John Adams's Thoughts on Government, 1776

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The documents examined here are two of the catalysts of the American experiment with constitutional government in the states. Even before the Declaration of Independence from Great Britain, Americans set out to frame new forms of government for themselves, in order to protect their liberties and to preserve peace and domestic tranquility. These political experiments gave rise to many of the most important devices and practices of American constitutionalism.

The framing of new state constitutions grew out of the organization of American resistance to Great Britain in the 1760s and 1770s. In the decade following the Stamp Act Congress of 1765, Americans who opposed British colonial policy pieced together a network of committees of correspondence and public safety. Resistance began with these local committees, which then named provincial congresses, which in turn chose delegates to the First and Second Continental Congresses. By 1775, there existed alternative structures of government ready to fill the vacuum that would be created by the abrogation of British colonial rule. The process of building revolutionary “shadow governments” was well under way more than a year before the Continental Congress actually declared American independence.¹

¹ See, e.g., Pauline Maier, From Resistance to Revolution: Colonial Radicals and the
Months before the break with Britain became a legal reality as well as a practical necessity, Americans realized the need for new, legitimate sources of governmental authority to replace those soon to be toppled or swept aside by the Revolution. Because there was as yet no constitutional or legal sanction for an American union—the Continental Congresses being extralegal if not illegal organizations—and because most American political figures still considered their primary constituencies to be the individual colonies, this concern with establishing legitimate government focused on the individual colonies.

In late 1775 and early 1776, the provincial congresses of Massachusetts, New Hampshire, South Carolina, and Virginia asked the Second Continental Congress for advice on what to do about the unsettled condition of government caused by the outbreak of war with Britain. Congress agreed that there was a crisis of authority, but recommended only the convening of popularly elected assemblies to set up interim measures for exercising governmental authority to last until the establishment of a reconciliation with Great Britain.

In the congressional debates on these requests, John Adams of Massachusetts and like-minded colleagues urged Congress to act more decisively by recommending the establishment of alternative structures of authority as early as possible before any final break with Britain. Conservative delegates such as John Dickinson of Pennsylvania and James Duane and John Jay of New York argued in opposition that adopting new forms of government would be tantamount to declaring independence and would prevent reconciliation with the mother country.

It was not until May 10, 1776, that the Second Continental Congress finally adopted the following resolution drafted by John Adams. Five days later Congress accepted a preamble to the act also written by Adams and reprinted below.  

2 The text of this resolution is taken from The New York Public Library’s copy of the official broadside publication, printed in Philadelphia in May 1776 by John Dunlap, the perennial printer to the Continental and Confederation Congresses. This copy is in the Library’s Rare Books and Manuscripts Division. Spelling and punctuation are as in the original. Bracketed numbers before each part of the resolution have been inserted to facilitate reference. On this resolution, see generally Adams, First American Constitutions, 59–62.
IN CONGRESS,  
MAY 15, 1776  

[1] Whereas his Britannic Majesty, in conjunction with the Lords and Commons of Great-Britain, has, by a late Act of Parliament, excluded the inhabitants of these United Colonies from the protection of his crown: [2] And whereas no answer whatever to the humble petition of the Colonies for redress of grievances, and reconciliation with Great-Britain has been or is likely to be given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these Colonies: [3] And whereas it appears absolutely irreconcilable to reason and good conscience, for the people of these Colonies now to take the oaths and affirmations necessary for the support of any government under the Crown of Great-Britain; and it is necessary that the exercise of every kind of authority under the said Crown should be totally suppressed, and all the powers of government exerted under the authority of the people of the Colonies for the preservation of internal peace, virtue, and good order, as well as for the defence of their lives, liberties and properties, against the hostile invasions and cruel depredations of their enemies: Therefore

Resolved, [4] That it be recommended to the respective Assemblies and Conventions of the United Colonies, where no Government sufficient to the exigencies of their affairs has been hitherto established, to adopt such Government as shall in the opinion of the Representatives of the People best conduce to the happiness and safety of their Constituents in particular, and America in general.

Charles Thomson, Secretary  
Philadelphia: Printed by John Dunlap.

