, while praising the old House of Commons as a working institution, allows that the way in which it lost America, and alienated Ireland, constitute grave exceptions to the story of its wisdom and its triumphs. Birth and upbringing in a governing class doubtless give advantages to young men of ability and serious habits; but governing classes also produce other young men for whom a place must be found.

Another difficulty lay in the field of taxation. Outside of England, kings had pacified their nobles by granting them tax exemptions, and the republican patricians allowed various tax advantages to themselves. It is commonplace to observe that France was a rich country with a chronically impoverished government, that the inability to tax the wealthy, who were largely noble (though not all nobles were wealthy), was the basic cause of the French budgetary crisis, the mounting debt, insolvency, and revolution. Similar problems, perhaps less acute, existed elsewhere. A Dutch writer observes that the eighteenth-century United Provinces were a rich country with a poor government, and ascribes their decline as an international power in part to that fact.⁸² In fact the Dutch debt was about fifteen times as heavy per capita as the French debt in the 1780's. An Austrian writer remarks that certain moneys asked by Maria Theresa of the diet of Hungary, and which the diet refused, could easily have been paid from the incomes of a few bishops and magnates.⁸³ No European state except Great Britain could develop its full strength under the taxation system then in use, and even the British government until about 1780 borrowed heavily from private Dutch sources. The inflexibility of the taxation system was due mainly to institutions associated with aristocracy. It might be due also in some cases to historic regional liberties, as in Brittany, Hungary, or the American colonies of Great Britain; but in Europe,

⁸² I. H. Gosse and N. Japikse, *Handboek tot de staatkundige Geschiedenis van Nederland* (The Hague, 1947), 639.

⁸³ A. Arneth, *Geschichte Maria Theresas* (10 vols., Vienna, 1863-1876), VII, 112-13, 123.

1760) it was because contact between bourgeois and noble was very common, because the bourgeois class had grown up in close conjunction with the state and the monarchy, because for generations it had expected social ascent through the holding of office, and because the French bourgeois, perhaps more than the German burgher, looked on the noble way of life as the norm of desirable living. In France the most important of the bourgeoisie were office-holders and lawyers, but even the merchants, busy, successful, enterprising, and affluent as they often were at the time, seem to have shared in the idea that commerce was a somewhat degrading occupation—thus differing from their self-satisfied counterparts in England or Holland. The French bourgeois “identified” with the aristocracy. He, too, took pride in his ancestry. For him, too, business was something to escape from and rise above. Even in the “bourgeois drama,” so popular about 1760, the speeches on the dignity of trade were usually given by characters who were noblemen in disguise. A half-convinced audience, or half-convinced authors, found it more reassuring to hear middle-class life praised by their social betters. The hearty self-congratulation of Defoe in England did not exist in France.³⁶

The French bourgeois wanted nothing better than to become a noble, and there was no trace of revolutionary sentiment against the nobility in 1760, nor any feeling against the hierarchic organization of society. There was already much talk of “equality”; but coming from a bourgeois it was likely to mean that he wanted to be appreciated, or, from a noble, that he was willing to mix with, or even marry into, the more affluent or interesting strata of the bourgeoisie. There was no equalitarianism of thought or feeling. But precisely because bourgeois and nobleman did mingle there were psychological problems. Whether the magic circle seemed to close or to open, there were difficulties just the same. If it closed, as when the parlements or army became more exclusive, it recalled memories of days when access had been more easy. Consternation resulted for people who had no satisfying outlet within their own class. If the circle opened, it drew newcomers in at the cost of embarrassment and emotional insecurity. Adjustment was not easy at best; the lingering effects of certain bourgeois ideas, such as the belief in thrift, hard work, and marital fidelity, prevented the full enjoyment of the lavishness, leisure, and sexual license more characteristic of the upper class. Many bourgeois women married nobles, without coming to feel really accepted by their husbands’ families or

³⁶ Barber, *op.cit.*, *passim*.

engage pamphleteers to respond to tracts made public by the parlements. But at bottom the government supplied no information.

This was generally true of all countries. In England it was only in the 1760's that the substance of parliamentary debates came to be known "out of doors," or outside the two parliamentary houses; here, however, since the dominant group in Parliament was the governing group, led by the ministers themselves, the views and purposes of government came to be known. Thus in England a public opinion could take form around practical issues and concrete decisions, whereas in France, where public opinion was beginning to grow as it did everywhere in the Atlantic world, it took rather the form of what Tocqueville called literary politics. There was no public discussion by men in executive office or hoping to be so, or by writers associated with them and informed of their intentions. Discussion was carried on rather by intellectuals, *philosophes* and *hommes de lettres*, or by pamphleteers dependent on their sponsors. It tended either to be abstract on the one hand or to reflect mere intrigue on the other. Writers at their best under these conditions might be searching or even profound; at worst, they were merely voluble, polemical, or shallow; in either case they were uninformed.

Since the actual though unknown policies of the French government were often perfectly justifiable, and could have been made to appeal to important segments of the French population, it may be said that the main victim of the withholding of public information was the French monarchy itself, and that its failure was a failure of public relations. Or, in a more general sense, the unfortunate consequence was to favor ideology at the expense of realism in French political consciousness at an important stage in its early growth. The voice of opposition to government could be heard, but not that of government itself. The irresponsible talked, where the responsible kept silent.

Even within what must be called the government it was the most irresponsible parts that were the most public. The most visible aspects of the Bourbon monarchy were the worst. The kings had in fact devised a form of public relations aimed at impressing fellow monarchs, potent feudatories, and lesser people of an earlier day when they had been more naïve. Versailles symbolized this program. The royal court at Versailles was a monument to everything grandiose, lavish, magnificent, and openly displayed. It seethed also with the trivial and the petty. It represented, in the highest degree, the influence upon government of the non-governmental, the private, the "social." Composed of

the king, his wife, brothers, sisters, and relatives, his intimates and confidants and those aspiring to such position, high churchmen and princes of the blood, together with the households, retinues, and functionaries attendant upon such personages, reinforced by great noblemen and their clienteles, along with the mistresses, business agents, dependents, and servants of all and sundry, the court created an irresponsible and frothy environment in which the functioning officers of government had to work, when, indeed, they did not emanate from it in themselves. The Marquis d'Argenson, a firm upholder of monarchy against aristocracy, though inclined to be petulant after his own removal from office, described it very well, writing in 1750, privately in his diary:²

"The court, the court, the court! There is the whole evil.

"The court has become the only senate of the nation. The lowest lackey at Versailles is a senator, the chambermaids have a part in government. . . .

"The court prevents every reform of finances. . . .

"The court corrupts the army and navy by promotions due to favoritism. . . .

"The court gives us ministers without merit, authority or permanence. . . .

"The court corrupts morals by teaching intrigue and venality to young men entering upon a career, instead of emulation by character and work. . . ."

It must be noted, and probably d'Argenson would admit, that these evils were due not to the court alone, but to certain oligarchic and entrenched hereditary interests in French society, of which the parlements came to be the spokesmen. But the court at Versailles was easier to see.

With its most shameful parts thus paraded before the public, and its most creditable efforts studiously concealed, the French government was an easy target for all who had a mind to be critical. The charges against it, made with increasing openness from the middle of the century until the Revolution—that it was extravagant, wasteful, despotic, and arbitrary—were all true. The parlements enunciated many liberal principles in making these charges. It was also true that the government undertook many serious reforms, but of this part of the truth much less was heard, because it was the parlements, as much

² *Journal et mémoires* (Paris, 1864), vi, 321-22.

as the court, that brought these reforms down in failure. And public opinion, until late in 1788, generally supported the parlements. To the modern observer today nothing is clearer than that the Bourbon monarchy, in the generation before the Revolution, seriously attempted to solve the basic problem of French society, the existence of special privileges based on legal stratification or hierarchy; and nothing is more remarkable than that the French public, bourgeois and intellectuals, seldom saw this to be the issue, took so long to develop any sense of hostility to the nobility as a class, and so widely supported the Grand Whiggery of France, the noble-aristocratic-parliamentary opposition to despotism. The government was blamed by all classes for its faults, and received credit from none for its merits.

The Parlement of Paris, together with its sister magistracies in the provinces, had had numerous clashes with the royal government for half a century, when new royal enactments in 1763 opened the way to a quasi-revolution. It was the fate of the parlements that in launching a quasi-revolution in the 1760's they opened the way for the King, who crushed them in 1770 in order to drive through certain reforms, just as in launching a real revolution in 1787 the same parlements opened the way for persons acting in the name of the nation, and bent on a program of reforms not wholly unlike the King's in 1770. Between 1774 and 1787 a kind of parliamentary-aristocratic counterrevolution was at work, as again after 1789.

Before 1770, however, as again before 1789, the parlements contributed significantly to the political education of the French people. Their repeated resistance to the crown gave a respectable precedent for more flagrant disobedience. To force the recognition of a constitutional monarchy, they formed an unauthorized and extra-legal union—what Louis XV called an "association," a word that was to take on revolutionary implications in England and America also. They emphasized "law" as the basis of authority, and they declared that certain fundamental laws, or a certain constitution by which the royal and other powers were defined, already existed in France. They forced a definition and justification of sovereign power. They brought such key words as "citizen," "nation," "country," and "natural and imprescriptible rights" into the vocabulary of official debate. Increasingly they claimed, hereditary and closed bodies though they were, to "represent" the French people, and so raised the whole problem of the nature of political representation.

rushed to the defense of La Chalotais, and of the regular court system against such special administrative tribunals.

The Brittany affair thus brought to a head a movement that had gathered strength for several years. The parlements of Paris, Rennes, Grenoble, Rouen, Dijon, Toulouse, Bordeaux, and others (there were about a dozen with varying degrees of regional importance) had formed the habit of corresponding, exchanging documents, and supporting one another in altercations with the crown. They now claimed that they were parts of a general or super-parlement, a parlement of all France, of which the several actual parlements were simply subdivisions, or what they called "classes" in the older or Latin sense of the word. This parlement-in-general, they held, represented the "nation," by which they meant the people or the governed, whether of France as a whole or of Brittany and such sub-nations in particular. No law could be valid, or tax properly authorized, they asserted, without the consent of the nation as shown by its representative, the parlement.

This position assumed by the parlements was revolutionary in its implications, not only because the King rejected it, but because the law and constitutional practice of France gave it no support. Kings in the past had acknowledged the right of the several parlements to "register" legislation or remonstrate against it; but no King had ever agreed, nor parlement until recently claimed, that parlements had an actual share in the process of legislation. Nor was there any lawful ground for parliamentary unity. The several parlements had not arisen by devolution from the Parlement of Paris or from the King, as they now claimed. They were coordinate with the Parlement of Paris; that of Brittany, for example, was simply the modern form of the old high court of the duke of Brittany before the incorporation of Brittany into France. France had taken form by a gradual coming together of previously separate parts, not by delegation of authority to branch offices of an original central power. The claim of the parlements to be really one parlement was in line with historic development; it showed the growth of interests, contacts, communication, and joint action on the scale of France as a whole. But constitutionally, it was without foundation. The *union des classes* was as much the assertion of new and hitherto unknown power as the Continental Congress to which a dozen British-American provinces sent delegates in 1774.

That the parlements sought to turn themselves into a true national and representative body could be abundantly documented, but one quotation from a decree of the Parlement of Rouen may suffice: "By

the fundamental laws of the Monarchy the Parlement of France, the one and only public, legal and necessary council of the Sovereign, is essentially ONE, like the Sovereign whose council and organ it is, and like the political constitution of the State, of which it is the custodian and depository. . . . The Parlement is in each of its said classes [i.e. actual parlements] the plenary, universal, capital, metropolitan, and sovereign court of France." And in the name of this alleged national institution the various actual parlements persisted in telling the King that he owed his position to law, that he had taken an "oath to the Nation," that a true country, or *patrie*, was one where "Law, Sovereign and State formed an indissoluble whole," that the law existed only by consent of the Nation, that Parlement alone expressed the "cry of the Nation" to the King, and watched over, for the Nation, the maintenance of its rights, its interests, and its freedom. In short, the Nation and the Law were set up, not yet expressly in opposition to the King, but as his coequal.

After ten years of such legal harangues the indolent Louis XV was goaded by the Brittany affair into a rebuttal. Early in the morning of March 3, 1766, he rode at full speed with a few companies of soldiers from Versailles to Paris. Held up at the Pont Neuf, where he knelt in the street as the Holy Sacrament was carried by, he found himself in such a traffic congestion, it is said, that he simply walked the remaining steps to the Palais de Justice. While soldiers occupied the building, a few of the magistrates received him at the steps facing the Sainte-Chapelle. It was all too sudden to constitute a formal *lit de justice*. The King had not even brought his chancellor with him, but only a few gentlemen of his court. He sat in an ordinary armchair, in his ordinary attire; the hastily assembled members of the parlement wore their usual black robes. The royal speech was then read. The session is known in French annals as the *séance de la flagellation*.¹⁰

"I will not allow, [said Louis XV] an association to be formed in my kingdom that would pervert the natural ties of duty and obligation into a confederation of resistance, nor an imaginary body to be introduced into the Monarchy to disturb its harmony. The magistracy does not form a body, nor an order separate from the three orders of the kingdom. The magistrates are my officers, charged with the truly royal duty of rendering justice to my subjects . . ."

⁹ Bickart, *op.cit.*, 173. Bickart assembles numerous quotations from various parlements, under the topics of consent to law, national representation, and unity.

¹⁰ Flammermont, *op.cit.*, II, 554-60.

He flatly denied that: "all the parlements form a single body divided into classes; that this body, necessarily indivisible, is essential to the Monarchy and serves as its base; . . . that it is the protector and depository of the Nation's liberty, interests and rights. . . ; that it is responsible for the public good not only to the King, but to the Nation; that it is the judge between the King and his people; that it maintains the balance of government . . . ; that the parlements cooperate with the sovereign power in the establishment of the laws . . ."

He affirmed: "In my person only does the sovereign power rest, of which the distinctive character is the spirit of counsel, justice and reason. From me alone do my courts derive their existence and their authority, but the plenitude of this authority, which they exercise in my name, remains always in me. . . . To me alone belongs legislative power without dependence or division. . . . By my authority alone do the officers of my courts proceed, not to the formation of law, but to its registration, publication and execution. . . . Public order in its entirety emanates from me, and the rights and interests of the Nation, which some dare to set up as a body distinct from the Monarch, are necessarily joined with mine, and rest only in my hands."

Respectful remonstrance, made privately and decently, he would continue to allow; but he would not allow the parlements to proclaim to all France that submission to his will was a crime, or that "the whole Nation is groaning to see its rights, liberty and security perish under a terrible power"; for in that direction lay anarchy and confusion, and he would use all the authority he had received from God to save his people from such a fate.

Never had a French King made so strong an official statement of absolutism. One might be excused for believing, in the enlightened France of 1766, that if any sovereign power existed so enormous as the King described it, and from which all law and lawful authorities derived their existence, it was too much to be located in a single man. On the other hand, one could agree with the King that the parlements, as they really were, did not represent the French people any better than he did, and that officers of justice must draw their authority from some source outside their own hereditary positions. As events were later to have it, it was the new "body," the Nation, so passively argued over by King and parlements in 1766, to which sovereign power and the source of lawful authority were to be imputed.

The parlements were not intimidated by the King's blast against them. They continued their protests, remonstrances, and obstruction.

thus resumed the program of the tax decrees of 1763 which parliamentary resistance had rendered abortive. He made progress in getting modern and realistic valuations of landed income, and increased the yield of the *vingtième* by about one-half in those parts of the country where he could get reassessments made. He met with furious opposition, and though his private instructions to the intendants were full of wise and moderate counsels, he was denounced publicly all over France as a robber, an extortionist, and a minion of despotism. So great was the outburst from parliamentary pamphleteers, and later from outraged authors of memoirs (it was mostly the upper classes who wrote memoirs), that Terray has in fact enjoyed a rather poor historical press ever since, though he is a hero for M. Marion, the great authority on the financial history of France.¹¹

The reforming efforts of Louis XV, coming at the end of a long and unrespected reign, failed to capture the public imagination. The new courts were derisively called Maupeou parlements, and the tax reforms were considered no better than banditry. Not only were the few hundred families that had monopolized the old parlements now relegated, and hence disgruntled. The legal profession as a whole disapproved. It was hard to find men for the new positions. Public opinion, such as it was, opposed the change. It was in vain that a few writers, like the aging Voltaire, exposed the pretensions of the old parlements and heartily endorsed the new. It was in vain that a pamphleteer, perhaps hired by the government, declared that only despots or feudal lords combined judicial and legislative powers, which enlightened monarchs separated and balanced, and that if the old parlements were to triumph France would become a "republic" under "a monstrous hereditary aristocracy."¹²

The very limits of noble loyalty were strained. One excited aristocrat declared that France must be "de-Bourbonized."¹³ The self-interest of the nobility in the matter is apparent. Why the country as a whole should have agreed with the aristocracy is not so clear, yet is after all understandable. The old Louis XV had lost all prestige. He was even widely hated. The government simply was not trusted. And at best

¹¹ M. Marion, *Histoire financière de la France* (Paris, 1914), 1, 266-72; *id.*, *Dictionnaire*, 558.

¹² *Réflexions d'un citoyen sur l'édit de 1770* (n.p., 1770). 9. Voltaire wrote his *Histoire du Parlement de Paris* on this occasion. Egret, *op.cit.*, 272 ff., finds that in Dauphiny the old parlement had become so unpopular that there was much support for the Maupeou reforms.

¹³ Quoted by H. Carré, *La noblesse de France* (Paris, 1920), 233.

tion of restraints on trade, and reduction of military expenditure. They relentlessly pursued their Hat rivals, and showed an alarming willingness to accept dependence on Russia. Hats then drove Caps from office in 1769, aided by French money; but the British, as noted, spent £42,000 to prevent the Hats from supporting royal plans for strengthening the state. The Freedom Era had thus eventuated in blind factionalism accentuated by class conflict, with the "Swedish liberties" upheld by foreign interests, when Gustavus III arrived upon the scene.

Gustavus met the Riksdag in February 1771. "Born and bred among you," he proudly declared, though in unfilial reference to both his parents, "I hold it the greatest honor to be the first citizen of a free people!"¹⁶ The parties continued to dispute. The Caps, now controlling the three "unredeemed" chambers, demanded admission to office on grounds of "merit only." But they showed little responsibility; they arraigned Hats for trial, and actually, in 1772, at the very moment when the Polish partition was being carried out, sought closer ties with Great Britain and Russia.

Gustavus III, pressed by France, and arranging for troops to come from Finland, which, however, proved to be needless, executed an amazingly easy *coup d'état*. He rode into the streets with a white armband, which thousands of citizens of Stockholm enthusiastically adopted. He read a speech to the diet, deploring factionalism, and alluding to the "insufferable aristocratic despotism" from which he meant to deliver the country.¹⁷ He proclaimed a new constitution which the diet accepted. This document, in fifty-seven paragraphs, though derived primarily from earlier Swedish sources, also showed the influences of Montesquieu. It was the first written and consciously modern constitution in an era that was to produce many such. It divided power over legislation and taxation between the King and the diet, and it forbade extraordinary courts, while abolishing judicial torture, and assuring a moderate freedom of the press. A few years were to show that the Swedish nobility were not satisfied with the new arrangements. The next decade was to see an aristocratic resurgence in Sweden as elsewhere. Meanwhile, however, all seemed to pass by general acclamation. The Freedom Era was over. The country accepted its new royal leader with relief.

¹⁶ Quoted by Bain, *op.cit.*, I, 65.

¹⁷ *Ibid.*, 128. A French text of the Swedish constitution of 1772 is printed in L. Léouzon Le Duc, *Gustave III roi de Suède* (Paris, 1861), 347-66.

In France, there was quite a vogue for what they called the "revolution" in Sweden, soon eclipsed by more unbounded excitement over the revolution in the American colonies.

The Hapsburg Empire

The monarchy of Vienna was a kind of vast holding company, under which a great many subsidiary corporate structures remained much alive. There were the estates of the several provinces of the Austrian Netherlands, the area of the modern Belgium-Luxembourg without Liège. They represented not only the clergy and the nobility of the provinces, but also certain guild interests and certain of the Belgian cities to the exclusion of others. There were the various overlapping magistracies of Milan monopolized by the Milanese patricians. And, to omit lesser organizations, there were the diets of Bohemia and of Hungary, where town interests had been silenced and the landowning nobility and gentry entirely prevailed. The Hapsburg government was in continual conflict with these bodies, though in the 1760's and 1770's no such acute crisis developed as in France or Sweden.