A close examination of this resolution enables us to reconstruct the political and constitutional arguments of the Second Continental Congress. The first numbered clause of the preamble squarely placed the blame for the rupture between the mother country and the colonies on George III, acting in concert with the House of Lords and the House of Commons of the British Parliament. The Act of Parliament mentioned there was the British response to the Olive Branch Petition adopted by Congress on July 5, 1775—the “humble petition” cited in the second clause. This petition, adopted at the insistence of delegates such as Dickinson and Jay, sought (as modern lawyers would say) to “exhaust the remedies” available to the colonists under the British constitution by making one last appeal to the King. His refusal of the petition, and his request that Parliament declare the American colonies out of his allegiance and protection, made American independence all but inevitable. The second numbered clause also contained language (about the “destruction of the good people of these Colonies”) recycled
by Thomas Jefferson into one of the specifications of charges against George III in both the Declaration of Independence and the preamble to the Virginia Constitution of 1776. The third numbered clause removed whatever ambiguity remained about the Americans' attitudes towards British authority. This part of Adams's preamble evaded the issue of whether establishing new constitutions would constitute a declaration of independence, placing the onus of the step on the British. In effect, the preamble contended, British measures excluding the colonies from the Crown's protection had compelled the colonists to throw off the Crown's authority. Adams and his contemporaries considered this resolution to be the effective instrument of American independence.3

Read carefully, the fourth numbered clause—the actual resolution adopted on May 10—did not direct the colonies to adopt republican governments, but the delegates assumed (and most Americans thought) that the Revolution was a struggle for republican government under the principles of the English constitution. Nonetheless, Congress chose not to recommend or impose a particular form of republican government or model constitution to be adopted by all the colonies. The delegates agreed that the people of each colony should adopt a form of government best suited to their needs, local conditions, and ideas of what a government should be. The Americans believed, as did most educated and politically active men of their time, that there was an intimate connection between a people's values and habits, on the one hand, and their institutions of government and systems of law, on the other.4

Congress's decision not to prescribe a model constitution for the colonies did not prevent individual delegates from writing constitutions or making recommendations. For example, in May and June of 1776, Thomas Jefferson drafted a constitution for Virginia and sent it home with his mentor George Wythe, only to discover that the Virginia convention of 1776 had anticipated him; however, as pointed out by Donald S. Lutz in his commentary in this volume, the convention grafted Jefferson's preamble, with its vigorous denunciation of George III (later incorporated into the Declaration of Independence), onto its own version as a statement of the justification for adopting a new constitution. Constitution-making engrossed delegates to Congress and their colleagues back home. Some delegates to Congress even began to complain about the lack of attention to the exigencies of the Revolution resulting from their fellow delegates' obsession with constitution-making.5

3 Adams, First American Constitutions, 61.
4 Adams, First American Constitutions, 49–62.
5 On the fever of constitution-making, see George Dargo, Law in the New Republic: Private Law and the Public Estate (New York, 1983), 10; Adams, First American Consti-
The Americans' emphasis on written constitutions was rooted in American colonial history and the circumstances of the Revolution. The term *constitution* in English usage denoted the whole complex of laws, common-law rules, customs, usages, and traditions that shape the political relations, rights, and responsibilities of the polity and its members. As part of the founding of colonies in North America, the Crown granted—or the colonists wrote—colonial charters setting forth the guidelines under which political power would be exercised; these new societies were at the same time extensions of England and distinct political communities with their own concerns and unique local conditions. Disputes between the colonists and representatives of the Crown over the extent of Crown authority and colonial self-government often focused on these written instruments of government; this mode of constitutional and political argument was still fresh in American memories at the outbreak of the constitutional crisis of the 1760s and 1770s. With the drift toward independence, the Americans again recognized the need to specify the basis for their new, independent political organizations in written instruments of government. This perceived necessity accorded with their sense that principles of government were immutable laws of nature, and thus had to be fixed in writing in a form distinct from and superior to mere statutes; by contrast, the unwritten English constitution, subject to the shifts and convulsions of ordinary politics, was not a sufficient bulwark against oppression.

Of all the advice and suggestions produced for writing constitutions in the early years of the Revolution, perhaps the most important and influential was John Adams's *Thoughts on Government*. Adams long had...
been fascinated by the intricacies of constitutional issues and had acquired a reputation for his extensive study of the subject. The story of the composition of *Thoughts on Government* illustrates the Americans’ tendency to seize upon practical political crises as occasions to articulate their theoretical assumptions and arguments on constitutional questions.

In November of 1775, congressional delegate Richard Henry Lee of Virginia asked his fellow delegate John Adams for his thoughts on the structures of government that Americans should adopt if a break with Great Britain should occur, and Adams penned a brief sketch of what a new constitution should contain. In March 1776, two North Carolina delegates to Congress, John Penn and William Hooper, also approached Adams for advice when they received instruction to return home to help draft that state’s constitution. Adams described his response in a letter to his friend and close political ally James Warren:

> The Time was very Short. However the Gentleman thinking it an opportunity, providentially thrown in his Way, of communicating Some Hints upon a subject, which seems not to have been sufficiently considered in the southern Colonies, and so of turning the Thought of Gentlemen that way, concluded to borrow a little Time from his sleep and accordingly wrote with his own Hand, a Sketch, which he copied, giving the original to Mr. Hooper and the copy to Mr. Penn, which they carried with them to Carolina.

Adams’s “Sketch” attracted more attention from his colleagues in Congress than he had expected. The respected lawyer and jurist George Wythe of Virginia caught sight of either Penn’s or Hooper’s copy, and Adams obligingly wrote out another version at Wythe’s request. Then Jonathan Dickinson Sargeant of New Jersey asked for a copy. Adams prepared a revised and expanded version (now lost) for Sargeant. When Richard Henry Lee, who had received the earliest articulation of Adams’s thinking, asked for a copy of his March 1776 letter, Adams borrowed back Wythe’s copy and authorized Lee to arrange for its publication as an anonymous pamphlet, perhaps to stimulate his fellow...
delegates' consideration of the resolution they finally passed the next month. 10 *Thoughts on Government: Applicable to the Present State of the American Colonies. In a Letter from a Gentleman to his Friend* appeared in Philadelphia in late April of 1776 and was published several months later in Boston. 11

Adams declared that his "Design [in *Thoughts on Government*] is to mark out a Path, and put Men upon thinking." 12 In part he wrote his pamphlet in opposition to Thomas Paine's *Common Sense*, published in January 1776. Paine's first order of business was to invoke the republican sentiments of the American colonists to encourage resistance to British authority, but he also sketched his idea of the proper mode of government to replace the British colonial system. Paine suggested the creation of unicameral legislatures for each of the colonies, to be subordinate to a unicameral continental congress. Neither level of government would have an independent executive. Paine discarded separation of powers and checks and balances as important principles of republican government; he believed that the legislature, representing the whole people, should exercise all functions of government. Because there was no need to check the voice of the people by creating a second or upper house, Paine said, legislatures should be unicameral.

Adams and other moderate Revolutionary leaders valued *Common Sense* for its vigorous arguments against British rule, but they disliked Paine's radical plan for organizing governments. In contrast to Paine, Adams maintained that the new governments should preserve the best of the Anglo-American traditions of government—especially the idea of separation of powers. *Thoughts on Government* thus represents the moderate brand of Revolutionary constitutionalism. 13

Like Paine, Adams scoffed at Alexander Pope's lines in *An Essay on Man*. 14

10 In a prefatory note written in 1811, Adams explained that he had decided to keep his name off the pamphlet because "if [my name] should appear, it would excite a continental clamor among the tories, that I was erecting a battering-ram to demolish the royal government and render independence indispensable." Charles Francis Adams, ed., *The Life and Works of John Adams*, 10 vols. (Boston, 1850–56), 4: 189.

11 The history of the drafting and publication of *Thoughts on Government* receives its most detailed analysis in Taylor et al., *Papers of John Adams*, 4: 65–73.


For forms of government let fools contest,
That which is best administered is best.

He declared:

Nothing can be more fallacious than this: But poets read history to collect flowers not fruits—they attend to fanciful images, not the effects of social institutions. Nothing is more certain from the history of nations, and the nature of man, than that some forms of government are better fitted for being well administered than others.