It is necessary to emphasize, since after the revolutionary era it became so different, that for half a century before 1790 the Hapsburg government was one of the most enlightened in Europe, as enlightenment was then understood. Martini and Sonnenfels, professors at the University of Vienna, had great influence in affairs of state. Theirs was the pure teaching of enlightened absolutism. "A prince is the creator of his State," wrote Sonnenfels; "he can establish and develop in it what he wants, if only he takes the right measures."¹⁸ Ministers and administrators under Maria Theresa were zealous reformers. They had to be, if the monarchy was to survive at all. In the Succession War half the Bohemian nobles had collaborated openly with the French, when the French, occupying Prague, had attempted to set up Bohemia as an independent kingdom. In 1749, therefore, after restoring her authority, Maria Theresa had annulled the Bohemian charter and greatly cut down the powers of the Bohemian diet. The Bohemian nobles, one of whose grievances was the attempt of the Hapsburg government to build up legal protection for the peasants against them, complained repeatedly of the loss of their local rights. Maria Theresa, strongly backed by Prince Kaunitz and her other advisers, refused concessions. Kaunitz wrote to her in 1763:¹⁹

¹⁸ Quoted by E. Denis, *La Bohème depuis la Montagne Blanche*, 2 vols. (Paris, 1903), I, 513.

¹⁹ Quoted by A. von Arneth, *Geschichte Maria Theresas*, VII, 30-31.

"I am a Bohemian myself, and have lands in Moravia. If I considered only my own interests I would agree with those who wish to bring the nobility and the estates more to the forefront than they now are, or let them play a role in the central administration. . . . Other sovereigns seek increasingly to limit the nobility, because the true strength of the State lies in the greater numbers of the common man, who deserves the chief consideration and yet is oppressed more in Bohemia than elsewhere. . . . I need not recall the unpleasant memory of what happened in past years with the nobility and estates of Bohemia, but will only remind Your Majesty of the obstacles to desirable measures that we meet with from the nobility and estates of Hungary, Transylvania and the Netherlands."

He might have added the patriciate of Milan.

In Bohemia, as in eastern Europe generally, the peasants were in effect serfs owing uncompensated labor service to their lords. The dispute between the Vienna government and the Bohemian diet was a battle for jurisdiction over the mass of the Bohemian population. The Vienna government drew up *urbaria*, written documents limiting and specifying the kind, the amount, and the timing of labor due to the lords. The lords preferred for all such matters to remain under their own discretion. The peasants themselves took a hand by unorganized and violent rebellion; fifteen thousand of them besieged Prague itself in 1775. The government suppressed them, but at the same time gave up all pretense of conciliation with the nobility and the diet. The *urbaria* in 1775 were officially declared to be the law. The Bohemian aristocracy remained disgruntled but silenced, since the diet was not allowed to meet for the next fifteen years.

The Hapsburg government, like others, was in need of money after the Seven Years' War. It sought, like others, to increase its revenues, in part by reaching untapped sources of taxation, in part by raising the productivity of its territories. To stimulate production it campaigned against guilds and guild restrictions, and sought to merge small local units into larger trading areas with freer internal circulation of labor, goods and investment. The tariff of 1775, for example, brought Austria, Bohemia, the Netherlands, and the Milanese—the whole monarchy except Hungary—into a single protected tariff union.

Resistance was of course met with everywhere. In the Austrian Netherlands in these years it was sporadic, though incidents were numerous, as when the estates of Luxembourg, in 1768, refused to make

any accounting for their financial activities, fearing that certain hidden tax exemptions might be exposed.

At Milan certain younger members of the patrician class were beginning to feel the need of a change. Foremost among these was the economist, Pietro Verri. With a few others, including Beccaria, he founded the club called *Il Caffè* in 1761, which for a time published a journal of the same name. He was well acquainted with the French philosophers of the day. Indeed, a letter from the abbé Morellet to Beccaria, whose work on crimes and punishments Morellet translated into French—a letter in which Morellet described in highly unfavorable terms the politics of the Parlement of Paris in the 1760's—suggests the affinities between Milan and Paris, and the way in which reformers felt both their own efforts and the forces opposed to them to be of more than national scope.²⁰ Verri was to live to see, and accept, the Cisalpine Republic of 1797. At this time he pinned his hopes on the enlightened absolutism of Vienna. He entered into relations with Kaunitz and the young Joseph II, who became coregent with his mother, Maria Theresa, in 1765. "Whenever old disorders have been eradicated speedily and with success," wrote Verri, "it will be seen that it was the work of a single enlightened person against many private interests."²¹

The private interests at Milan were many-sided and complicated, though they all reflected a small number of people, the hereditary patriciate and its allies in the nobility and the church. They were entrenched in the Council of Sixty (or Decurions) of the city, in the Senate of the Duchy, and in other closed and self-perpetuating boards and councils. These bodies, and the local liberties that they represented, had been hitherto little affected by the annexation of Milan to the Austrian empire in 1714. Trouble began in the 1750's when Pompeo Neri attempted (like Louis XV's ministers in France) to introduce a census of all landed property with assessments in some correspondence to actual value. Verri, in addition, wished to get rid of the practice of tax-farming, which he thought very unfavorable in its effects on economic enterprise in the duchy. The tax-farm was in fact abolished in 1770. Such efforts of course ran up against powerfully entrenched interests. Plans for fiscal and tax reform therefore broadened out into plans for more general administrative and even constitutional change.

²⁰ This letter of September 1766 is reprinted by Glasson, *Parlement de Paris*, II, 304-06.

²¹ Quoted by Donald Limoli in "Pietro Verri, a Lombard Reformer under Enlightened Despotism and the French Revolution," *Journal of Central European Affairs*, XVIII (1958), 260. I am indebted in these paragraphs to Mr. Limoli and to Valsecchi, *Absolutismo*, II, 157-94.

day as he knew it, have thought that this society was in fact artificial and shot through with false values, and so have found in him an authentic human protest against bad conditions. Both can be true; it is hard to imagine any society in which Jean-Jacques would have been at ease; but the only society he could rebel against was the one he knew. In any case no one denies that Rousseau was personally very uncomfortable.

He became the great revolutionary of a revolutionary age. Among contemporaries who boldly rewrote human history, arraigned kings, and exploded religion, among humane and ingenious authors who proposed this or that change in government, or the economy, or education, or the law, Rousseau alone went straight to the absolute foundation. He revolutionized the nature of authority itself. He denied the existence of authority apart from the individual over whom it was exercised. For him there were by rights no governors and governed, no rulers and no ruled. There was even no law except law willed by living men—this was his greatest heresy from many points of view, including the Christian; it was also his greatest affirmation in political theory. He was the revolutionary *par excellence* because it was a moral revolution that he called for, a revolution in the personality and in the inclination of the will. Man, according to Rousseau, should act not from custom nor rule nor command, divine or human; nor from laboriously learned principles of proper behavior; he should act freely and spontaneously according to his own better self, the divine spark within him, the virtue which might be suffocated by a bad form of society, but which a good form of society could nourish and keep alive.

It must be added that Rousseau, the great revolutionary, was revolutionary in a somewhat negative way.² He produced no blueprint and wrote no utopia for the future; he pointed out what was missing in existing society. He joined no movements; indeed, when approached by certain Genevese intent on a small "revolution," he would not offer to aid them. He gave no practical advice; or when he did give it, as to the Poles, was notably conservative in some of his opinions. What he did, and it was revolutionary enough, was to undermine the faith of many people in the justice of the society in which they lived. In a neurotic and exaggerated way, because he felt it more keenly, he

² See the discussion by Peter Gay, and his valuable review of the literature on Rousseau as a political thinker, particularly p. 27, in his introduction to his translation of E. Cassirer, *The Question of Jean-Jacques Rousseau* (N.Y., 1954), to which I am much indebted.

having carefully read them; not enough time for study had intervened. It is probable that the Council wished to please the French government by this action. It is certain that they were annoyed at Rousseau for his role in the theater question, in which he had been hailed as a leader and spokesman by the discontented burghers of the city. It is probable, in view of the d'Alembert affair, that they wished to assure the world that Geneva had not fallen into unbelief. It is known that the Tronchin family spoke zealously against Rousseau in the Council; but whether Voltaire used his influence against him at this time is not clear.

At any rate the poor Jean-Jacques, who started for Switzerland after the condemnation of *Emile* in Paris, found the gates of his native city shut in his face, more purposely and more formidably than in his youth.

The Social Contract, 1762

If one were to name the one book in which the revolutionary aspirations of the period from 1760 to 1800 were most compactly embodied, it would be the *Social Contract*. Others of Rousseau's works probably had more direct and actual influence. His *Emile* presented the image, disconcerting for any professional clergy, of the reverent man who had no need for any church. His *Nouvelle Héloïse* estranged readers from their over-refined mode of life. His *Discourse on Inequality* offered passages on which social revolutionaries could seize to point out the evils of private property. Rousseau's influence on education, on literature, on pure philosophy, was conveyed by these and other works.

The *Social Contract* remains the great book of the political revolution. It appeared in no fewer than thirteen editions in the French language in 1762 and 1763. There were three editions in English and one in German in 1763 and 1764; it appeared also in Russian in 1763. Thereafter, except for a solitary French edition, it was not reissued until after the Revolution began in France. Perhaps the copies in existence were enough; perhaps, as has been argued, people did not much read it after its first publication. What is certain is that the greatest vogue of the book came after the fact of revolution. The book did not so much make revolution as it was made by it. Readers did not become revolutionary from reading it; but, if they found themselves in a revolutionary situation, they might read it to gain a sense of direction, or because propagandists put it before them. The *Social Contract* appeared in thirty-two French editions between 1789 and 1799.

(There were none under Napoleon.) It was printed three times in English in 1791 and once in 1795—and thereafter not until 1905. There were two editions in Dutch in 1793-1796, four in German between 1795 and 1800, eight in Italian during the *triennio*, 1796-1799. A Latin translation circulated in manuscript copies in Hungary in the 1790's. Four editions appeared in Spanish between 1799 and 1801, and many more in Latin America after 1810. It first appeared in Hungarian in 1819, in Greek in 1828, in Polish in 1839, in Czech in 1871. There were four editions in Russian in 1906-1907, and one in Turkish in 1910. It may be observed that in most of these countries publication was preceded by revolution or attempted revolution.⁶

It is well, therefore, to analyze again this much-analyzed work. Or, at least, in the absence of strict theoretical analysis, it is useful to point out the main ideas in the *Social Contract* which appealed to men in a mood of rebellion.

The best way to understand the book is not to compare its propositions to later democratic practice, which owes little to it except on the most abstract and fundamental level; nor yet to view it as an anticipation of totalitarianism, as if free societies did not also have to issue commands; but to contrast its doctrine with the attitudes prevailing at the time it was written, of which one of the most fundamental was that some men must in the nature of things take care of others, that some had the right to govern and others the duty to obey. It was abhorrent to Rousseau to obey anything or anyone outside of and foreign to himself. Yet he was no anarchist; he accepted the need for authority and public order. "Public order in its entirety emanates from me," Louis XV declared in 1766. The constituted bodies of the day, where they were supreme, such as the Parliament in Great Britain, made somewhat the same claim to absolute sovereignty; or they argued from history and tradition, that what gave legal and compelling force to law was a legal tradition, with old charters and constitutions, inherited from the past. Rousseau, who once observed that if God wished to speak to Jean-Jacques he should not go through Moses, also thought that no free man could be expected to obey a law on the authority of another. He must comply of his free will. Even if he did what he did not wish to, paid taxes of which he did not per-

⁶ S n lier, *Bibliographie des oeuvres de Jean-Jacques Rousseau* (Paris, 1949). For the Latin manuscript see Eckhardt as cited in Chapter IV note 22 above. Parts of the *Social Contract* may have been included in selections of Rousseau's writings or in other anthologies in some languages, but hardly enough to change the tenor of the above paragraph, which refers only to publication of the work as a separate item under its own title.

sonally approve, or fought in a war which he thought to be mistaken, he must yet in a sense be following his own inclination. Otherwise he would be only yielding to force; he would act only because of necessity; he would be justified in evading as much as he could, and free to rebel at pleasure, like the nobles of Poland.

The *Social Contract* was therefore a quest for rightful authority, for a form of state in which obedience would turn into duty, while all the while an ethical philosophy stressing individual liberty was preserved. Rousseau could find no place to locate this final authority except in the community itself. Those who obey must in the last analysis command. The subject must, in the end, be the sovereign—another of the famous "paradoxes" of Rousseau.

But what was the community? Before studying the act by which a people sets up a government, says Rousseau, "it would be well to examine the act by which a people is a people; for this act, being necessarily anterior to the other, is the true foundation of society."⁷ This act or agreement, "by which a people is a people," was in Rousseau's thought the one act that must be unanimous. On other and lesser questions there would be a majority and a minority. But why should a minority be bound to accept majority rule? Later generations, fearful of the domination of minorities by majorities, have often missed the force of this question, which, however, was by no means academic in the real history of Europe, where the right of minorities to ignore government, or rebel against it, had more than once led to ruin. It is right and necessary, according to Rousseau, for a minority to accept majority ruling, so long as they both agree (are "unanimous") that they constitute a people. If there is no such agreement there is no people, and no majority and minority, but only separate and hostile powers. To put it in another way, those who do not share in this agreement are not members of the people at all.

The "social contract" is this act by which a people is a people. It is an association "which protects the person and property of each associate by the common force, and in which each, uniting with all, obeys only himself and remains as free as he was before."⁸ And Rousseau, amplifying this idea, conjures up some of the key words of the coming generation (the italics are his): "This public person, thus formed by the union of all, took in former times the name of *city*, and is now known as the *republic* or *body politic*, which is called by its

⁷ *Contrat social*, Bk. I, Chap. v, ed. G. Beaulavon, 2nd ed. (Paris, 1914), 136.

⁸ Bk. I, Chap. vi, *ibid.*, 138.

members the *state* when it is passive, the *sovereign* when it is active, and a *power* when compared to others of its kind. As for the associates, they take collectively the name of *people*, and individually are known as *citizens*, in that they share in the sovereign authority, and *subjects*, in that they are subject to the laws of the state."⁹

The act of association produces a General Will, the will of the community as such, which includes the willingness of minorities to abide by majority decisions, and of individuals to accept actions of government that they do not personally favor. Any member may be obliged by the community to obey this General Will: "which is to say nothing else than that he will be forced to be free."¹⁰ Here, too, it is easy to travesty or misrepresent Rousseau's real meaning, which is perfectly consistent with a liberal and democratic practice: the existence of the community and the liberty of its members require all to respect its authority. It must be remembered that, for Rousseau, the General Will and the sovereignty of the community operate only at an abstract or distant level, as the framework or prerequisite within which more specific actions take place. Strictly speaking, he observes, the only act of sovereignty is the act of association itself. Sovereignty, though "wholly absolute, wholly sacred and wholly inviolable," is limited to general agreements (*conventions générales*). To suggest an elucidation which he does not himself give: There may be two parties in a state, which to avoid all suggestion of ideology or partisanship we may call the Greens and the Blues. If the Greens, using legal channels, and having a majority at the moment, obtain passage of a law, it is not merely a Green law but a law of the state. The Blues have voted against it, but they accept it as law, and not as a mere act of force. They obey it as such, for it gains the force of law not by will of the Greens, nor even by will of a majority only, but from the underlying general will of both Greens and Blues, a general will which is the essence of the civil community, and is the only sovereign that men need obey. If there is no such will, or such sovereign, there is no community, and no law, but only, as Rousseau says, two separate and hostile powers.

All the argument about sovereignty is set up precisely to show that the government is *not* sovereign. No one in government, not even a king, holds power by personal right of his own; none has authority independent of the authority of the governed. Their position is simply an office, a revocable trust. The people can delegate specific powers; it

can never delegate sovereignty. I have demonstrated, declares Rousseau, "that the depositories of the executive power are not the masters of the people, but its officers; that the people may establish or remove them as it pleases [the great democratic doctrine, and the contrary of all later totalitarianisms]; that for these officers there is no question of contracting, but only of obeying; that in undertaking the functions which the State imposes on them, they only fulfill their duty as citizens, with no right of any kind to dispute the terms."¹¹ Even the form or constitution of government is not absolute; it, too, is derived. A people, for example, may institute a hereditary form of government, monarchical or aristocratic. It has the ultimate right, however, to change this form of government at will. The hereditary tenure of office, by kings, lords, councillors or magistrates, gives them no untouchable inherited right. Nor is it the inheritance of a constitution that makes a constitution authoritative. The past cannot bind the present. Even the inheritance of legality is lawful because willed by the community in the eternal present—and only so long as it is so willed.

On particular forms of government Rousseau seems not to have felt very strongly. He observed that in a sense all legitimate government must be democratic: it must be willed by the sovereign people. But the people may will to have government of one kind or another. Any government of laws he would call a republic. He defines democracy as a state in which there are more citizens who are magistrates than ordinary citizens who are not magistrates; he finds this possible only in small communities, and so dismisses democracy as suited only for gods. Monarchy may be legitimate, but he has little of interest to say about it. He finds three kinds of aristocracy: natural aristocracy, or government by tribal elders; elective aristocracy, in which "wealth or power are preferred to age"; and hereditary aristocracy, in which those who inherit wealth and power also inherit governmental position. The last, says Rousseau, is the worst of all forms of government; it was also characteristic, as I have shown in preceding chapters, of almost all governments in his day. He declares that the best form of government is the second form of aristocracy, the elective. He seems to have meant a system in which the citizens elected persons to positions of government, and so to be talking about what later generations would call democracy. Nevertheless, by his own surprising definition, the persons so elected are elected for their "wealth or power."¹²

¹¹ Bk. III, Chap. xviii, *ibid.*, 281.

¹² Bk. III, Chap. v, *ibid.*, 231-32. Rousseau does also allow that election of officers will favor men of "probity, enlightenment and experience," but his whole discussion

⁹ *Ibid.*, 141-42.

¹⁰ Bk. I, Chap. vii, *ibid.*, 146.



THE BRITISH PARLIAMENT BETWEEN KING AND PEOPLE

OF ALL those constituted bodies of Europe, largely aristocratic in composition, which in some countries came into conflict with kings in the decade before 1775, and which at Geneva had trouble with the citizens whom they governed, the most famous and the most powerful was the Parliament of Great Britain, whose misfortune it was to be challenged from both sides at once. Or, at least, the most ardent devotees of the Houses of Parliament found Parliamentary independence being undermined by the King, in the person of George III, while at the same time a growing number of dissatisfied persons, in America, in Ireland, and in England itself, expressed increasing doubts on the independence of Parliament, invoking a higher authority which they called the People. The champions of Parliament relished neither rival. "It is our business to act constitutionally, and to maintain the independency of Parliament," said the young Charles Fox in the Commons in 1771; "whether it is attacked by the people or by the crown is a matter of little consequence."¹

The British Constitution

There is a curious irony in the situation. The dozen years preceding the American Revolution, the years when America was profoundly alienated, and which saw the beginning of the British movement for parliamentary reform, were also the years when awestruck wonder at the glories of the British constitution reached an almost ecstatic height. The very Stamp Act Congress announced its satisfaction at living under "the most perfect form of government." "The constitution of England," declared a British book reviewer in 1775, "is without doubt the most perfect form of government that ever was devised by human

¹ *Parliamentary History*, xvii, 149.

wisdom." To John Adams it was "this stupendous fabric of human invention," even after he and other Americans no longer lived under it. The Younger Pitt, when he introduced his bill to reform the representation of the House of Commons in 1783, prefaced his speech with a prolonged apologetic, expressing his unshaken faith in the unique advantages of English liberty, as if himself incredulous that such a constitution needed any reform at all.² In the disputes that arose between King George's subjects in Britain and America after 1763, and in those which continued to trouble Britain itself after American independence, scarcely anyone denied that the British constitution was the most remarkable constitution in the history of the world. There was, however, some difference of opinion on the precise content of this matchless frame of state—on the concrete questions of what particular rights it guaranteed to what people, and why.

There were good reasons why all Britons, including British colonials, should have felt such self-satisfaction, and why Europeans of other nationalities should have joined in the chorus of praise. There was, for one thing, an objective ground for it. In the slums of London, or among dispossessed agricultural laborers, or pauper children, or the Irish tenantry, there were people as wretched as any in Europe. Nevertheless, there was an air of freedom in the British world, a constructive liberty which, unlike the "liberties" so common in Europe, actually added to the power of the laws and of the state; a general tolerance between classes, a forbearance toward religious minorities, a wide latitude in the expression of opinion, a relatively uncontrolled press, with much public discussion; a good deal of personal security for most of the population, together with a high degree of wealth, industry, and prosperity, of which the fruits were as evenly distributed as in other large states of Europe, for while the rich in England were probably richer than elsewhere, the English poor, in a general way, may have been a little less poor than in most parts of the Continent. Probably contemporaries were not altogether mistaken in ascribing these blessings to the form of government; at any rate, the existence of such blessings added enormously to the repute, in England and in Europe, in which the form of government was held. The spectacular victory of the Seven Years' War had the same effect. The islanders had humbled the combined powers of Austria, France, and Spain; Haps-

² For the Stamp Act Congress see L. Gipson, *Coming of the Revolution* (N.Y., 1954), 100; for the reviewer, *Critical Review*, vol. 39 (1775), p. 345; for Adams, *Defense of the Constitutions* (1786), *Works* IV (1851), 358; for Pitt, *Parliamentary History*, xxiii, 827.

burgs and Bourbons simultaneously bowed to them; they triumphed in America and in the East. Empire was on them bestowed; where Caesar's eagles never flew, as Cowper put it, none were as invincible as they. Surely the constitution of such a people must harbor the true secret by which freedom, wealth, power, and leadership might all be enjoyed at the same time.

Blackstone's Commentaries were published between 1765 and 1769. In the ten years from 1767 to 1777 appeared the *Rotuli parliamentorum*, the first substantial printed collection of medieval parliamentary acts. It was sponsored by the House of Lords, which was motivated both by a desire to set forth the historical evidence for its own important position in English life, and to open up, if not quite to create, the whole field of English constitutional history as a learned science. Meanwhile, the writings of Montesquieu were having their cumulative effect. Every two or three years a new edition of the *Spirit of Laws* appeared in English. Readers in England, as in the American colonies, could there find the assurance, on the authority of the great French expert on comparative government, that they lived under a constitution wholly devoted, through its ingenious separation of powers, to the preservation of liberty. Or at least they could find it if they looked for it hard enough, for Montesquieu actually gave only about a seventy-fifth part of his compendious treatise to the specific subject of the British constitution.³

The first book by a Continental European ever devoted wholly to that subject, and under that title, appeared at Amsterdam in French, as *La Constitution de l'Angleterre*, in 1771.⁴ There was a London edition in 1775, and over twenty different London and Dublin imprints of the *Constitution of England* can be counted for the ensuing half-century. The book figured as a British political Bible until after the First Reform Bill. It did more than Montesquieu to spread an understanding of the British constitution on the Continent. It is worthy of note, and is of course a consequence of the American Revolution, that a single New York edition seems to have satisfied the American demand.

The author of the *Constitution of England* was the Genevese Delolme, one of the advanced democratic party at Geneva in 1767. He had

³ On Blackstone and Montesquieu see Chapter III above; for the significance of the *Rotuli parliamentorum* see E. Lousse, *La société d'ancien régime: organisation et représentation corporatives* (Louvain, 1943), 1, 2.

⁴ G. Bonno, *La constitution britannique devant l'opinion française de Montesquieu à Bonaparte* (Paris, 1932), 118-25; E. Ruff, *Jean Louis Delolme und sein Werk über die Verfassung Englands* (Berlin, 1934).

upheld there the Sovereignty of the People against the theory of Orders within the state. So firmly did he cling to this principle that he refused to accept the compromise made at Geneva in January 1768, and a few months later went into voluntary exile. He arrived in England a stubborn democrat. Within three years he had produced his book on England, which became the classic statement of the theory of a balance among King, Lords, and Commons. It thus seems that he changed his mind, and the few who have tried to look closely at Delolme, of whose career few evidences have survived, have seen in him a significant change in a "conservative" direction, from ideas resembling those of Rousseau to ideas resembling those of Montesquieu. It is very likely that he did change his mind, because he is known to have been mixing with some of the discontented Whigs in England at the time when Lord North took charge of the government. The first edition of the collected *Letters of Junius*, published in 1772, contains in its preface a quotation from Delolme's *Constitution of England*, using the exact wording of the translation not published until three years later. Delolme clearly had made Whig acquaintances in London; someone in 1772 was engaged in translating his work. Not much more is known of Delolme, except that he stayed in England until 1800.

Yet Delolme did not become wholly a Whig, nor did he wholly give up what he had believed at Geneva. There is a unifying thought in all his political writings, one incidentally which was to appeal strongly to John Adams. It was an intense dislike of government by oligarchy, coterie, or self-perpetuating aristocracy. Hence, in the politics of Geneva he was a democrat. In the politics of Sweden his sympathies were monarchist. In 1772, immediately after the *coup d'état* of Gustavus III, he published (it was his first work published in English) *A Parallel between the English Government and the Former Government of Sweden*. He expressed here his admiration for Gustavus III, and his antipathy to the Freedom Era in Sweden, during which, he said, the nobility monopolized public life to the disadvantage of everyone else. He thought that the difference between Sweden after 1719 and England after 1689 was that in England the King remained strong, so that England had not become an aristocracy in the manner of Sweden—or of Geneva.

Delolme in fact put great emphasis on the historic role of the English crown, in a way sufficient to distinguish him from Montesquieu, of whom he is often said to be merely the popularizer, or from most of the Anglo-American Whigs and even radicals, who usually saw liberty

as something won by age-long struggle against royal tyrants, and placed its beginnings in primitive Saxon times. The English constitution, says Delolme in quite modern vein, really dates from the Norman Conquest. By the conquest the monarchy imposed a strong and centralized feudalism and built a unified kingdom, unlike France; later on there was only one Parliament for the King to resort to, unlike the many assemblies with which the King of France might deal. The great power of the King fortunately overshadowed the greatest nobles, so that, as the generations passed, nobles and commoners were obliged to join forces to maintain their freedom. Delolme was impressed by the continuing authority of the British King, whom he thought to be really stronger than the King of France. As he put it, thinking of events of his own day, the King of France took care upon approaching the Parlement of Paris to overawe it with a display of "military apparatus"; the King of England at a dissolution, simply spoke a few words, telling the Parliament they were no longer a Parliament, and they were not. Such was the magic of the force of law. The King enjoyed the confidence of the people as much as Parliament did. It was "from the Nation itself," said Delolme, that the Executive in England drew its authority—from the "affection," the "consent," and the "voluntary passions of those who are subject to it."⁵

Delolme's idea of the "balance of powers" in the British constitution was thus significantly different from Montesquieu's. For Montesquieu, as for Burke, in a proper balance the role of nobility as a check upon monarchy was to be emphasized. For Delolme, as later for John Adams, the important thing was that a strong king (or executive in the case of Adams), served as a barrier against ambitions which when uncontrolled led to aristocracy. As for democracy, Delolme showed little alarm that it would turn into "anarchy." The real danger, he felt, with the experience of Geneva behind him, was that "pure democracy," or a system in which a body of citizenry supposedly governed itself, would turn into an aristocracy or oligarchy, since in popular assemblies a few ambitious individuals always got control and perpetuated their position. Against this eventuality, he thought, a strong king or executive was the best protection. England, said Delolme, was really the most nearly democratic state in Europe precisely because of its balance between King, Lords, and Commons.

According to Delolme the separation was quite distinct. The King exercised all executive power; he was the source of justice, he freely

⁵ *Constitution of England* (London, 1775), 409.

named his ministers, he appointed to all offices, he commanded the army and navy. He was wholly independent of Parliament except in one decisive respect; he depended on it for the grant of money. Parliament made the laws; it had the initiative in legislation, and was independent of the King, except that the King might interpose his veto. Parliament was wisely divided into two houses, Lords and Commons, not so much in order to give special representation to the nobility, as Montesquieu had said, as simply to provide a countercheck against ill-advised legislation. The Commons, according to Delolme, were the duly elected representatives of the people; he defends representative government against the aspersions of his countryman, Rousseau.

In the first French editions of his book, while insisting that the British government was the best in Europe, Delolme nevertheless observed that it suffered from a few imperfections. He mentioned Old Sarum by name, and held the continued representation of decayed boroughs to be a true constitutional defect. He thought Parliament should be elected more frequently, and that something should be done to stop the arbitrary impressment of sailors. He even said that such reforms were sought by "a numerous party in the present Parliament." He declared that one of the virtues of the British government, in comparison with others, was "its greater capacity for improvement."⁶

These comments disappeared from the first English edition of 1775. The Delolme whom people read for fifty years conveyed no such reservations. Since practically nothing is known of Delolme's life, it is hard to explain the shift. He may have changed his friends, or been influenced by his translator. It is also possible that he shared in the hardening of opinion in England, the increasing tendency in some circles to idealize the constitution exactly as it was, that took place in the course of disputes with the American colonies.

Various modern authorities agree that the separation of powers was in fact the chief characteristic of the British eighteenth-century constitution, as Delolme and others maintained.⁷ Parliament after 1689 was

⁶ *Constitution de l'Angleterre* (Amsterdam, 1771), 263-65. This edition, the Amsterdam edition of 1774, and the first English edition of 1775 are all dedicated to the radical Earl of Abingdon, who had visited Geneva in the 1760's and been associated there with Delolme and the Genevese democrats. The later editions are dedicated to George III. On Abingdon see below, p. 180.

⁷ For the workings of British government at this time I follow W. S. Holdsworth, *History of English Law* (13 vols., London, 1922-1952), x; R. Pares, *King George III and the Politicians* (Oxford, 1953); G. H. Guttridge, *English Whiggism and the American Revolution: University of California Publications in History*, xxviii (Berkeley, 1942); C. R. Ritcheson, *British Politics and the American Revolution* (Norman, 1954).

no longer subordinate to the King; but neither, until after 1832, was it subordinate to an electorate; nor was the King, or were his ministers, subordinate to the Parliament. Given a real separation of equally indispensable elements, the problem of government was to make them act together. It was the King's responsibility to keep the government going; he could lawfully appoint any combination of men that he chose to carry his government on; the only restriction on him was a practical one, that the persons so appointed must not be sufficiently distasteful to a sufficient number of persons in the Lords and Commons to make those bodies refuse money or legislation. The House of Lords was usually more amenable to the wishes of government, for various reasons: the bishops were government appointees; a few peers might still feel gratitude for a recent elevation; others hoped for promotion in the peerage, and still others for appointment as gentlemen of the Bedchamber, which gave personal access to the court and to the King. The House of Commons was socially continuous so to speak, with the Lords. In the Parliament of 1761, that is, the first Parliament to have serious trouble with America, over half the members of the House of Commons were related to baronets or peers, and three-quarters had had ancestors in the House. Lord North was the son of a peer; George Grenville and Charles Townshend were brothers of peers; others were the close associates of peers, not to say dependents, like Edmund Burke, who over a period of fifteen years received some £30,000 from the Marquis of Rockingham. As a house, however, the Commons was perhaps a bit stronger than the Lords, not because it was more representative of the country, but because it had more control over the grant of funds, and because, since its members did not often aspire to earldoms or to the Bedchamber, it had less to lose by obstinacy or opposition.

There were no parties in any definite or inclusive sense. The terms Whig and Tory had ceased to have much meaning. Groups of individuals might profess to act together in politics as "friends," but they were easily dissolved. Most members of Parliament thought of themselves as belonging to no particular following, and disapproved of the efforts of "friends" to stand or fall together in bargaining with the King for office. Cabinets did not assume or leave office as a body; ministers came and went as individuals. There was no antithesis, real or formal, between Government and Opposition. Habitual opposition was frowned upon, as in most human organizations outside the stylized limits of the modern democratic state. Most members of Parliament thought it their normal duty to lend support to the administration.

On the other hand, they expected something in return. Government was a business of the political class; and, as Professor Pares has said, there were really two political classes, a small active class within a larger passive one. The larger and more passive class included those who wanted offices, pensions, honors, status, and income, for themselves, their sons, their dependents, or their "friends," or men who had local influence in the counties, or who owned or controlled a few borough seats in return for which they expected favors. Emoluments of government, as Professor Pares puts it, played much the same part for these people as life insurance, retirement plans, or educating one's children for a profession in our own time; they were a means of securing family status. The smaller and active class, within the larger, consisted of men who had a real interest in the operation of government, who enjoyed the work, and made a career of dealing with real administrative and political problems. From this class came many ministers and most permanent public servants. For ministers, the problem was to be agreeable to the King while also satisfying a sufficient number of the passive political class. The King was the one man in the system who could not resign, or retire to his country estate. Obligated somehow always to carry on, he had to work through ministers acceptable to the two Houses, or provide them with means by which majorities in the two Houses could be obtained.

The methods by which King and ministry secured a Parliament that would work with them were summed up in the word "influence." It was this "influence" that made possible the effective functioning of government under a constitution characterized by separation of powers.⁸ Influence meant primarily patronage, the award of honors, titles, promotions, pensions, and sinecures, as well as functioning offices in the church, the armed forces, the colonial administration, and the home government. By the distribution of such favors among borough owners and others in a position to determine elections, the government was usually able to get a sufficiency of cooperative knights and burgesses sent up to the House of Commons. By promise of similar favors to sitting members of both Houses, or threat of their termination, the government was usually able to get the votes without which it could not proceed. Since the matter was essential, it was very systematically handled. There are, for example, in the papers of John Robinson, the political manager for Lord North and George III, certain lists drawn

⁸ W. S. Holdsworth, "The Conventions of the 18th Century Constitution," in *Iowa Law Review*, XVIII, 2 (1932), 161-80.

the usual complaints made by all people against new taxation. In fact, the American resistance to the Revenue Act of 1764 was already irking the British. There was already in England, even before the Stamp Act, a growing feeling that the colonists were an irresponsible people who must be brought under effectual government—that they must be made to realize the existence of central authority in the empire.¹³

The Stamp Act passed in March 1765. There was no opposition to it in Parliament. None of the later Whig friends of America spoke against it. It was assumed to be an equitable measure, which the Americans would get used to in time.

The fury of the American reaction suggests that at bottom more than money or taxation was involved. The British had entirely underestimated the strength of American feeling. They had exaggerated the degree of Anglo-American unity felt in America. From the beginning the real issue in the eyes of Americans was not the tax—granted that they disliked all taxes—but the authority by which the tax was levied. "A Parliament of Great Britain," declared John Adams in 1765, "can have no more right to tax the colonies than a Parliament of Paris."¹⁴

Since the Restoration, and since the Revolution of 1689, England and its colonies, particularly those in New England, had diverged more widely than they seem to have realized. Not that the colonists of English descent denied being English; they took pride in their origins. But they felt no particular sympathy for the forces that had triumphed in English life since 1660, notably the aristocratic and Anglican governing class; nor did what they knew of the realities of parliamentary politics inspire them with much confidence. On one point the truculent young John Adams and the moderate Virginia gentleman, Richard Bland, were agreed: that they enjoyed the English constitution in greater purity in America than did the English in England. And if so, asked Adams, whose fault was it?¹⁵

Already, in the minds of some, a sense of American distinctiveness was well developed. This was most especially true of New England,

¹³ The growth of conservatism in Britain before and during the American Revolution, and in answer to the American demands, is one of the main themes of C. R. Ritcheson, *British Politics and the American Revolution* (Norman, 1954); the belief that the American and British positions of 1775-1776 were already taken in 1765 is one of the main themes of E. S. and H. M. Morgan, *The Stamp Act Crisis* (Chapel Hill, 1953).

¹⁴ Quoted by Morgan, *op.cit.*, 140.

¹⁵ J. Adams, *Novanglus*, 1774, in *Works* (1851), iv, 117; R. Bland, *Inquiry into the Rights of the British Colonies*, 1766, quoted by C. Rossiter, *Seedtime of the Republic* (N.Y., 1953), 273-74.

etc.—were in the nature of rationalizations; the Americans really did not wish to be actually governed by the British Parliament at all, though they naturally were a little slow in saying so plainly.¹⁷ On this there may have been more unanimity in 1765 than on any subsequent question, including independence when it came, by which time much violence had occurred, and conservatism had had a chance to form.

Resistance to the Stamp Act began in Virginia, where the house of burgesses forwarded a protest to England in May 1765, and at Boston, where in June the house of representatives, by a circular letter to the other colonial assemblies, invited them to send some of their members to a general meeting at New York, at which a common front might be presented to Parliament. During the summer staid Boston saw unedifying scenes, which were in fact revolutionary in character. A group of men of the shopkeeping and artisan class, calling themselves first the Loyal Nine and then the Sons of Liberty, and maintaining a discreet contact with prominent merchants and with a few members of the assembly (including John Adams on at least one occasion) served as intermediaries between upper and lower classes in the city. They persuaded certain rougher elements, which had staged a kind of gang warfare on the preceding Guy Fawkes day, that the Stamp Act was a threat to their liberties, and that their physical energies might find a worthier and more patriotic outlet. Someone made an effigy of Andrew Oliver, who was to be distributor of stamps under the Act, and hung it on a tree. A mob seized the effigy, paraded it about, and beheaded it. Another mob broke into the vice-admiralty court, one of the courts involved in Grenville's general reorganization, and authorized to enforce the Stamp Act. The court records were destroyed. When Thomas Hutchinson, a Bostonian of old family, who was Chief Justice and Lieutenant Governor, tried to stop these depredations, the mobs attacked his house, a new mansion in the Georgian style, systematically wrecked it, broke up the furniture, cut down the trees, and stole £900 in cash. In the face of these disturbances, and lesser ones elsewhere, the stamp distributors throughout the colonies were intimidated into resigning. The Stamp Act Congress met in New York, in more or less open defiance of the colonial governors, with these commotions ringing in their ears. Nine colonies had sent delegates, of whom the most vehement were the most influential. "It's

¹⁷ The Morgans, *op.cit.*, 114-15, "A Note on Internal and External Taxes," argue that the Americans never made any such distinction in the admissibility of taxes levied by Parliament.

to be feared," reported General Gage, "that the Spirit of Democracy is strong amongst them."¹⁸ By this he meant the inclination to question the governing authority of Parliament, and not merely its wisdom.

The Congress drew up a declaration. It professed "all due subordination" to Parliament. It claimed as a right of Englishmen to be taxed only by their own representatives, but observed that the colonies could not possibly be represented in the House of Commons. For the "people of Great Britain" (that is, Parliament) to vote away the property of the colonists violated the "Spirit of the British constitution." The Congress, therefore, petitioned for repeal of the Stamp Act, and for removal of the vice-admiralty courts.

Preparations were soon made to reinforce words with action. Local meetings in many places issued local manifestoes, but the first move toward concerted physical resistance took place at New London, Connecticut. There the town meeting had already furbished up the philosophy needed to undercut positive law. It asserted that a people had a right to set limits to government, and, when necessary, "to reassume their natural Rights and the Authority the Laws of Nature and of God have vested them with." On Christmas 1765 two delegates of the New York Sons of Liberty met with the Connecticut Sons of Liberty in a New London tavern. They bound themselves "to march with the utmost dispatch," if either group were endangered, and to bring about a "like association with all the colonies on the continent." The movement spread; "there can be no doubt that the colonists were getting ready to fight the British Army."¹⁹ And the British government, having heard of the Boston riots, instructed the American governors to apply for military aid if necessary to enforce the Act.

Revolution seemed imminent in America. Force was assembling, and the doctrines had been declared. So far, to use the language of preceding chapters, it seemed a conflict between constituted bodies—between the legislative assemblies in America and the Parliament of Great Britain. Governor Bernard defined the issue as early as November 1765: "In Britain," he wrote to Lord Barrington, the Secretary for War, "the American governments are considered as Corporations empowered to make by-laws, existing only during the pleasure of Parliament. . . . In America they claim . . . to be perfect States, not otherwise dependent on Great Britain than by having the same King."²⁰ This remained the constitutional issue for the next eleven years.

¹⁸ Morgan, *op.cit.*, 105. The Resolution of the Stamp Act Congress is printed here.