Adams argued that only a republic could achieve the proper end of government—the promotion of human happiness, which he equated with virtue, the guiding principle of a republic. But determining the best form of a republic is just as important as choosing to create a republic in the first place. Adams thus rejected Paine’s reliance on a one-house legislature as the sole institution of government in a republic. Noting the many faults of constructing a republican government consisting of a single assembly, Adams cited three as particular threats to republicanism: (1) A single assembly is susceptible to “all the vices, follies and frailties of an individual.” (2) A single assembly cannot exercise the executive power “for want of two essential properties, secrecy and dispatch.” (3) It cannot exercise the judicial power because it has too many members, works too slowly, and is “too little skilled in the laws.” Developing these points he added that it was unsound to lodge only the power of legislation in a unicameral assembly, for the conflicts between a unitary executive and a unicameral assembly would destroy a republic. The judiciary could not act as a referee between the executive and legislature, because it was under the control of the legislature. Thus, a second house of the legislature was needed to act as mediator between the executive and the lower house in the process of legislation—incidentally, replicating the structure of King, Lords, and Commons familiar to generations of English lawyers, politicians, and voters.

Adams suggested establishing a representative assembly, which would elect a council (his term for the upper house, derived from the colonial charters’ structure of governor, council, and assembly); both houses would then elect a governor. The governor would be armed with an absolute veto over legislation and would have the power to appoint “Judges, Justices and all other officers, civil and military” with the consent of the council. To preserve their independence, judges would have tenure for life during good behavior, breaches of which would be punished by impeachment and removal from office. Adams recom-
mended that the governor and all members of both houses of the legis-
islature be elected annually; this limitation "will teach them the great
political virtues of humility, patience, and moderation, without which
every man in power becomes a ravenous beast of prey." Finally, Adams
proposed areas in which the new government should legislate—including
public education, the militia, and sumptuary laws (such laws, first en-
acted in ancient Rome, were designed to tax what we would call con-
spicious consumption to guard against the diseases of luxury and cor-
ruption, as well as to generate revenue for the government).

Adams reminded his readers that they should not hesitate to rework
their new constitutions should actual practice reveal defects in the de-
sign; he suggested such reforms as replacing annual elections with
longer terms of office, electing the governor and council by popular
vote, and giving both houses of the legislature a say in appointing judges
and other officers of government. Nonetheless, he predicted that the
government whose outlines he set forth in *Thoughts on Government*
would confirm the people in their attachment to republican government
and improve them in their daily lives as well.

It is difficult to estimate the influence that *Thoughts on Government*
had on the first state constitutions. Adams had intended his pamphlet
to spur constitution-making in the southern states in the direction of
republicanism in the hope that they would adopt governments as dem-
ocratic as those of New England. But *Thoughts on Government* found
readers beyond Adams's intended southern audience as well. In his
home state, it was frequently quoted in newspaper essays throughout
Massachusetts and even reprinted once in the Newburyport *Essex Jour-
nal*. Adams's friend Benjamin Rush drew extensively on *Thoughts on
Government* in his attacks on the radical, Pennsylvania Constitution of
1776 with its unicameral assembly; and that document's defenders also
quoted Adams to refute Rush's invocation of his authority. Several of
the state constitutions framed after Adams wrote were consistent with
his prescription, and his friends and colleagues in Virginia, North Car-
olina, New Jersey, and New York assured him that they had made good
use of his advice—assurances which later scholars have confirmed. 15 The
constitutions of all these states established bicameral legislatures and
executives headed by a single governor, although most of these gov-
ernors were weak and dependent on the legislature; Adams's belief in
an independent executive as an essential element of republican checks
and balances ran counter to the prevailing American distrust of exec-
utive power.

15 See the valuable discussion in Taylor et al., *Papers of John Adams*, 4: 69–73.
Adams's pamphlet was widely and respectfully read and studied, even by his political and intellectual opponents. It helped to crystallize what many of Adams's fellow constitution-makers believed. Moreover, when Adams got the chance to prepare the draft of the Massachusetts Constitution of 1780, he followed many of the prescriptions set forth in his 1776 pamphlet; in turn, many of the provisions of that document shaped by the recommendations of *Thoughts on Government* helped to shape the framing of the United States Constitution in 1787. Finally, Adams's statement in that pamphlet of the intellectual challenge and excitement of constitution-making stands as an eloquent summary of the spirit of the age:

You and I, my dear Friend, have been sent into life, at a time when the greatest law-givers of antiquity would have wished to have lived. How few of the human race have ever enjoyed an opportunity of making an election of government more than of air, soil, or climate, for themselves or their children. When! Before the present epocha, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive?

In the 1990s, an era in which the nations of Eastern Europe are engaged in drafting or revising their constitutions and when the nations of Europe hope to create by 1992 a European confederation on a scale unprecedented in human history, the pages of *Thoughts on Government* have renewed relevance.