¹⁹ *Ibid.*, 201-03.

²⁰ Ritcheson, *op.cit.*, 43.

matically collected. The use made of appointive office in England and Ireland to influence members of legislatures was also known in America.

Again, the main disturbance was in Boston. The Boston town meeting began to put pressure on the provincial assembly. It even called a "convention" of all the Massachusetts towns, which the governor disbanded as an illegal body. The Massachusetts assembly issued a circular, as in 1765, this time drafted by Samuel Adams, inviting the assemblies of the other provinces to take joint action—a move denounced in England as favoring "unwarrantable combinations." Non-importation agreements were made up and down the coast, to force British merchants, as in 1765, to demand repeal of the new taxes. Duties could not be collected on goods not imported. The Townshend duties were in effect nullified, as the Stamp Act had been.

In 1770 the King made Lord North his Prime Minister. North repealed the duties, except the one on tea. The tea duty remained as a kind of second declaratory act, asserting the rights of Parliament over all subjects of the British crown.

The new outburst in America coincided with the agitation over the Middlesex election. John Wilkes was warmly admired in America, and there was a cordial exchange of letters between him and the Boston leaders. Others of the emerging group of radicals in England, that is, men who did not believe in the structure of the Commons as it then existed, men like Major John Cartwright and Richard Price, were equally American in their sympathies. They felt, as did the Americans, that Parliament did not represent them, or indeed did not represent anyone but itself.

But the zealots of the House of Commons, as Professor Pares has remarked, being uneasily aware of the peculiarities of the electoral system, were mortally afraid of any "association" that might claim to represent anyone better than they did.⁸¹ Any concerted manifestation of public opinion, any assembly of persons claiming the power to speak for others, contained the threat of an "anti-Parliament." According to their reading of the British constitution the House of Commons represented the people; the people neither had nor needed any other voice or representation; and meetings that claimed any representative function, or identified themselves with the "people," were to be viewed with deep suspicion. Of such unseemly pretensions were the Stamp Act Congress, the convention of Massachusetts towns, the

⁸¹ Pares, *op.cit.*, 52.

"unwarrantable combinations" of the colonial assemblies, and the public meetings in England that supported Wilkes in the Middlesex election. Such were soon to be the American committees of correspondence, the Continental Congress, the Irish Volunteers, and the Yorkshire Association. And the same haunting fear of an anti-Parliament was to be aroused, in the time of the French Revolution, by the London Corresponding Society and the Edinburgh Convention.

Of these zealots of Parliament the principal ones were Edmund Burke and the Rockingham Whigs. A great interest attaches to their attitude in these controversies. It is understandable that George III and the majority in Parliament should have tried to govern America, and in particular to have tried to distribute the tax burden between American and British subjects. It is understandable that the Americans should have resisted. One can see why Ireland became restless, and why Englishmen wished to reform the House of Commons. It was only the Whigs, however, who were in a position to offer any alternative to the policies pursued by George III. Unfortunately, they had no alternative to offer. Parliamentary supremacy was their distinctive doctrine, the dogma handed down from 1689, the buckler of liberty, and the barrier against despotism. The Americans in claiming to be under the King but not under Parliament were in fact a species of Tories, certainly more "Tory" than George III. Only the emerging handful of radicals in England, and the handful of followers of Pitt, who was beginning in some ways to agree with the radicals, believed that Parliament should not even claim the right to tax the Americans. The formula of the Rockingham Whigs for the Americans was that Parliament should make clear its power to tax them, but, from expediency, refrain from using it. After North repealed the Townshend duties, this was pretty much the formula of North and the King.

Burke's famous *Thoughts on the Cause of the Present Discontents*, written in 1770, was the classic statement of Old Whiggery at the moment. There was, according to Burke, a profound discontent abroad in the land, nor was it caused by a "few puny libellers." It was a true groundswell of opposition. "When popular discontents have been very prevalent, it may well be affirmed and supported that there has been something found amiss in the constitution or in the conduct of government." And he added, like Rousseau: "The people have no interest in disorder. When they do wrong, it is their error, not their crime." The error to which the people were liable was in failing to see that the trouble lay with the King. It was not that the King threat-

ened Parliament itself, like the Stuarts in times gone by, but that he threatened parliamentary independence. "The power of the crown, almost dead and rotten as Prerogative, has grown up anew under the name of Influence." It was a popular error, too, to favor structural changes in the Parliament. To have more voters, or more frequent elections, said Burke, would make matters worse by creating new opportunities for corruption. Our government, remarked Burke, is in any case too complicated for us to know how to reform it. Parliament should remain as it is. But it should resist the crown and its ministers.

Burke presented the issue as a clash between a kind of equalitarian despotism on the one hand and a responsible and vigorous aristocracy on the other. The court faction, he declared, wished to get rid of all "intermediate and independent importance" (one is reminded of Montesquieu), to teach "a total indifference to the persons, rank, influence, abilities, connections and character of the ministers of the crown" (one is reminded of Saint-Simon). "Points of honor and precedence were no more to be regarded . . . than in a Turkish army. It was to be avowed, as a constitutional maxim, that the King might appoint one of his footmen, or one of your footmen, for minister." This was Burke's way of saying that George III would not call the great Whig peers into the government.

The true remedy, according to Burke, must be found in Parliament itself. It lay in a good, strong legitimate sense of party—that is, of party within parliamentary circles, and in particular the party of the Rockingham Whigs. If the people would feel confidence in these natural leaders, and if the Lords and Commons would cease to give their votes passively to the ministers, whoever they might be and whatever they might do, and instead would frankly form a party to criticize the actions of government, then the dignity and independence of Parliament would be preserved. Burke's doctrine of party was to be praised by later generations. At the time, his eloquence failed to move his colleagues in Parliament, most of whom continued to see in the Rockingham Whigs only a group of malcontents out of office, and to give their votes to Lord North and the King.

The Whigs of the Burke and Rockingham persuasion, aristocratic though they were in their principles, and inclined to keep all political discussion within the bounds of Parliament itself, did greatly contribute to the awakening of extra-parliamentary or public opinion. Unheeded within the two houses, they went out of doors, and offered themselves as the leaders of an indignant people, hoping that the

The die was cast, indeed. It was cast when the British Parliament attempted to alter the structure of government in Massachusetts. This attempt presented the issue of parliamentary authority over the colonies in the plainest terms. The act unified Massachusetts behind the Boston insurgents, and it rallied the other colonies behind Massachusetts. It led directly to the First Continental Congress and the Revolution. There was also another and in a way larger issue raised by the Massachusetts Government Act, for the nature of the British constitution itself was brought into question. I have already said that everyone thought the British constitution to be a good thing. But the arguments following upon the Act in both Britain and America showed some significant differences of interpretation, and it is these arguments that I should like to emphasize.

The Act for Better Regulating the Government of Massachusetts Bay was in legal form an amendment to the Massachusetts charter of 1691.⁸⁵ In effect it was a new constitution, meant to be permanent. On the one hand, it reduced the powers of the various constituted bodies of Massachusetts. The governor's council, which as in other colonies acted both as an upper legislative house and as an advisory board to the governor, was in Massachusetts, by the charter of 1691, elected by the lower house. The lower house, or house of representatives, asserting itself ever more forcefully after the repeal of the Stamp Act, had refused to elect the governor's nominees to the council, so that the council, like the lower house, came to reflect the discontents at Boston. The Massachusetts Government Act of 1774 transformed the council by giving the governor the power to appoint its members; and it weakened the council by taking from it the power to ratify, and hence to veto, the governor's appointment of sheriffs. The Act weakened the lower house by taking from it the power to elect the council. It weakened the towns, whose recent habit of discussing matters of "general concern" and passing "unwarrantable resolves" it disapprovingly noted, by taking from them the right to elect panels of jurymen, and to hold meetings unless summoned by the governor, except for the one annual town meeting for the choice of local officers. On the other hand, the Act strengthened the executive power, giving the governor the right, in the King's name, to appoint his council (as in the other royal provinces), to prevent town meetings except for the annual ones, to appoint or remove at his own discretion the sheriffs, judges, attorney general, and

⁸⁵ 14 Geo. III, c. 45.

marshals of the province, and to have fair juries drawn by lot from lists of eligibles assembled by the sheriffs.

The Massachusetts Government Act, though repealed in 1778 in connection with attempts at reconciliation, represented a continuing trend in British constitutional thought on colonial government. Governor Bernard of Massachusetts, since before the Stamp Act, had stressed the need of strengthening the office of governor, and of creating a more independent council on the analogy of the Lords in England. America, Bernard thought, was not yet ready for hereditary nobility (an institution which to him signified an advanced state of civilization), but meanwhile "a Nobility appointed by the King, for Life, and made independent, would probably give strength and stability to the American government, as effectually as an hereditary Nobility does to that of Great Britain." Years later a correspondent of Edmund Burke, in a plan of 1782 to make peace with America while keeping it in the empire, a plan intended to be liberal since it would even abolish the Navigation System, set up a "model charter" for each of the colonies—a model in which government should be in three parts: first, a governor appointed from Britain; second, an upper house of a hundred persons having real estate worth over £600 a year, sitting and voting *jure possessionum*, or elected by persons with the same qualifications, if there were more than a hundred in the province; third, a lower house elected by town freemen and county freeholders. In this plan the upper house was clearly thought of as an estate, sitting in its own right, and dependent neither on royal appointment nor on election except by its own body. The Canada Act of 1791 carried the same ideas further. For each of the provinces of Upper and Lower Canada it created a council whose members sat for life. The act empowered His Majesty to confer on these councillors the hereditary right to be summoned, and even to grant them hereditary titles; the purpose was to build up a kind of nobility among the descendants of the first councillors; and though nothing came of the idea, through lack of enthusiasm for nobility in Canada, the terms of the Canada Act yet show the preponderance of thought on the subject among the British governing class in 1791. It was the characteristic eighteenth-century idea, expressed by Walpole in 1719, that nobility was necessary to free government.⁸⁶

⁸⁶ For Bernard's views, see Morgan, *Stamp Act Crisis*, 7-21; for Burke's correspondent, see the letter from Dr. John Gray, April 6, 1782 (to which there is no record of a reply) in the Wentworth-Woodhouse manuscripts at the Sheffield Central Library; for the Canada Act, see 31 George III c. 31 and the accompanying debates in Parliament. On Walpole see Chapter III above.

The Massachusetts Government Act of 1774 made the appointment of councillors run at the King's pleasure, that is, for indefinite terms. It said nothing of hereditary councillors, nor even of councillors for life. Its aim was to strengthen the executive, not to build the equivalent of a native nobility. Yet, John Adams was not wholly mistaken when, in his *Novanglus* of 1774, he sniffed the dangers of hereditary lordship in every breeze from Britain. For the truth is that Lord North and others who sponsored the Massachusetts Government Act seem honestly to have believed that they were about to purge the Massachusetts government of its "crudities," as North called them, and endow the province with the more highly developed advantages of the British constitution, of which the essence was agreed to be the balance between King, Lords, and Commons, or between the monarchic, aristocratic, and democratic principles in the state.

The trouble with Massachusetts, said North in the Commons, explaining the need for amending its government, was that the "democratic part" of its constitution was too strong. "There is something radically wrong in that constitution in which no magistrate for such a number of years has ever done his duty in such a manner as to enforce obedience to the laws." Hence the King's well-disposed subjects (and it was true) had been at the mercy of the turbulent and the lawless. The governor simply lacked the means to maintain law and order; he could not act without the consent of a majority of his council, which depended on election by the "democratic part"; he had no normal military force except the *posse comitatus*, the very people by whom the laws were disobeyed. The purpose of the new act, said North, was to "take the executive power from the democratic part of the government." Lord George Germain was more blunt. "I would not have men of a mercantile cast every day collecting themselves together and debating on political matters." He would frankly make the council more like the Lords, and he would have the corporate powers of towns exercised by a few individuals, as in England. "I would wish to bring the constitution of America as similar to our own as possible."⁸⁷

Many of the Rockingham Whigs spoke against the bill. "The Americans have flourished for nearly fourscore years under that democratic charter," declared Dowdeswell, meaning the Massachusetts charter of 1691; he thought it best to leave well enough alone.⁸⁸ But the bill passed four to one.

⁸⁷ *Parliamentary History*, xvii, 1192-95.

⁸⁸ *Ibid.*, 1198.

prisoned after having made himself conspicuous in the efforts of the Constitutional Society to raise £100 for the widows and children of Americans killed at Lexington and Concord. Richard Price's *Observations on Civil Liberty*, in 1776, demanded better representation of the people in the Commons, denied the omnipotence of Parliament, and defended the American rebels. John Wilkes, when he stood for Parliament in Middlesex in 1774, offered a program both of Parliamentary reform and of restoration of American rights; and when he introduced his reform bill in the Commons in 1776 he declared that the unrepresentativeness of the Parliament was a main cause of a needless American war. It was in fact a favorite idea of radicals and reformers, and long remained so (though one may question the truth of it), that if Parliament had really represented the British people America would never have been estranged.⁴¹

And when Burke in 1777 again pleaded for conciliation, but blamed the war with the Americans on the mere folly of ministers (and implicitly on the stupidity of the King), still refusing to recognize the conflict of principle, and insisting that Parliament must be supreme, he provoked a retort from a radical of high station, Willoughby Bertie, the fourth Earl of Abingdon. Abingdon had spent several years in the 1760's at Geneva, where he had known Delolme and taken part in the democratic movement. His reply to Burke went through five editions. A strong friend of the Americans, and thinking that government should be representative of the governed, he simply did not believe that Parliament was supreme in Britain any more than in America. "Where is the difference," he asked Burke (and it was the question that all radicals put to all Whigs), "between the despotism of the King of France and the despotism of the Parliament of England? And what is this but to erect an aristocratic tyranny in the state?"⁴²

The British radicals had to live under Parliament, and had no course except to hope to reform it. The Americans did not have to live under Parliament, and refused to do so. Most Englishmen alive in 1776 were dead before Parliament gave an inch of ground. The Americans, three thousand miles away, had more freedom of action. They set up what amounted to anti-parliaments.

⁴¹ Guttridge, *Whiggism*, 63, 87; Dora M. Clark, *British Opinion and the American Revolution* (New Haven, 1930), 180.

⁴² Burke, "Letter to . . . the Sheriffs of the City of Bristol on the Affairs of America" (1777) in *Writings* (Boston, 1901), II, 187, 245; Abingdon, *Thoughts on Mr. Burke's Letter to the Sheriffs of Bristol on the Affairs of America* (1777), quoted by Guttridge, *op.cit.*, 94.

In Virginia, upon the news of the Boston Port Act, Thomas Jefferson drafted a resolution in support of Boston; the house of burgesses adopted it, and was thereupon dissolved by the governor. The house met illegally as an "association," denounced the Act, and summoned a "convention" of the Virginia counties. Similar conventions of counties or other self-authorized gatherings met in the other provinces. They sent delegates to an assembly that called itself the Continental Congress. The Congress issued a Declaration of Rights, and took steps to force all Americans into a concerted boycott of Great Britain.

At this First Continental Congress the delegates found that they differed on a theoretically important question. It was a question that remained alive long after American independence, and on which historians of the American Revolution have inclined to differ to this day. There were those who thought America internally unchanged by the repudiation of British authority. They justified their rebellion by appealing to their historic rights as Englishmen, or rights under the British constitution, which, they said, they wished merely to defend. As John Jay said in the Congress, they saw no need "to frame a new constitution." Others preferred to stand not on the rights of Englishmen but on the rights of man, and not on the laws in the lawbooks, but on the laws of nature. They were more willing to believe that a new era was at hand. As Patrick Henry said in the Congress: "Government is dissolved. . . . We are in a state of nature."⁴³

The Congress, significantly, simply put the two together. In America, in contrast to most of Europe, nature and history were not felt to be opposites. The Americans, fundamentally, were satisfied with their own past. They thought that their rights under the British constitution were much the same as their rights as human beings under natural law. The Continental Congress, in its Declaration of Rights of 1774, appealed simultaneously to "the immutable laws of nature, the principles of the English constitution, and the several charters and compacts."⁴⁴ On this potentially ambiguous note the American Revolution began.

⁴³ E. C. Burnett, *The Continental Congress* (N.Y., 1941), 37.

⁴⁴ *Ibid.*, 53.



THE AMERICAN REVOLUTION: THE FORCES IN CONFLICT

It is a main thesis of this book that the American Revolution was a great event for the whole Eur-American world. In the Age of the Democratic Revolution the American Revolution was, after the disturbance at Geneva already recounted, the earliest successful assertion of the principle that public power must arise from those over whom it is exercised. It was the most important revolution of the eighteenth century, except for the French. Its effect on the area of Western Civilization came in part from the inspiration of its message (which in time passed beyond the area of Western Civilization), and in part from the involvement of the American Revolution in the European War of American Independence, which aggravated the financial or political difficulties of England, Ireland, Holland, and France. The climax and failure of the early movement for parliamentary reform in England, the disturbances in Ireland leading to "Grattan's Parliament" in 1782, the *Patriotentijd* and revolution of 1784-1787 among the Dutch, the reform programs of Necker and Calonne and beginnings of revolution in France, and a marked enlivening of political consciousness through the rest of Europe—all described in the following chapters—were all, in part, a consequence of the American Revolution.

The Revolution: Was There Any?

It is paradoxical, therefore, to have to begin by asking whether there was any American Revolution at all. There may have been only a war of independence against Great Britain. The British lid may have been removed from the American box, with the contents of the box remaining as before. Or there may have been a mechanical separation from England, without chemical change in America itself. Perhaps it was all a conservative and defensive movement, to secure liberties that America had long enjoyed, a revolt of America against Great Britain, carried

through without fundamental conflict among Americans, by an "American consensus," in the words of Clinton Rossiter, or, as George Bancroft said a century ago, a revolution "achieved with such benign tranquillity that even conservatism hesitated to censure."¹

A populous country, much given to historical studies, has produced an enormous literature on the circumstances of its independence. Occupied more with European than with American history, I have been able only to sample this literature. It is apparent, however, that there is no agreement on what the American Revolution was. Differences reflect a different understanding of historical fact, a difference of attitude toward the concept of revolution, or a difference of feeling on the uniqueness, if it be unique, of the United States.

The old patriotic historians, like Bancroft, who fumed against British tyranny, had no doubt that there had been a real revolution in America, even if "benignly tranquil." Writers of a liberal orientation in a twentieth-century sense, admitting that all revolutions are carried through by minorities and by violence, have said that the American Revolution was no exception. Some have seen a kind of bourgeois revolution in America, in which merchants and planters made a few concessions to the lower classes, but then, at the Philadelphia convention of 1787, rallied to the defense of property in a kind of Thermidor. Still others, of conservative temperament, sympathizing with the American loyalists, have found the ruthlessness of a true revolution in the American upheaval. It must be admitted that, for the purposes of the present book, it would be convenient to present the American part of the story in this way, on the analogy of revolutions in Europe.

But there is the contrary school that minimizes the revolutionary character of the American Revolution. Some in this school hold that there was no "democratic revolution" in America because America was already democratic in the colonial period. Thus, it has recently been shown that, contrary to a common impression, as many as ninety-five per cent of adult males had the right to vote in many parts of colonial Massachusetts. Others find the Revolution not very revolutionary because the country was still far from democratic when it became independent. They point to the maintenance of property qualifications for voting and office-holding, or the fact that estates confiscated from loyalists found their way into the hands of speculators or well-to-do people,

¹ C. Rossiter, *Seedtime of the Republic: the Origin of the American Tradition of Political Liberty* (New York, 1953), 352-56; G. Bancroft, *History of the United States* (Boston, 1879), III, 10-11.

not of poor farmers. Those who discount the revolutionary character of the American Revolution seem to be gaining ground. For example, thirty years ago, J. F. Jameson in his little book, *The American Revolution Considered as a Social Movement*, suggested a variety of social changes that he said took place, in landholding and land law, in the disestablishment of churches and the democratizing tendencies in an aristocratic society. The book won followers and inspired research. F. B. Tolles described the aristocratic *ancien régime* of colonial Philadelphia, dominated by Quaker grandees whose social ascendancy, he said, came to an end in the American Revolution. But in 1954 the same Professor Tolles, reviewing the Jameson thesis and summarizing the research of recent decades, concluded that, while Jameson's ideas were important and fruitful, the degree of internal or social or revolutionary change within America, during the break with Britain, should not be unduly stressed.²

Whether one thinks there was really a revolution in America depends on what one thinks a revolution is. It depends, that is to say, not so much on specialized knowledge or on factual discovery, or even on hard thinking about a particular time and place, as on the use made of an abstract concept. "Revolution" is a concept whose connotation and overtones change with changing events. It conveyed a different feeling in the 1790's from the 1770's, and in the 1950's from the 1930's.

No one in 1776, whether for it or against it, doubted that a revolution was being attempted in America. A little later the French Revolution gave a new dimension to the concept of revolution. It was the French Revolution that caused some to argue that the American Revolution had been no revolution at all. In 1800 Friedrich Gentz, in his *Historisches Journal* published at Berlin, wrote an essay comparing the French and American revolutions. He was an acute observer, whose account of the French Revolution did not suit all conservatives of the time, and would not suit them today; still, he made his living by writing against the French Revolution, and later became secretary to Metternich. He considered the French Revolution a bad thing, all the worse when compared to the American. He thought the American Revolution only a conservative defense of established rights against British encroachment. John Quincy Adams, then in Berlin, read Gentz's essay, liked it, translated it, and published it in Philadelphia in 1800. It served as a piece of high-toned campaign literature in the presidential election of that

² F. B. Tolles, "The American Revolution Considered as a Social Movement: a Re-evaluation" in *American Historical Review*, LX (October, 1954), 1-12.

year, in which the elder Adams and the Federalist party were challenged by Jefferson and the somewhat Francophile democrats. The merit of Gentz's essay, said the younger Adams in his preface, was that "it rescues that revolution [the American] from the disgraceful imputation of having proceeded from the same principles as the French." In 1955 Adams' translation of Gentz was reprinted in America as a paper-back for mass distribution, with a foreword by Russell Kirk, known as a publicist of the "new conservatism." There was something in the atmosphere of 1955, as of 1800, which made it important, for some, to dissociate the American Revolution from other revolutions by which other peoples have been afflicted.

My own view is that there was a real revolution in America, and that it was a painful conflict, in which many were injured. I would suggest two quantitative and objective measures: how many refugees were there from the American Revolution, and how much property did they lose, in comparison to the French Revolution? It is possible to obtain rough but enlightening answers to these questions. The number of émigré loyalists who went to Canada or England during the American Revolution is set as high as 100,000; let us say only 60,000. The number of émigrés from the French Revolution is quite accurately known; it was 129,000, of whom 25,000 were clergy, deportees rather than fugitives, but let us take the whole figure, 129,000. There were about 2,500,000 people in America in 1776, of whom a fifth were slaves; let us count the whole 2,500,000. There were about 25,000,000 people in France at the time of the French Revolution. There were, therefore, 24 émigrés per thousand of population in the American Revolution, and only 5 émigrés per thousand of population in the French Revolution.

In both cases the revolutionary governments confiscated the property of counterrevolutionaries who emigrated. Its value cannot be known, but the sums paid in compensation lend themselves to tentative comparison. The British government granted £3,300,000 to loyalists as indemnity for property lost in the United States. The French émigrés, or their heirs, received a "billion franc indemnity" in 1825 during the Bourbon restoration. A sum of £3,300,000 is the equivalent of 82,000,000 francs. Revolutionary France, ten times as large as revolutionary America, confiscated only twelve times as much property from its émigrés, as measured by subsequent compensations, which in each case fell short of actual losses. The difference, even allowing for margins of error, is less great than is commonly supposed. The French, to be sure, confiscated properties of the church and other public bodies in

addition; but the present comparison suggests the losses of private persons.

It is my belief also, John Quincy Adams notwithstanding, that the American and the French revolutions "proceeded from the same principles." The difference is that these principles were much more deeply rooted in America, and that contrary or competing principles, monarchist or aristocratic or feudal or ecclesiastical, though not absent from America, were, in comparison to Europe, very weak. Assertion of the same principles therefore provoked less conflict in America than in France. It was, in truth, less revolutionary. The American Revolution was, indeed, a movement to conserve what already existed. It was hardly, however, a "conservative" movement, and it can give limited comfort to the theorists of conservatism, for it was the weakness of conservative forces in eighteenth-century America, not their strength, that made the American Revolution as moderate as it was. John Adams was not much like Edmund Burke, even after he became alarmed by the French Revolution; and Alexander Hamilton never hoped to perpetuate an existing state of society, or to change it by gradual, cautious, and piously respectful methods. America was different from Europe, but it was not unique. The difference lay in the fact that certain ideas of the Age of Enlightenment, found on both sides of the Atlantic—ideas of constitutionalism, individual liberty, or legal equality—were more fully incorporated and less disputed in America than in Europe. There was enough of a common civilization to make America very pointedly significant to Europeans. For a century after the American Revolution, as is well known, partisans of the revolutionary or liberal movements in Europe looked upon the United States generally with approval, and European conservatives viewed it with hostility or downright contempt.

It must always be remembered, also, that an important nucleus of conservatism was permanently lost to the United States. The French émigrés returned to France. The émigrés from the American Revolution did not return; they peopled the Canadian wilderness; only individuals, without political influence, drifted back to the United States. Anyone who knows the significance for France of the return of the émigrés will ponder the importance, for the United States, of this fact which is so easily overlooked, because negative and invisible except in a comparative view. Americans have really forgotten the loyalists. Princeton University, for example, which invokes the memory of John Witherspoon and James Madison on all possible occasions,

has been chided for burying in oblivion the name of Jonathan Odell, of the class of 1759, prominent as a physician, clergyman, and loyalist satirical writer during the Revolution, who died in New Brunswick, Canada, in 1818.³ The sense in which there was no conflict in the American Revolution is the sense in which the loyalists are forgotten. The "American consensus" rests in some degree on the elimination from the national consciousness, as well as from the country, of a once important and relatively numerous element of dissent.

Anglo-America before the Revolution

The American Revolution may be seen as a conflict of forces some of which were old, others brought into being by the event itself.

The oldest of these forces was a tradition of liberty, which went back to the first settlement of the colonies. It is true that half of all immigrants into the colonies south of New England, and two-thirds of those settling in Pennsylvania, arrived as indentured servants; but indentured servitude was not a permanent status, still less a hereditary one; the indentures expired after a few years, and all white persons soon merged into a free population.

Politically, the oldest colonies had originated in a kind of *de facto* independence from the British government. Even after the British made their colonial system more systematic, toward the close of the seventeenth century, the colonies continued to enjoy much local self-determination. Only five per cent of the laws passed by colonial assemblies were disallowed in Great Britain, and, while these often concerned the most important subjects, the infrequency of the British veto was enough to make it the exception. The elected assemblies, as already noted, were the most democratically recruited of all such constituted bodies in the Western World. In general, it was necessary to own land in order to have the right to vote for a member of the assembly, but small owner-farmers were numerous, most of all in New England; and recent studies all tend to raise the estimates of the proportion of those enjoying the franchise before the Revolution. It seems to have been above eighty per cent of adult white males in Massachusetts, half or more in New Jersey, perhaps a little under half in Virginia.⁴ Many

³ M. C. Tyler, *Literary History of the American Revolution*, 2 vols. (New York, 1897), II, p. 99, n. 3.

⁴ R. E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691-1780* (Ithaca, 1955), 50; R. McCormick, *History of Voting in New Jersey . . . 1664-1911* (New Brunswick, 1953), 63; C. S. Sydnor, *Gentlemen Freeholders: Political Practices in Washington's Virginia* (Williamsburg, 1952), 32, 143, appears to think that about

There were recognized inequalities of social rank. But rank somehow lacked the magic it enjoyed in Europe. In the migration from England and Europe, the well-situated and the high-born had been notably absent. There were Americans of aristocratic pretensions, but the most ambitious genealogy led only to some middling English gentleman's manor house; most Americans were conscious of no lineage at all, American genealogy being largely a nineteenth-century science. No American could truthfully trace his ancestry to the mists of time or the ages of chivalry—nor, indeed, could many British peers or French noblemen. It was the complaint of Lord Stirling, as the New Jersey revolutionary, William Alexander, was called, that he was *not* recognized as a lord in England. A Swedish clergyman arriving in New Jersey in 1770, to take over the old Swedish congregation on the Delaware, found that well-to-do farmers were like lesser gentry in Sweden, in their use of fine linen and fondness for good horses. The significant thing for America was that people of this style of life did not, as in Sweden, consider themselves nobles. Everyone worked, and to the Swedish newcomer it seemed that "all people are generally thought equally good."⁶

Whether religion acted as a force in the conflict of the American Revolution is disputed. Since the Worship of Reason at Notre-Dame de Paris in November 1793, there have always been those who have stressed the religious principles of the founders of the United States. It is a way of showing how different they were from Jacobins or Communists. The truth is that the age was not notably religious, and that the sentiments that burst out violently in Paris in 1793 were, as sentiments, not uncommon. We read, for example, of an Anglican rector in England who, about 1777, so admired the writings of Catherine Macaulay that "he actually placed her statue, adorned as the Goddess of Liberty, within the altar railing" of his parish church.⁷ "It will never be pretended," wrote John Adams in 1786, that the men who set up the new governments in America "had interviews with the gods, or were in any degree under the inspiration of Heaven, more than those at work on ships or houses, or laboring in merchandise or agriculture; it will forever be acknowledged that these governments were contrived by reason and the senses, as Copley painted Chatham . . . [or] as Paine exposed the mistakes of Raynal. . . ."⁸ John Adams, while

⁶ Quoted by L. Lundin, *Cockpit of the Revolution: the War for Independence in New Jersey* (Princeton, 1940), 33.

⁷ E. Sitwell, *Bath* (London, 1932), 223.

⁸ *Works* (1851), IV, 292-93.

of Americans were unchurched than in any European country. What aroused horror, when violently pursued as dechristianization in France a few years later, had gone pretty far, without violence, in America. As for the leaders of the American Revolution, it should be unnecessary to demonstrate that most of them were deists. They were strongly on the side of the best human virtues, or at least of those which were not ascetic; but they saw no connection between such virtues and religious practice. Like Jefferson in the Declaration of Independence, they appealed to the laws of Nature's God. They seem not to have felt, however, like Burke, that these laws placed serious limits upon their freedom of political action.

The simplicities in which British America had originated gave way to more complex forms of society in the eighteenth century. A liberty almost like that of the "state of nature," a liberty defined by the remoteness of government, gradually changed, especially after the British revolution of 1688, into the more organized and channelized liberty of British subjects under the British constitution. There was a bias toward equality in the foundations. The superstructure, as it was raised, exhibited palpable inequalities. As America became more civilized it began to have, like all civilized countries, a differentiation of social classes. Even the once unmanageable Quakers took on new social refinements. The Philadelphia Yearly Meeting of 1722 officially declared its "decent respect" for "ranks and dignities of men," and called for honor and obedience "from subjects to their princes, inferiors to superiors, from children to parents, and servants to masters."¹⁰ Increasingly there was a kind of native American aristocracy. No question was of more importance for the future than the way in which this new aristocracy would develop.

The colonial aristocracy, as it took form in the eighteenth century, owed a good deal to close association with government. From New Hampshire to the far South, as has been seen in Chapter II, there were intermarried families which monopolized seats in the governors' councils, in some cases, now, to the third and fourth generation. There were Americans, close to the British authorities, who regarded themselves as the natural rulers of the country. Sometimes, like Englishmen of the class to which they would compare themselves, they expected to draw a living from public offices, to which they need devote only part of their time. This practice has been most closely

¹⁰ F. B. Tolles, *Meeting House and Counting House: the Quaker Merchants of Colonial Philadelphia* (Williamsburg, 1948), 111-12.

studied for Maryland, where there were a number of offices in which a man could live like a gentleman, with a good deal of leisure, for £150 a year.¹¹

More generally, the wealth of the growing American upper class came from early land grants, or from inheritance of land in a country where land values were always rising, or from mercantile wealth in the half-dozen seaboard cities, all of which except Charleston lay from Philadelphia to the North, or from the ownership of plantations and Negro slaves in the South. New York and the Southern provinces, because of their systems of landholding, were the most favorable to the growth of aristocratic institutions, but an upper class existed everywhere in the settled regions. In places where landed and mercantile wealth came together, as at New York and Charleston, people mixed easily with mutual regard; there was no standoffishness between "trade" and "gentry."

Without the rise of such a colonial aristocracy there could have been no successful movement against England. There had to be small groups of people who knew each other, who could trust each other in hazardous undertakings, who had some power and influence of their own, who could win attention and rally followers, and who, from an enlarged point of view, felt a concern for the welfare of the provinces as a whole. "While there are no noble or great and ancient families . . . they cannot rebel," as an observer of New England remarked in 1732.¹² A generation later such "great" families, if not noble or very ancient, could be found everywhere in the colonies.

On the other hand, the rise of such an aristocracy brought class friction and internal tension. "In many a colony in 1764," according to Professor Rossiter (whose view of an "American consensus" I do not wish to misrepresent), "civil war seemed more likely than war with Britain."¹³ There was everlasting bickering over land titles, quit-rents, debts, and paper money. There was complaint, in the western part of several provinces, at under-representation in the elected assemblies, or at the long distances it was necessary to go to cast a vote or to be present in a court of law. Rich and poor were not so far apart as in Europe, but they were far enough apart to cause trouble. Western Massachusetts, suspicious of Boston, was not hostile to Britain until 1774. There was a great rent riot in the Hudson valley in 1766, directed

¹¹ D. M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore, 1953).

¹² Quoted by Rossiter, *op.cit.*, 109.

¹³ *Ibid.*, 115.

certain. It was far more certain that the British constitution secured a man against physical violence, against his having his house plundered and wrecked by political adversaries, or against being tarred and feathered for refusing to join a non-import agreement decided on by some unauthorized assembly which had no right to use force. As events unfolded, men took sides, and Americans found themselves disputing with each other on a new subject, the attitude to be taken to British law.

What happened to Plymouth Rock offers a parable. The stone on which the Pilgrims of 1620 had supposedly first set foot already enjoyed a local fame, as a symbol of what was most ancient and natively American in the New World. In 1774 a party of patriots decided to use it as the base for a liberty pole. They tried to haul it, with twenty oxen, from the shore to the town square. Under the strain, it broke in two.¹⁴

The Revolution: Democracy and Aristocracy

Fighting between the King's troops and the people of Massachusetts began at Lexington and Concord in April 1775. In the following December the British government put the insurgent colonists outside the protection of the British crown. The Americans were now in what they would call a state of nature, and what was in fact a condition of anarchy. Lawful authority melted away. Governors, unable to control their assemblies, undertook to disband them, only to see most of the members continue to meet as unauthorized congresses or associations; or conventions of counties, unknown to the law, chose delegates to such congresses for provinces as a whole; or local people forcibly prevented the sitting of law courts, or the enforcement of legal judgments by the sheriffs. Violence spread, militias formed, and the Continental Congress called into existence a Continental army, placing General George Washington in command.

In whose name were these armed men to act? To what civilian authority were they to be subordinated? How could the courts be kept open, or normal court decisions and police protection be carried out? If American ships, breaking the old navigation system, should enter the ports of Europe, in whose name should they appear? If diplomatic agents were sent to Versailles or the Hague, whom were they to say that they represented? If aid was to be sought from France,

¹⁴ For this curious episode see W. F. Craven, *The Legend of the Founding Fathers* (N.Y., 1956), 32.

would the French give it for any purpose except to break up the British empire, and undo the British victory of 1763? These practical needs, together with the inflaming of feeling against England by war and bloodshed, and the extraordinary success of Thomas Paine's pamphlet, *Common Sense*, induced the Congress, more than a year after the battle of Lexington, to announce the arrival of the United States of America "among the powers of the earth," able to do "all acts and things which independent states may of right do."

With the Declaration of Independence, and the new constitutions which most of the states gave themselves in 1776 and 1777, the revolutionary colonials began to emerge from the anarchy that followed the collapse or withdrawal of British power. They sought liberty, it need hardly be said; but they also sought authority, or a new basis of order. A revolution, it has been wisely observed, is an unlawful change in the conditions of lawfulness.¹⁵ It repudiates the old definitions of rightful authority, and drives away the men who have exercised it; but it creates new definitions of the authority which it is a duty to obey, and puts new men in a position to issue legitimate commands. The new lawfulness in America was embodied in the new constitutions, which will be considered shortly. Meanwhile, what happened in America was against the law.

The Revolution could be carried out, against British and loyal American opposition, only by the use of force. Its success "was impossible without a revolutionary government which could enforce its will."¹⁶ Let us look simply at the case of New Jersey. Late in 1776 the danger to the patriots became very pressing, as the British pursued Washington's army across the state. One of the New Jersey signers of the Declaration of Independence was forced to recant; the man who had presided over the convention which had proclaimed independence of the state went over to the British. The state was full of open and hidden enemies of the new regime. Taxes were neither levied nor collected with any regularity; the paper money which financed the Revo-

¹⁵ For a philosophical discussion, see P. Schrecker, *Work and History: an Essay on the Structure of Civilization* (Princeton, 1948), 206: "In the political province, a revolution may accordingly be defined as an unlawful change of the constitution, and since the constitution represents the established conditions of lawfulness, the revolutionary event appears as an unlawful change of the very conditions of lawfulness."

¹⁶ R. C. Haskett, "Prosecuting the Revolution," in *American Historical Review*, LIX (April 1954), 578. In addition, for this paragraph, see Lundin, *op.cit.*, and the unpublished doctoral dissertation on William Paterson, by Mr. Haskett, in the Princeton University Library; also J. C. Miller, *Crisis in Freedom: the Alien and Sedition Acts* (Boston, 1951), 108, 125.

lution flooded the state, swollen by counterfeits that poured from loyalist presses in New York. Prices soared; price controls were imposed, but were generally ineffective. The new government had no means of enforcing its authority except the thirteen county courts carried over from colonial times. These proved ineffectual under conditions of civil war. Revolutionary leaders thereupon created a Council of Safety as a temporary executive. Its twelve members were chosen by the state legislature. They toured the state to arouse local patriots and speed up action of the courts. They took the law into their own hands wherever they wished, hunted out suspects, ordered arrests, exacted oaths of allegiance, punished evasion of militia service, and instituted proceedings to confiscate the property of those who openly joined the British. One member of this Council of Safety was William Paterson, born in Ireland, son of a storekeeper. His career had been made by the Revolution, during which he became attorney-general to the state. He became a heated revolutionary, detesting more than all others, as he once said, that "pernicious class of men called moderates." His position allowed him to buy confiscated lands on advantageous terms; he became a well-to-do man. He lived to be a justice of the United States Supreme Court, and a terror to democrats in the days of the Alien and Sedition laws.

Revolutionary government as a step toward constitutional government, committees of public safety, representatives on mission to carry revolution to the local authorities, paper money, false paper money, price controls, oaths, detention, confiscation, aversion to "moderatism," and Jacobins who wind up as sober guardians of the law—how much it all suggests what was to happen in France a few years later! With allowance for differences of scale and intensity, there was foreshadowed in the America of 1776 something of the *gouvernement révolutionnaire* and even the Terror of France in 1793—except for the death sentences and the horrors that went with them, and except for the fact that the victims of these arbitrary proceedings never returned to political life as an organized force, to keep alive for all time an inveterate hatred of the Revolution.¹⁷

It is not easy to say why some Americans warmly embraced the Revolution, or why others opposed it, or how many there were on each

¹⁷ What the United States has missed by having no returned émigrés, or real counterrevolution within its own borders, may be seen in the work of the Canadian Arthur Johnston, dedicated to the loyalists, the "true heroes of the Revolution," and breathing not academic revisionism but intense loathing of that event: *Myths and Facts of the American Revolution: a Commentary on United States History as it is Written* (Toronto, 1908).

Like the émigrés from the French Revolution, the émigrés from America came from all classes. But those connected with the English government or English church, and identifying themselves with English society and the values of the British governing class, were more numerous among loyalists than in the general population. On the other hand, lest any one thesis be carried too far, it should be pointed out that Virginia, a very English province in some ways, was so solidly patriotic that only thirteen natives of the Old Dominion ever applied to Britain for compensation for loyalist losses.²³

The war itself polarized the issues. Each side needed strength, and the revolutionary leaders looked for it in the mass of the population, the loyalists among the ruling circles of Great Britain. In legal form, the struggle was between the sovereignty of the former colonies and the sovereignty of the British King-in-Parliament. Rebellious leaders, however, clothed themselves in the sovereignty of the "people," both in form and to a large degree in content. The social content of Parliament in the eighteenth century needs no further elaboration. The struggle, whatever men said, and whatever has been said since, was inseparable from a struggle between democratic and aristocratic forces. If the rebellion was successful, democracy in America would be favored. If it failed, if Parliament and the loyal Americans had their way, development in America would move in an aristocratic direction. In this respect the American Revolution resembled the revolutions in Europe.