For Further Reading


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16 On the pamphlet's influence on the framing of the Massachusetts constitution of 1780, see Taylor et al., *Papers of John Adams*, 4: 71-72.


My dear Sir,

If I was equal to the task of forming a plan for the government of a colony, I should be flattered with your request, and very happy to comply with it; because as the divine science of politicks is the science of social happiness, and the blessings of society depend entirely on the constitutions of government, which are generally institutions that last for many generations, there can be no employment more agreeable to a benevolent mind, than a research after the best. Pope flattered tyrants too much when he said,

“For forms of government let fools contest,
That which is best administered is best.”

Nothing can be more fallacious than this: But poets read history to collect flowers not fruits—they attend to fanciful images, not the effects of social institutions. Nothing is more certain from the history of nations, and the nature of man, than that some forms of government are better fitted for being well administered than others.

We ought to consider, what is the end of government, before we determine which is the best form.—Upon this point all speculative politicians will agree, that the happiness of society is the end of government, as all Divines and moral Philosophers will agree that the happiness of the individual is the end of man. From this principle it will follow, that the form of government, which communicates ease, comfort, security,
or in one word happiness to the greatest number of persons, and in the greatest degree, is the best.  

All sober enquiries after truth, ancient and modern, Pagan and Christian, have declared that the happiness of man, as well as his dignity, consists in virtue. Confucius, Zoroaster, Socrates, Mahomet, not to mention authorities really sacred, have agreed in this.

If there is a form of government then, whose principle and foundation is virtue, will not every sober man acknowledge it better calculated to promote the general happiness than any other form?

Fear is the foundation of most governments; but is so sordid and brutal a passion, and renders men, in whose breasts it predominates, so stupid, and miserable, that Americans will not be likely to approve of any political institution which is founded on it.

Honour is truly sacred, but holds a lower rank in the scale of moral excellence than virtue.—Indeed the former is but a part of the latter, and consequently has not equal pretensions to support a frame of government productive of human happiness.

The foundation of every government is some principle or passion in the minds of the people.—The noblest principles and most generous affections in our nature then, have the fairest chance to support the noblest and most generous models of government.

A man must be indifferent to the sneers of modern Englishmen to mention in their company, the names of Sidney, Harrington, Locke, Milton, Nedham, Neville, Burnet, and Hoadley.  

2 Compare this paragraph’s discussion of the greatest happiness to the greatest degree for the greatest number as the end of government with Jeremy Bentham’s 1776 Fragment on Government and his Introduction to the Principles of Morals and Legislation.

3 The historical figures cited here by Adams are all heroes of the seventeenth-century English struggles against the tyranny, real or feared, of the Stuart kings. They include the martyr Algernon Sidney (1622–1683), executed by the government of Charles II for the manuscript of his posthumously published Discourses concerning Government; John Harrington (1601–1677), whose utopian work Oceana was a landmark in the history of English republican thought; John Locke (1634–1704), the renowned author of the Essay Concerning Human Understanding and the Two Treatises of Government; Marchamont Nedham (1620–1678), whose The Excellency of a Free State and other works on republican government John Adams reviewed and commented on in his three-volume A Defence of the Constitutions of Government of the United States (1787–1788); Henry Neville (1620–1694), a contemporary and intellectual ally of Harrington, and the author of Plato Redivivus; the prominent Whig historian and bishop of Salisbury Gilbert Burnet (1643–1715), who preached the coronation sermon at the coronation of William and Mary in 1689; and Benjamin Hoadly (1675–1761), bishop of Bangor, Hereford, Salisbury, and Winchester, and another noted Whig controversialist. The best study of these figures and their intellectual and political context is Caroline Robbins, The Eighteenth-Century Commonwealthman: Studies in the Transmission, Development and Circumstance of English Liberal Thought from the Restoration of Charles II until the War with the Thirteen Colonies (Cambridge, Mass., 1959; paperback, with new preface, New York, 1968).
is necessary to confess that one has read them. The wretched condition of this country, however, for ten or fifteen years past, has frequently reminded me of their principles and reasonings. They will convince any candid mind, that there is no good government but what is Republican. That the only valuable part of the British constitution is so; because the very definition of a Republic, is "an Empire of Laws, and not of men." That, as a Republic is the best of governments, so that particular arrangement of the powers of society, or in other words that form of government, which is best contrived to secure an impartial and exact execution of the laws, is the best of Republics.