That the war favored democracy in America is apparent in many ways. In some places, notably Massachusetts, the suffrage was nearly universal before the Revolution; in others, notably Virginia, the Revolution did not extend it. But in Pennsylvania the pro-British leanings of the Quaker patriciate brought them into disrepute after hostilities began; and their aversion to military solutions, at a time when any solution was bound to be military, threw power into the hands of the western farmers, who by becoming soldiers made themselves indispensable to the infant state, so that Pennsylvania developed the most democratically organized government in the new union.²⁴ In New Jersey the provincial congress, enjoying no legality and in rebellion against the legal authorities, sought to broaden its mandate by extending the voting franchise. In fact, petitions streamed into the Congress,

²³ Alden, *op.cit.*, 89.

²⁴ E. P. Douglass, *Rebels and Democrats: The Struggle for Equal Political Rights and Majority Rule during the American Revolution* (Chapel Hill, 1955), 251-52.

maining in some of the seaports, might eventually have withdrawn from a country that they could not govern. To admit this much is not to answer the question. A country gaining independence in this way would not have been the country that emerged in 1783. The winners of the American war were not guerrilla chieftains. They were not obscure and hunted men out of contact with civilization. They not only made government impossible for the British; they established governments of their own. They did not represent the triumph of anarchy. America was divided, but it was not altogether, as Burke said in 1779, in a "state of dreadful confusion."⁸⁵ The Americans made a clean break with England. They came into the circle of nations as a recognized power. And they presented to the view of Europe a set of organized republican states, constituted and fashioned in a new way, of enormous interest to Europe.

The intervention of France, it may therefore appear, was one of the indispensable elements in the founding of the United States. In this sense, too, as well as in its ideological repercussions, the American Revolution was an event within an Atlantic civilization as a whole. And the Bourbon monarchy, when it helped to call the American republic into being, added another force to the forces of change in Europe.

⁸⁵ Letter of June 12, 1779 to Dr. John Erskine, in the Wentworth-Woodhouse manuscripts at the Sheffield Central Library.

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. . . .—THE DECLARATION OF INDEPENDENCE OF THE UNITED STATES OF AMERICA, 1776

X ||| *It is a general maxim in every government, there must exist, somewhere, a supreme, sovereign, absolute and uncontrollable power; but this power resides always in the body of the people; and it never was, or can be delegated to one man, or a few.*—THE GENERAL COURT OF MASSACHUSETTS, 1776

. . . those deluded People.—KING GEORGE III, 1775

understanding of the ideas of government by contract or consent, or the sovereignty of the people, or political representation, or the desirability of independence from foreign rule, or natural rights, or the difference between natural law and positive law, or between certain fundamental laws and ordinary legislation, or the separation of powers, or the federal union of separate states. All these ideas were perfectly familiar in Europe, and that is why the American Revolution was of such interest to Europeans.

The Distinctiveness of American Political Ideas

The most distinctive work of the Revolution was in finding a method, and furnishing a model, for putting these ideas into practical effect. It was in the implementation of similar ideas that Americans were more successful than Europeans. "In the last fifty years," wrote General Bonaparte to Citizen Talleyrand in 1797, "there is only one thing that I can see that we have really defined, and that is the sovereignty of the people. But we have had no more success in determining what is constitutional, than in allocating the different powers of government." And he said more peremptorily, on becoming Emperor in 1804, that the time had come "to constitute the Nation." He added: "I am the constituent power."³

The problem throughout much of America and Europe, for half a century, was to "constitute" new government, and in a measure new societies. The problem was to find a constituent power. Napoleon offered himself to Europe in this guise. The Americans solved the problem by the device of the constitutional convention, which, revolutionary in origin, soon became institutionalized in the public law of the United States.³

The constitutional convention in theory embodied the sovereignty of the people. The people chose it for a specific purpose, not to govern, but to set up institutions of government. The convention, acting as the sovereign people, proceeded to draft a constitution and a declaration of rights. Certain "natural" or "inalienable" rights of the citizen were thus laid down at the same time as the powers of government. It was the constitution that created the powers of government, defined

³ *Correspondance de Napoleon I*, III (Paris, 1859), 314; R. M. Johnston, *The Corsican* (N.Y., 1910), 182.

³ See, for example, J. A. Jameson, *The Constitutional Convention: Its History, Powers and Modes of Proceeding* (N.Y., 1867); H. C. Hockett, *The Constitutional History of the United States, 1776-1826* (N.Y., 1939).

their scope, gave them legality, and balanced them one against another. The constitution was written and comprised in a single document. The constitution and accompanying declaration, drafted by the convention, must, in the developed theory, be ratified by the people. The convention thereupon disbanded and disappeared, lest its members have a vested interest in the offices they created. The constituent power went into abeyance, leaving the work of government to the authorities now constituted. The people, having exercised sovereignty, now came under government. Having made law, they came under law. They put themselves voluntarily under restraint. At the same time, they put restraint upon government. All government was limited government; all public authority must keep within the bounds of the constitution and of the declared rights. There were two levels of law, a higher law or constitution that only the people could make or amend, through constitutional conventions or bodies similarly empowered; and a statutory law, to be made and unmade, within the assigned limits, by legislators to whom the constitution gave this function.

Such was the theory, and it was a distinctively American one. European thinkers, in all their discussion of a political or social contract, of government by consent and of sovereignty of the people, had not clearly imagined the people as actually contriving a constitution and creating the organs of government. They lacked the idea of the people as a constituent power. Even in the French Revolution the idea developed slowly; members of the French National Assembly, long after the Tennis Court oath, continued to feel that the constitution which they were writing, to be valid, had to be accepted by the King as a kind of equal with whom the nation had to negotiate. Nor, indeed, would the King tolerate any other view. On the other hand, we have seen how at Geneva in 1767 the democrats advanced an extreme version of citizen sovereignty, holding that the people created the constitution and the public offices by an act of will; but they failed to get beyond a simple direct democracy; they had no idea of two levels of law, or of limited government, or of a delegated and representative legislative authority, or of a sovereign people which, after acting as a god from the machine in a constituent convention, retired to the more modest status of an electorate, and let its theoretical sovereignty become inactive.

The difficulty with the theory was that the conditions under which it could work were seldom present. No people really starts *de novo*; some political institutions always already exist; there is never a *tabula*

in their own hands, and to avoid reconstitution at the hands of the "people."

Ten states gave themselves new constitutions in 1776 and 1777. In nine of these states, however, it was the ordinary assembly, that is, the revolutionary government of the day, that drafted and proclaimed the constitution. In the tenth, Pennsylvania, a constituent convention met, but it soon had to take on the burden of daily government in addition. In Connecticut and Rhode Island the colonial charters remained in force, and the authorities constituted in colonial times (when governors and councils had already been elected) remained unchanged in principle for half a century. In Massachusetts the colonial charter remained in effect until 1780.

Thus in no state, when independence was declared, did a true constituent convention meet, and, as it were, calmly and rationally devise government out of a state of nature. There was already, however, some recognition of the principle that constitutions cannot be made merely by governments, that a more fundamental power is needed to produce a constitution than to pass ordinary laws or carry on ordinary executive duties. Thus, in New Hampshire, New York, Delaware, Maryland, North Carolina, and Georgia, the assemblies drew up constitutions only after soliciting authority for that purpose from the voters. In Maryland and North Carolina there was a measure of popular ratification.

Constitution-making in North Carolina, Pennsylvania, and Massachusetts

The popular pressures that helped to form American political doctrine are best illustrated from North Carolina, Pennsylvania, and Massachusetts.⁴

In North Carolina class lines had been sharply drawn by the Regulator movement and its suppression. The people of the back-country even inclined to be loyalist, not eager for an independence that might only throw them into the hands of the county gentry. In the turbulent election of October 1776 the voters knew that the assembly which they elected would draft a state constitution. There was no demand for a convention to act exclusively and temporarily as a constituent power.

⁴ Here I am indebted, without sharing all his conclusions, to E. P. Douglass, *Rebels and Democrats: the Struggle for Equal Political Rights and Majority Rule during the American Revolution* (Chapel Hill, 1955).

But several counties drew up instructions for the deputies, in which the emerging doctrine was set forth clearly.

Orange and Mecklenburg counties used identical language. This is a sign, as in the case of identical phrasing in the French *cahiers* of 1789, where the matter has been carefully studied, that some person of influence and education, and not some poor farmer ruminating in his cabin, had probably written out a draft. Still, the public meetings of both counties found it to their taste. "Political power," they said, "is of two kinds, one principal and superior, the other derived and inferior. . . . The principal supreme power is possessed only by the people at large. . . . The derived and inferior power by the servants which they employ. . . . The rules by which the inferior power is exercised are to be constituted by the principal supreme power. . . ."⁵ In other words, government was not a form of guardianship. Office was to be no longer a perquisite of the gentry, or "an aristocracy of power in the hands of the rich," to use their own language, but a form of employment by the people, whom they did not hesitate to call "the poor." Mecklenburg favored a unicameral legislature, Orange a bicameral one, but both called for a separation of powers. It was not that any organ of government should enjoy independence from the electorate (the essence of balance-of-power theory in the European, British, and loyalist view), but rather that the various functions of government should be defined and distributed among different men, to prevent what had happened in colonial times. The fact that before 1776 the council had possessed executive, legislative, and judicial functions, and that members of the assembly had served as justices of the peace, or had their relatives appointed judges and sheriffs, was the basis on which North Carolina had been dominated by small groups of gentry. It was popular objection to this situation, probably more than a reading of European books, that made the separation of powers a principal American doctrine.

The North Carolina constitution, as written and adopted, enlarged the electorate by granting all taxpayers the right to vote for members of the lower house. It equalized the representation by giving more deputies to the western counties. It required a freehold of 100 acres for members of the lower house, and of 300 acres for those of the upper house, who were to be elected only by voters possessing 50 acres. The governor, elected by the two houses, had to have a freehold worth

⁵ *Ibid.*, 126.

The *Thoughts of 1776* were conservative in another way, if conservatism be the word. Adams had not yet conceived the idea of a constitutional convention. He lacked the notion of the people as constituent power. He had in mind that existing assemblies would draft the new constitutions, when and if any were drafted. Adams was familiar with all the high-level political theory of England and Europe. But the idea of the people as the constituent power arose locally, from the grass roots.

The revolutionary leadership in Massachusetts, including both Adamases, was quite satisfied to be rid of the British, and otherwise to keep the Bay State as it had always been. They therefore "resumed" the charter of 1691. They simply undid the Massachusetts Government Act of 1774. Some of the commonalty of Boston, and farmers of Concord and the western towns, envisaged further changes. It is hard to say what they wanted, except that they wanted a new constitution. Experts in Massachusetts history contradict each other flatly; some say that debtors, poor men, and Baptists were dissatisfied; others that all kinds of diverse people naturally owed money anyway, that practically no one was too poor to vote, and that Baptists were an infinitesimal splinter group in a solidly Congregationalist population. It may be that the trouble was basically psychological; that many people of fairly low station, even though they had long had the right to vote, had never until the Revolution participated in politics, were aroused by the Revolution, the war, and excitement of soldiering, and, feeling that affairs had always been managed by people socially above them, wanted now to act politically on their own.

Demands were heard for a new constitution. It was said that the charter of 1691 was of no force, since the royal power that had issued it was no longer valid. It was said that no one could be governed without his consent, and that no living person had really consented to this charter. Some Berkshire towns even hinted that they did not belong to Massachusetts at all until they shared in constituting the new commonwealth. They talked of "setting themselves apart," or being welcomed by a neighboring state. Echoes of the social contract floated through the western air. "The law to bind all must be assented to by all," declared the farmers of Sutton. "The Great Secret of Government is governing all by all," said those of Spencer.¹⁰ It began to seem that a constitution was necessary not only to secure liberty but to establish authority, not only to protect the individual but to found the state.

The house of representatives proposed that it and the council, that

¹⁰ Douglass, *op.cit.*, 178.

nant," go back to the Mayflower compact. But whence comes the "social" in *social* compact? And whence comes the word "citizen"? There were no "citizens" under the British constitution, except in the sense of freemen of the few towns known as cities. In the English language the word "citizen" in its modern sense is an Americanism, dating from the American Revolution.¹⁸ It is entirely possible that Jean-Jacques Rousseau had deposited these terms in Adams' mind. The whole passage suggests Chapter vi, Book I, of the *Social Contract*. The convention adopted this part of Adams' preamble without change.

In the enacting clause of the preamble Adams wrote: "We, therefore, the delegates of the people of Massachusetts . . . agree upon the following . . . Constitution of the Commonwealth of Massachusetts." The convention made a significant emendation: "We, therefore, the people of Massachusetts . . . agree upon, ordain and establish. . . ." The formula, *We the people ordain and establish*, expressing the developed theory of the people as constituent power, was used for the first time in the Massachusetts constitution of 1780, whence it passed into the preamble of the United States constitution of 1787 and the new Pennsylvania constitution of 1790, after which it became common in the constitutions of the new states, and in new constitutions of the old states. Adams did not invent the formula. He was content with the matter-of-fact or purely empirical statement that the "delegates" had "agreed." It was the popularly elected convention that rose to more abstract heights. Providing in advance for popular ratification, it imputed the creation of government to the people.

Adams wrote, as the first article of the Declaration of Rights: "All men are born equally free and independent, and have certain natural, essential and unalienable rights," which included defense of their lives, liberties, and property, and the seeking of "safety and happiness." The Virginia Declaration of Rights, drafted by George Mason in June 1776, was almost identical, and Adams certainly had it in mind. The Massachusetts convention made only one change in this sentence. It declared: "All men are born free and equal." The convention, obviously, was thinking of the Declaration of Independence, that is, Jefferson's more incisive rewording of Mason's Virginia declaration.

The convention had been elected by a true universal male suffrage,

¹⁸ This may be readily confirmed from the Oxford Dictionary, or by comparison of definitions of "citizen" in British and American dictionaries, or by tracing the article "citizen" through successive editions of the Encyclopaedia Britannica, where the modern meaning does not appear until the eleventh edition in 1910.

executive and judicial departments."¹⁵ And since governors could no longer be appointed by the crown, an obvious way to prevent their dependence on legislatures was to have them issue, like legislators, from the new sovereign, the people. It was legislative oligarchy that Adams thought the most imminent danger. As he wrote to Jefferson in 1787: "You are afraid of the one—I, of the few."¹⁶

As for the phantom "lords," or senators, though they were directly elected by the ordinary voters for one-year terms, they were in a way supposed to represent property rather than numbers. They were apportioned among the counties of Massachusetts not according to population but according to taxes paid, that is, according to assessed value of taxable wealth. Suffolk County, which included Boston, thus received 6 senators out of 40, where on a purely numerical basis it would have received only four. The Maine districts, Cape Cod, and the western counties were numerically somewhat underrepresented. The three central and western counties received 11 senators, where a representation in proportion to numbers would have given them 12 or 13. Inequalities in wealth in Massachusetts, as between individuals or as between city and country, were not yet great enough to make a senate apportioned according to "property" (which included the small man's property as well as the rich man's) very different from a senate apportioned according to numbers.¹⁷

The Massachusetts constitution prescribed certain qualifications for eligibility. The governor was required to have a freehold worth at least £1,000, senators a freehold of £300 or £600 total estate, representatives a freehold of £100 or £200 total estate. (British law at this time required £300 or £600 *annual income* from land to qualify for the House of Commons.) These Massachusetts requirements resembled those in North Carolina, where the governor had to have a £1,000 freehold, and members of the upper and lower houses freeholds of 300 or 100 acres respectively. In the absence of comparative statistics on land values and distribution of land ownership in the two states, it is impossible to compare the real impact of these legal qualifications for office. In Massachusetts, however, whatever may have been true

¹⁵ Adams, *Works* (1851), iv, 231 and 232 note.

¹⁶ *Papers of Thomas Jefferson*, xii (Princeton, 1955), 396.

¹⁷ Compare the apportionment of senators in the Massachusetts constitution with the population of counties in the census of 1790. The fact that the senate represented property rather than numbers is stressed by those who see the Massachusetts constitution of 1780 as a very conservative or reactionary document. I confess to sharing the impatience of Professor Brown at academic theories which dissolve under a little grade-school computation.

one of his reasons that, however affluent they might be now, "the course of a few years not only might, but certainly would, distribute their posterity through the lowest classes of society."²¹ No one seems to have disputed this prognostication. Such acceptance of future downward mobility for one's own grandchildren, if by no means universal in America, was far more common than in Europe. Without such downward mobility there could not long remain much room for newcomers at the top, or much assurance of a fluid society. With it, there could not be a permanent aristocracy in the European sense.

It was the state legislatures that chose the delegates to the Philadelphia convention, in answer to a widely expressed demand for strengthening the federal government under the Articles of Confederation. The Philadelphia convention proceeded, not to amend the Articles, but to ignore and discard them. It repudiated the union which the thirteen states had made. Beard in 1913 found it satisfying to call this operation a revolution, a revolution from above to be sure, which he compared to a *coup d'état* of Napoleon. His critic, Professor Brown, in 1956, found it satisfying and important to deny any revolutionary action in what happened.

What did really happen? The men at Philadelphia did circumvent the state governments, and in a sense they betrayed those who sent them. They did so by adopting the revolutionary principle of the American Revolution, which had already become less purely revolutionary and more institutionalized as an accepted routine, as shown in the Massachusetts convention of 1780, which had been followed by a New Hampshire convention, and new constitution for New Hampshire in 1784. The Philadelphia convention went beyond the existing constituted bodies, that is, the state governments and the Congress under the Articles, by appealing for support directly to the people, who in each state elected, for this purpose only, conventions to discuss, ratify, or refuse to ratify the document proposed by the convention at Philadelphia. The authors of the proposed federal constitution needed a principle of authority; they conceived that "the people were the fountain of all power," and that if popularly chosen conventions ratified their work "all disputes and doubts concerning [its] legitimacy" would be removed.²² In each state, in voting for ratifying conventions, the voters voted according to the franchise as given by their state constitutions. No use was made of the more truly revolutionary idea, still

²¹ *Writings of James Madison*, 9 vols. (N.Y., 1902-1910), III, 47.

²² Quoted by Brown, *op.cit.*, 140.

alive in Massachusetts in 1780, that on the acceptance of a government every man should have a vote. In some states the authorized voters were a great majority; in none were they a small minority. The actual vote for the ratifying conventions was light, despite protracted public discussion, because most people lost interest, or never had any, in abstract debates concerning governmental structure at the distant federal level. Eleven states ratified within a few months, and the constitution went into effect for the people of those eleven states. The remaining two states came in within three years. The whole procedure was revolutionary in a sense, but revolution had already become domesticated in America. The idea of the people as the constituent power, acting through special conventions, was so generally accepted and understood that a mere mention of the word "convention," in the final article of the proposed constitution, was thought sufficient explanation of the process of popular endorsement.

Nevertheless, men of popular principles, those who would soon be called democrats, and who preferred the arrangements of the Pennsylvania constitution, with its single-house legislature to which the executive was subordinated, found much in the new federal constitution not to their liking, at least at first sight. The new instrument reproduced the main features of the Massachusetts constitution of 1780: the strong president, the senate, the house of representatives, the partial executive veto, the independent judiciary, the separation and balance of powers. In fact, the longer tenure of offices—four years for the president, six for senators, two for representatives, in place of the annual terms for corresponding functionaries in Massachusetts—shows a reaction away from revolutionary democracy and toward the giving of more adequate authority to those entrusted with public power. The president was not popularly elected, like the governor in Massachusetts; but neither was he designated by the legislative assembly, like the president in Pennsylvania and governors in the Southern states. He was elected by an electoral college, with each state free to determine how its own share of these electors should be chosen. Although as early as 1788 almost half the states provided for popular election of presidential electors, it was not until 1828 that this became the general and permanent rule. In the federal constitution the unique feature, and key to the main compromise, was the senate. Not only did large and small states have the same number of senators, but it was the state legislatures that chose them. Since it was the state legislatures that conservative or hard-money men mainly feared in the 1780's, this

provision can hardly have been introduced in the hope of assuring economic conservatism. It was introduced to mollify the states as states. In the senate the new union was a league of preexisting corporate entities. In the house of representatives it rested more directly on the people. Anyone who had the right to vote in his state could vote for a member of the lower house of Congress. In one respect the federal constitution, by its silence, was more democratic in a modern sense than any of the state constitutions. No pecuniary or religious qualification was specified for any office.

The new constitution was a compromise, but that it produced a less popular federal government, less close to the people, than that of the Articles of Confederation, seems actually contrary to the facts. It created a national arena for political controversy. There were now, for the first time, national elections in which voters could dispute over national issues. One result was the rise, on a national scale, of the Jeffersonian democratic movement in the 1790's.

Ambivalence of the American Revolution

In conclusion, the American Revolution was really a revolution, in that certain Americans subverted their legitimate government, ousted the contrary-minded and confiscated their property, and set the example of a revolutionary program, through mechanisms by which the people was deemed to act as the constituent power. This much being said, it must be admitted that the Americans, when they constituted their new states, tended to reconstitute much of what they already had. They were as fortunate and satisfied a people as any the world has known. They thus offered both the best and the worst example, the most successful and the least pertinent precedent, for less fortunate or more dissatisfied peoples who in other parts of the world might hope to realize the same principles.

Pennsylvania and Georgia gave themselves one-chamber legislatures, but both had had one-chamber legislatures before the Revolution. All states set up weak governors; they had been undermining the authority of royal governors for generations. South Carolina remained a planter oligarchy before and after independence, but even in South Carolina fifty-acre freeholders had a vote. New York set up one of the most conservative of the state constitutions, but this was the first constitution under which Jews received equality of civil rights—not a very revolutionary departure, since Jews had been prospering in New

diers simply stay there at the end of the war, and a young officer named Gneisenau saw a military value in patriotically inspired militia, and tried thirty years later to introduce certain features of a democratic kind into the Prussian army.

It would be interesting to know more of the experience of enlisted men who fought in America—French, British, and German—since in this way we could trace an American influence among the lower social classes of which the enlisted ranks were then composed. An interesting attempt has recently been made in this direction.⁸ It has been shown that a high proportion of the 7,000 soldiers in Rochambeau's army came from those parts of France in which agrarian insurrection and peasant revolution were most in evidence nine years later, in 1789. From this geographical coincidence it is argued that French peasants, as soldiers in America, saw how well off American farmers were, through ownership of their farms without manorial or feudal restraints; and that therefore, back in their native villages, they took a lead in stirring up revolt when the Revolution came in France. This thesis would be important if it could be more fully proved, as evidence of an actual link between common people of the two countries. It seems equally likely, however, that the geographical coincidence may be due to a third factor; that certain regions, because of bad conditions in agriculture, might both send more than an average number of men into the army, and revolt when revolt became possible. As for the 30,000 German troops who went to America, some 12,000 remained to settle there. We can only guess what was said by those who got back to Germany. Neighbors very likely heard a great deal about America from German soldiers, as well as from British and French. This may be one of the early firsthand sources of the generally favorable view of America that long characterized the working people of Europe.

A good deal of deliberate propaganda was also in the air. The British government and its sympathizers scored various successes, particularly in Holland and parts of Germany. The Dutch publicist, Isaac de Pinto, who drew part of his income from British connections, stirred up a small international controversy by two pamphlets of 1776 in which he justified the British policy toward the colonies. Since the Orange family and its adherents were as warmly partisan to England as their adversaries were to America, the American Revolution had a

⁸ F. McDonald, "The Relation of French Peasant Veterans of the American Revolution to the Fall of Feudalism in France," in *Agricultural History*, xxv (1951), 151-61.

seriously divisive effect in the Netherlands. In Germany the British view was most fully set forth in Hanover, where the dynastic connection with England had brought about many intellectual contacts. The University of Göttingen, and especially its eminent professor, the journalist Schlözer, became the main center in Germany of anti-American feeling.⁹ Echoes of the same thing in France may be heard in the words of Mallet du Pan, who remarked that in the American war "the dregs of America had fought the dregs of Europe."¹⁰ Since Mallet du Pan and Schlözer were soon to become leading conservative writers against the French Revolution, their lack of enthusiasm for the American Revolution is worth more than passing notice. It is evidence that the two revolutions looked alike to many conservatives, and that counterrevolutionary attitudes were growing even before the French Revolution.

Many people first came to sympathize with the Americans because of dislike of England. They more readily believed that the Americans were fighting for liberty because they thought the British were tyrants. The British had become so wealthy and powerful, especially in the spectacular victories of the Seven Years' War, and they had so often taken measures to stifle the ocean-borne trade of Continental Europe, that a strong body of feeling in Europe looked on England with aversion as the modern Carthage, the ruthless monopolist of the sea, the perfidious Albion that made continental allies only to exploit them. This feeling was to be of use to Napoleon thirty years later. It was now of use to the Americans. Frederick the Great, for example, was no lover of rebellious subjects, but he was sufficiently annoyed with England to allow all sorts of pro-American sentiments to be published at Berlin.

The French government acted basically in the same way.¹¹ Choiseul had foreseen the American Revolution as early as 1765, and looked forward to it as a main hope for redressing the balance between France and England. The Count de Vergennes returned from Sweden in 1774, shortly after the monarchist revolution which he had helped to initiate there, to take charge of the French foreign office at the accession

⁹ For information on Germany I am mainly indebted to H. P. Gallinger, *Die Haltung der deutsche Publizistik zu dem amerikanischen Unabhängigkeitskriege* (Leipzig, 1900), and to the work of my former assistant, Dr. Gordon M. Jensen.

¹⁰ Quoted by Echeverria, *op.cit.*, 128.

¹¹ For what follows on France I am indebted to Echeverria, *op.cit.*, but have also used other studies, including some of my own, of my colleague Dr. H. C. Rice of the Princeton University Library, and, it need hardly be added, of Professor Gilbert Chinard.

publication in English. He worked carefully with J. N. Demeunier, who was preparing a series of articles on America for the *Encyclopédie méthodique*, carefully going over Demeunier's drafts and discussing them with him, only to conclude in the end, when they were published, that Demeunier still could not rid his mind of errors. When Jefferson's Italian friend from Virginia, Philip Mazzei, came to France, Jefferson encouraged him to write a book on America. The result was Mazzei's *Recherches historiques et politiques sur les États Unis*, published at Paris in 1788, in which Mazzei tried to disabuse the French public of the more farfetched ideas of Mably and Raynal. Jefferson also in these years worked closely with Lafayette, who was conducting a busy propaganda campaign of his own in favor of the United States. In 1789, at the time of the fall of the Bastille, and shortly before going home, Jefferson assisted Lafayette on the draft of a French Declaration of the Rights of Man.

During the war John Adams played a similar role in Holland, where he arrived in 1780.¹² His task was more delicate than Franklin's in France, in that the Stadtholder's government was anti-American, it being the merchants and bankers of Amsterdam who were willing, in opposition to the Prince of Orange, to lend aid to America. Adams therefore fell in with the party of incipient revolution, which included the nobleman, Van der Capellen van de Poll, the Mennonite pastor, Van der Kemp, the professor at Leiden and editor of the internationally influential *Gazette de Leide*, John Luzac, and the wealthy young cloth merchant, Peter Vreede, a future Director of the Batavian Republic of 1798. Adams in fact wrote rather huffily to Van der Capellen, soon after arriving, that the Dutch should reduce the power of the Stadtholder in their republic, and do something to separate the houses of Hanover and of Orange. It was more of a subversive remark than any that those discreet democrats, Franklin and Jefferson, ever allowed themselves to make in Bourbon France. Adams, whose main aim was to borrow money, found that no one would lend to America except those willing to brave British and Orange reprisals. In 1780 Capellen, Luzac, and a few others offered a few thousand guilders of their private funds. In 1782, as the anti-Orange movement mounted toward revolution, Adams' Patriot friends got a majority in the Estates Gen-

¹² For Adams' role in Holland, and the Dutch reaction, see Adams' own correspondence; H. L. Fairchild, *Francis Adrian van der Kemp* (N.Y., 1903); and W. H. de Beaufort, ed., *Brieven van en aan Joan Derck van der Capellen van de Poll* (Utrecht, 1879). Many of the letters to and from Capellen are in English or French.

useful and beneficial for all men in general, without distinction of nation."⁸⁶ The society never had much success, influence, or membership; but we can already see the Girondist crusade of all peoples against all kings—Clavière, too, like Brissot, was a minister of state in 1792.

Soon after this attempt to found a Gallo-American Society Brissot went to the United States, and spent several months in that country during the debates over ratification of the federal constitution. He quickly grasped the essential new doctrine of the American Revolution, as I have described it in the last chapter—the idea of the people as a constituent power, creating, delimiting, and granting authority to organs of government, through the mechanism of a convention chosen for that purpose only. He returned to France in the fall of 1788, during the preparations for the Estates-General. He published, early in 1789, a "Plan of Conduct" for the deputies who were about to meet.

Here he clearly applied the American doctrine. A constitution, he declared, was "the act of apportioning the legislative, executive, and judicial powers." These grants of power could come from the people alone; for Brissot was in revolt against all constituted bodies. None of the powers thus constituted by the people had authority to change the constitution. Only a constitutional convention could do that; hence the Estates-General could not draw up a constitution for France. And whence came this device of a constituting convention? "We owe its discovery to the Free Americans, and the convention which has just formed the plan for a federal system has infinitely perfected it." Moreover, "this device or method of the Free Americans can perhaps be very easily adapted to the circumstances in which France now finds itself."⁸⁷

The great problem (and it was a real problem) was to prevent the powers thus constituted from usurping more authority than they had been granted. According to one school, the several constituted powers of government, by watching and balancing and checking one another, were to prevent such usurpation. According to another school, which regarded the first school as undemocratic or mistrustful of the people, the people itself must maintain a constant vigilance and restraint upon the powers of government. There were partisans of both schools on

⁸⁶ *Ibid.*, 108. See also L. A. Vignerat, "La Société gallo-américaine de 1787," in *Bulletin de l'Institut français de Washington*, December 1952.

⁸⁷ Brissot, *Plan de conduite des députés du peuple aux Etats-Généraux de 1789* (Paris, 1789), 240-42.

work, while the new American federal constitution was included, it was translated from the French, not from the English original. Outside of France political discussion of America seldom went beyond political generalities.

The British, Irish, and Dutch were occupied by their own political activities. In Britain the parliamentary reformers were sympathetic to the Americans, and Richard Price published a short book in 1785 on how the American Revolution could become a benefit to the world. Expressing strongly the sense of a new era, he observed that the American example had already emancipated one country (by which in 1785 he must have meant Holland, or possibly Ireland) and would soon emancipate others. He gave detailed advice to the Americans on the avoidance of debt, inequalities of wealth, political corruption, and foreign trade. But he offered no critique of the American constitutions. The British reform movement antedated the American Revolution, to which it was collaterally rather than lineally related. British reformers did not have to learn from America; the Westminster group, as already noted, with a program anticipating the Chartism of the 1830's, went beyond the Americans in their theory of democratic representation. The King's party was unaware that the rebellion had any constitutional significance at all. Even Whigs, who had defended the American cause so long as it was an issue of British politics, lost interest after the Americans left the empire. In all the copious disquisitions of Edmund Burke on political questions, published and unpublished, until his death in 1796 (and I have searched them with this in mind), there is apparently not the slightest reference to the American constitutions.⁸⁸

There was certainly an American influence in Belgium.⁸⁹ The people of these Austrian Netherlands produced few books, but they had an active periodical literature, in which lively interest and contrary opinions on America were expressed. The Abbé Feller, a founder of Belgian political journalism, and soon to be the best-known enemy of the French Revolution among Belgian writers, took an equally disapproving view of the American, and even refused to publish the Massachusetts con-

⁸⁸ Burke did specifically refer to the American constitutions in the debates in the Commons on the Canada Act in April 1791. He observed that the Americans, while lacking the materials for monarchy or aristocracy, never "set up the absurdity that the nation should govern the nation; that prince prettyman should govern prince prettyman, but formed their government, as nearly as they could, according to the model of the British constitution." It was, however, a "bare imitation"; and the English-speaking Canadians, having just fled from the American Revolution, wanted no bare imitation but the real thing. *Parliamentary History*, xxix, 365.

⁸⁹ T. K. Gorman, *America and Belgium: a Study of the Influence of the United States upon the Belgian Revolution of 1789-1790* (London, 1925), 125-27, 157, 207-44.

enlightened monarchy as in the Prussia of Frederick the Great, or through the operation of diets and estates, privileged and historically constituted bodies, like the diet of Württemberg. The American constitutions had nothing to suggest along either of these lines. The idea that the "people," that is, the governed, should take part in the formation or conduct of government was unfamiliar. Only in a stray work, like Schmohl's *Nordamerika und Demokratie*, do we find a summons to the reader, and still an indefinite one, "to rise to a realization of the dignity of a free man, who feels himself to be part of the law-making power."⁴² Poor Schmohl emigrated to America, but died at sea.

Probably in other countries discussion of the American governments and constitutions was even more sporadic than in Germany. We know that the gazettes of Moscow and St. Petersburg printed sympathetic reports of the American Revolution. Alexander Radishchev, in his *Voyage from Petersburg to Moscow* (for which he was exiled to Siberia) not only reprinted his *Ode to Liberty*, inspired by the American Revolution, but cited several of the American state constitutions, chiefly as an argument for liberty of the press. Radishchev, according to Catherine II, was worse than Pugachev, because he quoted Benjamin Franklin.⁴³

The French, however, spurred on by certain Americans in their midst, engaged in a kind of full-dress debate on the American constitutions and American governments, examining and criticizing their features in detail.

What most impressed the French was the very act of constitution-making itself, the constituting or reconstituting of government through the principle of the people as constituent power. What they learned from America was the possibility of having a constituent assembly or a convention. The very word "convention" in this sense, which the French were to make memorable in their own way in 1792, came into the French language through translation of the American state constitutions. For the subjects of government to repudiate and dismantle their government, revert to a "state of nature," and then by

⁴² J. C. Schmohl, *Nordamerika und Demokratie* (Copenhagen, 1782). Apparently really published at Königsberg. Quoted by Gallinger, *op.cit.*, 69; see also King, *op.cit.*, 176, and P. Merlan, "Parva Hamanniana II: Hamann and Schmohl," in *Journal of the History of Ideas* (1949), x, 567-74.

⁴³ Max Laserson, *The American Impact on Russia* (New York, 1950), 53-71; M. M. Shtrange, *Russkoye Obschestvo i Frantsuzskaya Revolyutsiya* (Russian Society and the French Revolution 1789-1794) (Moscow, 1956), 43-45. I am indebted to Mr. W. L. Blackwell for reading this Russian work.



DEMOCRATS AND ARISTOCRATS—DUTCH, BELGIAN, AND SWISS

Do we see in the Austrian Netherlands, or in the United Netherlands . . . that confidence in one another, and in the common people, which enabled the United States to go through a revolution?—JOHN ADAMS, London, 1787

It is unfortunate that the affairs of the smaller European peoples do not enter more fully into our general histories, for their experience has been illuminating. The very words "democrat" and "aristocrat," as observed above in the first chapter, were coined in the Dutch and Belgian troubles of the decade from 1780 to 1790. In both countries the common pattern of the time was especially evident. Constituted bodies—in this case town councils and estate-assemblies—determining their own membership within a closed system, claimed to represent the country and to rule in their own right. Both asserted their powers and liberties against a "prince"—the Prince of Orange in the case of the Dutch, the Austrian Emperor in that of the Belgians—and both, after 1780, found a new popular party fighting at their side. The new party, which was neither exactly popular nor yet a party in a more modern sense, at first felt no difference of purpose from its allies. As the controversies developed, however, the new party began to brand its allies, or erstwhile allies, as "aristocrats," and to favor an actual reconstitution of the old constituted bodies, so that these bodies would become representative in a new kind of way, either by actual choice at the hands of voters outside their own ranks, or through a broadening of membership to reflect wider segments of the population.

The United Netherlands comprised the seven Dutch provinces, Holland, Utrecht, Zeeland, Overijssel, Gelderland, Friesland, and Groningen, which together ruled over Drenthe and northern Brabant. The Austrian Netherlands, of which Brabant and Flanders were the most important, were the ten provinces which had remained under the Spanish crown in the sixteenth-century wars, and had passed to Austria in 1714. They were loosely attached to the Hapsburg system, and in firm possession of local liberties, until the reign of Joseph II. Political interest, both Dutch and Belgian, was highly particularistic, pro-

Edmund Burke, in his *Reflections* written in 1790, was right enough in perceiving the radicalism of the Revolution at its outset. By "radicalism" I mean a deep estrangement from the existing order, an insistence upon values incompatible with those embodied in actual institutions, a refusal to entertain projects of compromise, a mood of impatience, suspicion, and exasperation, an embittered class consciousness reaching the point of hatred, a determination to destroy and to create, and a belief that both destruction and creation would be relatively easy. In such a mood the men of 1789 took steps which never could be retracted. The Oath of the Tennis Court, the decrees of August, the Declaration of the Rights of Man and Citizen, the repudiation of legal class, the relegation of the King to the position of a first magistrate, the expropriation of the church, all accomplished or at least proclaimed before the end of 1789, were a series of such irrevocable commitments. They left no room for maneuver, for tactical retreat, for gaining time, for gradualism, for conciliation, or for convenient silence on general principles. They publicized and they maximized an absolute difference of principle between the old regime and the new. What followed flowed as a consequence from this initial work. It has been said, notably by Aulard, that the rest of the Revolution was mainly "defensive," and this is offered in justification of the unpleasantness that followed; but if defensive, it was defense of the advanced position taken in 1789, and one that was tenable only with difficulty because of the opposition that it aroused.

Nor was this radicalism of 1789 to be found only in the assembly which sat from May to October at Versailles and thereafter at Paris. The real revolution erupted throughout the country as a whole, in the agrarian rebellions of the summer, and in the municipal revolutions of Paris and the hundreds of towns, great and small, throughout the length and breadth of the provinces, where new men turned local oligarchs out of office. These events were so uniform and so nearly simultaneous as to raise the suspicion, then and since, of conspiratorial methods. Actually, it is hard to find anything more conspiratorial than the committees of correspondence of the American Revolution. Though such judgments can only be impressionistic, there seems to have been a more nearly universal rising in France in 1789 than in America in 1775.

So much being said for the uniqueness of the French Revolution, the pattern used in foregoing chapters will be applied to it in the following pages. Reforms favored by the government, along the lines

owned their seats as a form of property, acquired them usually by inheritance, and occupied them irremovably and for life. They were by no means councils of grave old men, for since most of them owed their position to family the average age was surprisingly low, as in the House of Commons. In 1789 over half the members of the Parlement of Paris were under thirty-five. Some were very wealthy; Le Peletier de Saint-Fargeau (who in truth became a Jacobin, and friend of Robespierre) had 500,000 livres a year; and First President d'Aligre was rumored to have an annual income of 700,000 and a nest-egg of five million in the Bank of England.⁴

In what I have called the quasi-revolution of the 1760's the parlements had had a grand conflict with the King's ministers. Protesting against modernization of property assessments, they had banded together in an *union des classes*, or a super-parlement claiming to be representative of the whole kingdom. On the one hand, a royalist pamphleteer denounced the parlements as a "monstrous hereditary aristocracy." On the other hand, the parlements, as early as the 1760's, put a good deal of incipient revolutionary language into wide circulation—*citoyen, loi, patrie, constitution, nation, droit de la nation, and cri de la nation*. It seems likely that the parlements had more positive influence than the *philosophes*, especially among lawyers and other makers of public opinion, to whom they spoke out as weighty and reputable bodies in Paris and a dozen provincial capitals. Louis XV had tried to silence them in 1766, in the *séance de la flagellation*, then in 1771 had simply abolished them by a *monarchical coup d'état*. Louis XVI, however, at his accession in 1774, restored the old parlements in their historic form.

Twenty-two years after the *séance de la flagellation*, Louis XVI was at odds with his parlements as much as his predecessor had been, and was even, in his turn, declaring that if they had their way they would become "an aristocracy of magistrates," harmful to "the rights and interests of the nation." This accusation the Parlement of Paris indignantly rejected. The danger to France, it warned on May 4, 1788, came not from aristocracy but from despotism. "The right of freely verifying the laws does not make the parlements an aristocracy of magistrates. If it had happened that your parlement had refused to accept useful laws, we should have to pity humanity but still not make the

⁴ On age, see J. Egret, "L'aristocratie parlementaire française à la fin de l'ancien régime," in *Revue historique*, ccviii (1952), 12-13; on wealth, H. Carré, *La fin des parlements* (Paris, 1912), 2ff.

terminated only by law. There must be liberty to consent to laws and taxes, to communicate thought and opinion, to have equal access to all public office according only to "virtues and talents," to be free from arbitrary arrest, unduly severe punishment, or molestation for religious belief.

Half the Declaration is concerned with the nature of law and authority. "The principle of all sovereignty rests essentially in the nation. No body, and no individual, may exercise authority which does not emanate from the nation expressly." No man, or set of men, in other words, may hold public power by virtue of status, rank, family, inheritance or group membership, or by divine right, special training, special expertness, elite status, or other leadership principle of any kind. Royal absolutism, dynastic right, parlements, seigneurial jurisdiction, church courts possessed no coercive authority of their own. Men may be compelled only by law; law must express the general will; arbitrary use of power is a crime; but true law must be obeyed "instantly." The law must be the same for all. Armed forces must exist, but they exist for the benefit of the public, not of those who command them. Public expenditures must be publicly authorized. Public officers are accountable to the public for their conduct in office. Public need may require the condemnation of private property, but only by legal process, and only with fair compensation.

The Declaration, in short, simultaneously derived both liberty and authority from the same principles, while relating both to legal equality. Defending the individual against the state, it set up powers for the state as well. The rights it declared were not those of "man" only, and still less those of man in a state of nature, but of man as "citizen," a member of an organized civil community, in which each citizen was considered to share in the sovereignty and in the formation of that law which alone had any rightful power of coercion. It is in this respect, for example, that the Declaration of 1789 differs from the Declaration of the Rights of Man published by the United Nations in 1948. A "citizen" possesses power as well as rights.

The Declaration of 1789, by laying down the principles of the modern democratic state, remains the chief single document of the Revolution of the Western World. Printed, often on a single page, in hundreds of thousands of copies, it was publicly posted in all parts of France. Translated into a dozen languages, it was soon read and known in other countries, though in most of them, to be sure, it would be audacious if not actually dangerous in 1789 to post it in public.

To begin with, there was an important question of principle. Did the National Assembly have to *negotiate* a constitution with the King? Were the Assembly and the King independent legal authorities whose agreement was necessary for every clause? Could the Assembly put into the constitution only what the King would willingly approve? No American constitutional convention had ever faced these questions.

Mounier was inclined to avoid such questions as a little too theoretical, to take a common sense view, arguing that the King already existed as a reality, that the country deeply respected the royal authority, that the Assembly enjoyed prestige because the King had convoked it, and that the King in any case would be responsible for enforcing the new constitution, so that it was only reasonable to seek his genuine agreement on its terms. France, said Mounier, was not a *tabula rasa*, nor in a state of nature, nor just "emerged from the forest"; nor in his opinion was the Assembly a true *convention nationale*. It is significant that this term, which was to take on its full meaning in 1792, was already in use in August 1789, to signify a body outside of all government, sprung directly from the people, and authorized to create institutions, as it were, *de novo*. The Americans, according to Mounier, may have been in such a juridical condition in 1776, because they had repudiated their King; but the same was not true of France, where the King still existed, and where in fact no one dreamed of doing without him.¹⁶

Sieyès took a sour satisfaction in preferring principles to common sense. He was also less inclined than Mounier to overlook the King's recent partisanship for the nobility. Moreover, the King was refusing his approval to the Declaration of Rights and to the August decrees, which, if not wholly desirable to Sieyès, were necessary to keep harmony between the Assembly and the country. To Sieyès it was clear that the Assembly should not have to seek the King's permission on constitutional matters, that the Assembly alone possessed the full *pouvoir constituant*, that the King must be under the constitution and not a coauthor of it, and that Louis XVI, like everyone else, should have only such lawful powers as the constitution might confer upon him. If Louis XVI was antagonized, it made no difference to Sieyès.

The Assembly would have preferred, like Mounier, to avoid an open clash with the King on such topics, but it was drawn on increasingly to agree with Sieyès, because it really had no alternative. Mounier's own position was contradictory: he could not both get rid

¹⁶ *Ibid.*, 37-38.

shared with Americans and with men elsewhere in Europe, as described in preceding chapters—principles set forth notably in the Declaration—they would have to do so by concentrating sovereign power, the power to destroy and to create, in a single assembly somewhat as outlined by the Abbé Sieyès—and which wielded, in principle, that awful “supreme, sovereign, absolute and uncontrollable power” ascribed in 1776 by the General Court of Massachusetts to the people. They would have to take account of the wishes of peasants and workers; the Revolution could not succeed if “bourgeois” alone. It could not, as Mounier preferred, be only a revolution of respectable men. Lawyers, businessmen, lesser officeholders, writers, and humanitarians could not, by themselves, defeat the interests of monarchy and aristocracy which were now allied. Moderate revolution was eminently desirable, but it was not one of the possible choices. Moderation in Belgium, Holland, Geneva, Milan, England, Ireland, and Poland had accomplished nothing.

After the October Days of 1789, which led to the transfer of its sittings to Paris, the Assembly remained at work for two years, applying in all directions, and not merely to government, the revolutionary principle of the people as constituent power. The old France which had fallen to pieces was put back together according to a new pattern. National sovereignty, equality of rights, and universality of free citizenship were the most prominent features of the new design. The formerly sovereign King became an officer under the constitution. Nobility and all its titles were abolished. The old constituted bodies, as they have been called in preceding pages, the thirteen parlements and the various Provincial Estates, disappeared. All other “bodies,” corporate groups, and special interests faced a similar liquidation. Trade and professional guilds, employers’ associations and workingmen’s unions were proscribed as contrary to individual liberty and equality. The right of free access to any private occupation or any public office for all qualified persons was proclaimed, with the understanding that qualifications should depend only on the nature of the task to be performed. The church was reorganized, and its bishops and parish clergy were made elective. Protestants and Jews received the same rights as Catholics; or rather, religious affiliation was made irrelevant to citizenship, or to membership in the civil community called the nation. Property, like government, was freed from the lingering idea of lordship; this was the essential meaning of the abolition of feudalism. In the redefinition

of property, there could be no property in public office or manorial forms of income; these were abolished with compensation. The Assembly assumed the old royal debt as a public or national obligation, which no government of the Revolution ever expressly repudiated. To pay it off, the property of the church was confiscated, on the ground that it had always been held in trust for the public anyway. The state took on the responsibility for the costs of religious worship, as for social services and education. Taxes, law courts, army, schools, scientific and literary academies were all revolutionized.

The abolition of the provinces and of regional liberties made the same rights and obligations prevail uniformly throughout the country. The basis of representation and the liability to taxes became geographically homogeneous. Various local administrations and officials were made locally elective. The constitution gave the vote to over half the adult male population; or to more than two-thirds of those over the required age of twenty-five. Voters, as such, voted only for electors, who in turn chose the national deputies and the lesser elected officials; but those who might qualify as electors were very numerous, certainly more numerous than those who could read a newspaper or compose a written message, probably being half the men of twenty-five or older. When “equality” was talked of in the eighteenth century, universal suffrage was one of the last things it called to mind; but even if democracy be anachronistically identified with the number of persons entitled to vote, the government set up in France by the constitution of 1791 was incomparably more democratic than any other in the Western World at the time, with the sole exception of certain states in the American Union.²⁵ Under revolutionary conditions, however, in which people of all classes had been politically aroused, the exclusion of a considerable segment from the vote led to disturbance, especially with the beginning of war and the raising of a popular army in 1792. The Constituent Assembly, on finishing its work in 1791, did not submit the new constitution to any form of popular ratification, such as had occurred for the federal and some of the state constitutions in America. Here again, not without reason, the Assembly was afraid of lesser assemblies throughout the country, many of which might not agree with it, and some of which, even those influenced by “aristocrats,” would claim to represent the people more than the National Assembly itself. As Sieyès said, the authority of the National Assembly

²⁵ See Appendix v.

★ APPENDIX IV ★

Below are printed, in such a way as to show the resemblances, most of the Virginia Declaration of Rights drafted by George Mason and adopted by the Virginia assembly on June 12, 1776, and most of the Declaration of the Rights of Man and Citizen adopted by the French National Assembly on August 26, 1789:

Virginia, 1776

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.
2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.
3. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community. . . .
3. . . . when a government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefensible right to reform, alter or abolish it.
4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services, which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

France, 1789

1. Men are born and remain free and equal in rights. . . .
2. . . . These rights are liberty, property, security and resistance to oppression.
3. The principle of all sovereignty rests essentially in the nation.
15. Society has the right to hold accountable every public agent of administration.
2. The aim of all political association is to preserve the natural and imprescriptible rights of man.
2. . . . resistance to oppression.
3. . . . No body, and no individual, may exercise authority which does not emanate from the nation expressly.

APPENDIX IV

Virginia, 1776

5. That the legislative, executive and judicial powers should be separate and distinct.
6. That . . . all men having sufficient evidence of permanent common interest with, and attachment to the community have the right of suffrage, and cannot be taxed, or deprived of their property for public uses, without their own consent, or that of their representatives. . . .
8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.
9. That excessive bail ought not to be required . . . nor cruel and inhuman punishments inflicted.
10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named . . . ought not to be granted.

France, 1789

16. Any society in which . . . the separation of powers is not determined has no constitution.
6. . . . All citizens have the right to take part, in person or by their representatives, in the formation [of the law]. . . .
14. All citizens have the right, by themselves or through their representatives, to have demonstrated to them the necessity of public taxes, to consent to them freely. . . .
7. No man may be indicted, arrested or detained except in cases determined by law and according to the forms which it has prescribed.
8. Only strictly necessary punishments may be established by law. . . .
9. Every man being presumed innocent until judged guilty, if it is deemed indispensable to keep him under arrest, all rigor not necessary to secure his person should be severely repressed by law.
7. . . . Those who instigate, expedite, execute or cause to be executed arbitrary orders should be punished. . . .

Virginia, 1776

12. That the freedom of the press is one of the great bulwarks of liberty. . . .

13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defense of a free State; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases the militia should be under strict subordination to, and governed by, the civil power.

15. That no free government . . . can be preserved . . . but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion. . . .

. . . it is the duty of all to practice Christian forbearance, love and charity towards each other.

The Virginia declaration differs from the French in its emphasis on freedom and frequency of elections and on jury trial, in its concrete warnings against excessive bail, general warrants, suspending of laws and standing armies, and its more explicit reference to Christian and moral virtues. The French declaration differs from that of Virginia in its clearer formulation of citizen-

France, 1789

11. Free communication of thought and opinion is one of the most precious of the rights of man. Every citizen may therefore speak, write and print freely, on his own responsibility for abuse of this liberty in cases determined by law.

12. Preservation of the rights of man and the citizen requires the existence of public forces. These forces are therefore instituted for the advantage of all, not for the private benefit of those to whom they are entrusted.

PREAMBLE. . . . that this declaration, by being constantly present to all members of the social body, may keep them at all times aware of their rights and duties; that the acts of both the legislative and executive powers [may be] liable at every moment to comparison with the aim of all political institutions. . . .

10. No one may be disturbed for his opinions, even in religion, provided that their manifestation does not trouble public order as established by law.

PREAMBLE. . . . in the presence and under the auspices of the Supreme Being.

ship, its definition of law as the expression of the general will, its definition of liberty as the right to do what does not harm another, its more explicit provision that the law must be the same for all and public office open to all alike on the basis of abilities, its greater reserve in relating freedom of thought and religion to law and order, its provision that property may be taken for public use only with due compensation, its less explicit reference to moral virtues and its adoption of a deistic rather than a Christian tone.

The resemblance remains remarkable. Resemblance in the sequence in which ideas are presented is a stronger indication of filiation than resemblance in content.

Many of the French academic school have shown a less judicial tone than the socialist Jaurès. For Aulard, "the bourgeoisie formed itself into a politically privileged class" (*Hist. pol. de la Rev. fr.*, Paris, 1905, p. 70), for Sagnac "the bourgeoisie monopolized power" (in Lavissee, *Hist. de Fr. contemp.*, Paris, 1920, 1, p. 165), for Mathiez an "aristocracy of wealth replaced that of birth" (*Rev. fran.*, Paris, 1922, 1, 115), for Villat the electoral regime was "a system of bourgeois selfishness" (*Rev. et empire*, Paris, 1936, 1, 72-73), and for Godechot "only the rich could vote" (*Institutions de la France sous la Rev. et l'Empire*, Paris, 1951, p. 73). These views have passed into many histories of the French Revolution written in English. They all reflect Louis Blanc's impatience with figures.

The Constituent Assembly, by an actual count based on local returns, determined on May 27, 1791 that there were then 4,298,360 "active citizens" in France, that is, adult males, at least twenty-five years of age, domiciled locally for one year, not in domestic service, and paying an annual direct tax equal in amount to the wages of three days' unskilled labor. Only these active citizens received the vote. The population of France at this time was probably between 25,000,000 and 26,000,000 (not 27,190,023 as stated by the Assembly, which made no pretense to knowing or having counted the total population); and as for age distribution, both Moheau and Lavoisier estimated that 44 per cent were under 21 years old, and 59 per cent under 31. (Levasseur, *Population française*, 1889, 1, 276.) We may assume that half the males were under 25, and half 25 or older. The highest possible figure for total men of 25 and over is thus 6,500,000; and if there were 4,298,360 active citizens, Mathiez was exaggerating in saying that "3,000,000 poor were excluded from the rights of citizenship" (Mathiez, 1, 114). Counting all men of 21 and over, it is apparently true that about 3,000,000 were excluded from the vote, since there would be about 7,280,000 men over 21; but these "passive citizens," without the vote, included young men under 25 of all social classes, men living with parents and hence paying no tax, those not yet domiciled locally for a year, and domestic servants, as well as persons too poor to be liable for the required tax. It must be remarked also that the tax reforms of the Constituent Assembly, by replacing many indirect taxes of the Old Regime with a direct tax on real and personal property, carried the liability to direct taxation far down in the social scale. Assuming the accuracy of the figure of 4,298,360 for active citizens (which may be debatable, but is not in fact contested), I would judge that a quarter of adult males may have been excluded from the vote by reason of poverty. Young people, transients, and newcomers in particular areas, of various economic levels but all without the vote, would, however, be a force of political importance, especially in revolutionary times. In practice in 1791 the distinction between active and passive citizens was often locally un-

certain. In principle, it is hard to see how the Assembly excluded more than a quarter of the population on economic grounds.

Active citizens had the right to vote only for "electors," who in turn, in electoral assemblies, chose the national deputies, the bishops and various local officials. It was these electors who exercised true political citizenship, and the heart of the question is how many persons were qualified to be chosen as electors. To be an elector, one had to be an active citizen paying a tax equal to ten days' wages of common labor. Various writers state that only about 50,000 persons in all France could qualify as electors; see Gottschalk, *Era of the Fr. Rev.* (1929), p. 172; Gershoy, *Fr. Rev.* (1947), p. 147; J. M. Thompson, *Fr. Rev.* (American edition, 1945), p. 136; Göhring, *Grosse Revolution* (1951), II, 52; Kläy, *Zensuswahlrecht und Gleichheitsprinzip . . . 1791* (1956), p. 85. I have also fallen into this error in my *History of the Modern World* (1956), 347. The enormity of the misrepresentation may be seen by the fact that the number qualifying as electors, though not really known, is estimated at 3,000,000; see Sagnac, p. 165 and Godechot, p. 74.

The error has arisen from a confusion of the number qualified to serve as electors with the number actually chosen and functioning as electors in 1791, which was in the neighborhood of 50,000—naturally so, since the constitution provided that there should be one elector for each hundred (or local fraction thereof) of the active citizens, who, as stated, were found to number 4,298,360 in 1791. It was of course not always the same 50,000 persons who functioned as electors, or at least such was not the intent or provision of the constitution. Electors were chosen in 1790; new electors were chosen in 1791; and the constitution provided for a new choice of electors by active citizens in March 1793 and every two years thereafter. Three-quarters of the active citizens, and some three-sevenths of all men over 21, were in short qualified to serve as electors. The extent of participation is illustrated by a curious incident of June 15, 1791, when the constitutional committee recommended to the Assembly, for the forthcoming election of national deputies, the use of a kind of mechanical tabulating device to count the vote in electoral assemblies. One of the reasons offered was to prevent the deception of "electors who cannot read and write." This is very different from the picture of a France ruled by 50,000 of the "rich"; in this respect, at least, Taine's picture of a bustling popular political activity in 1791 seems far more realistic.

It has been usual even for historians with all the figures at hand to reach conclusions somewhat at variance with them. Thus Sagnac and Godechot both tell us that 3,000,000 qualified as electors, but that the wealthy bourgeoisie controlled the state; that there were only 967 electors in Paris (meaning that 967 were chosen in the election of 1791), which of course signifies that there were about 100,000 active citizens, which in a city of 600,000 would in turn signify that only a minority of adult males were "passive";

and they intimate that had the system been less "bourgeois" the electors would have been more numerous, whereas actually absenteeism was chronic in the electoral assemblies, and sometimes there were only 200 present and voting in the electoral assembly of Paris, because most of the electors could not afford to spend several days away from their normal occupations. It is true that such absenteeism in the assemblies threw decisions into the hands of the most assiduous, who might be the more economically independent, but included also those who made a business of politics.

The majority in the Constituent Assembly did conclude, in August 1791, with the rise of radical republicanism after Louis XVI's flight to Varennes, that it had gone too far in a democratic direction, and did make changes whose purpose was to confine the significant vote, that is, the vote of the electors, more definitely to the middle class. It left the qualifications for active citizens untouched. For electors, however, who before August 1791 had qualified by the payment of a direct tax equal to the value of ten days' wages (and it was by this system that the election of 1791, including choice of national deputies for the forthcoming Legislative Body, had already taken place), the Constituent Assembly, in August 1791, prescribed more restrictive qualifications. These resemble those of the British Reform Bill of 1832, in that they based the electoral right on amounts of property or rental varying from place to place. To qualify as an elector, by the provisions of August 1791, it was necessary (1) in cities of more than 6,000 inhabitants to own real property assessed on the tax rolls at an annual income value equivalent to 200 days' unskilled labor, or to lease a dwelling worth an annual income value (or rental) of 150 days' labor, (2) in cities with less than 6,000 inhabitants, the same, with 150 in place of 200, and 100 in place of 150, (3) in rural districts to own real property of an annual value of 150 days' labor, or to lease, or to work on shares (*métayage*), real property of an annual value of 400 days' labor. I have seen no estimates of how many persons lost their right to be chosen as electors by these changes. At the same time, where before August 1791 it had been necessary to pay a direct tax of 54 livres (the *marc d'argent*) to qualify as a national deputy, after August 1791 any active citizen might so qualify. The changes are significant only of the intent of the Constituent Assembly toward its end, since the constitution did not last long enough for them to take effect.

There has been no attempt, to my knowledge, to make a comparison of the property qualifications under the French constitution of 1791 with those obtaining at the same time in Great Britain and America, though these were often mentioned in a general way during the debates in the French Assembly. Were such comparisons realistically made, it would be difficult to say, for example, that the Constituent Assembly, in prescribing a *marc d'argent* for national deputies, wished to "reserve the seats for a landed aristocracy, as in England." (Godechot, *Institutions*, 74.) In England, a member of the

work best when little more is asked of the voter than to pause briefly at a convenient polling place and mark his choice among candidates on a ballot prepared beforehand. This requires a complex system of decentralized polling places, and organized political parties which draw up lists of candidates for the voter. Neither existed in any country in 1791. It was necessary for voters to meet in assemblies where the names of candidates could be proposed and their merits discussed. The electoral arrangements made by the Constituent Assembly must be explained by mechanical and administrative needs as well as by political objectives.

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