Of Republics, there is an inexhaustible variety, because the possible combinations of the powers of society, are capable of innumerable variations. As good government, is an empire of laws, how shall your laws be made? In a large society, inhabiting an extensive country, it is impossible that the whole should assemble, to make laws: The first necessary step then, is, to depute power from the many, to a few of the most wise and good.—But by what rules shall you choose your Representatives? Agree upon the number and qualifications of persons, who shall have the benefit of choosing, or annex this privilege to the inhabitants of a certain extent of ground.

The principal difficulty lies, and the greatest care should be employed in constituting this Representative Assembly. It should be in miniature, an exact portrait of the people at large. It should think, feel, reason, and act like them. That it may be the interest of this Assembly to do strict justice at all times, it should be an equal representation, or in other words equal interest among the people should have equal interest in it.—Great care should be taken to effect this, and to prevent unfair, partial, and corrupt elections. Such regulations, however, may be better made in times of greater tranquility than the present, and they will spring up of themselves naturally, when all the powers

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4 Compare Article XXX of the Declaration of Rights of the Massachusetts Constitution of 1780, which enshrined the principle of separation of powers "to the end it may be a government of laws and not of men." See the commentary by Richard B. Bernstein on the Massachusetts Constitution of 1780 in this volume.

5 For a modern discussion of the varying types of republicanism and the varying forms of government that can be deduced from this range of republican principles, see Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence, Kans., 1985), 66–87.

6 Note Adams's insistence that the representative assembly "be in miniature, an exact portrait of the people at large." On theories of representation, see generally Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley, 1967), and John Phillip Reid, *The Concept of Representation in the Age of the American Revolution* (Chicago, 1988).
of government come to be in the hands of the peoples friends. At present it will be safest to proceed in all established modes to which the people have been familiarised by habit.

A REPRESENTATION of the people in one assembly being obtained, a question arises whether all the powers of government, legislative, executive, and judicial, shall be left in this body? I think a people cannot be long free, nor ever happy, whose government is in one Assembly. My reasons for this opinion are as follow.

1. A single Assembly is liable to all the vices, follies and frailties of an individual.—Subject to fits of humour, starts of passion, flights of enthusiasm, partialities of prejudice, and consequently productive of hasty results and absurd judgments: And all these errors ought to be corrected and defects supplied by some controuling power.

2. A single Assembly is apt to be avaricious, and in time will not scruple to exempt itself from burthens which it will lay, without compunction, on its constituents.

3. A single Assembly is apt to grow ambitious, and after a time will not hesitate to vote itself perpetual. This was one fault of the long parliament, but more remarkably of Holland, whose Assembly first voted themselves from annual to septennial, then for life, and after a course of years, that all vacancies happening by death, or otherwise, should be filled by themselves, without any application to constituents at all.

4. A Representative Assembly, altho’ extremely well qualified, and absolutely necessary as a branch of the legislature, is unfit to exercise the executive power, for want of two essential properties, secrecy and dispatch.

5. A Representative Assembly is still less qualified for the judicial power; because it is too numerous, too slow, and too little skilled in the laws.

7 Compare the comment of Thomas Jefferson on the Virginia Constitution of 1776:

All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. 173 despotism will surely be as oppressive as one.


8 On the qualities of secrecy and dispatch as characteristic of a good executive, see also Alexander Hamilton’s discussion in The Federalist No. 70 and the commentary by Richard B. Bernstein on The Federalist Nos. 15, 70, and 78 in this volume.

9 On the qualities needed for a good judiciary, see also Alexander Hamilton’s
6. Because a single Assembly, possessed of all the powers of government, would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favour.

But shall the whole power of legislation rest in one Assembly? Most of the foregoing reasons apply equally to prove that the legislative power ought to be more complex—to which we may add, that if the legislative power is wholly in one Assembly, and the executive in another, or in a single person, these two powers will oppose and enervate upon each other, until the contest shall end in war, and the whole power, legislative and executive, be usurped by the strongest.

The judicial power, in such case, could not mediate, or hold the balance between the two contending powers, because the legislative would undermine it. And this shews the necessity too, of giving the executive power a negative upon the legislative, otherwise this will be continually encroaching upon that.

To avoid these dangers let a distant Assembly be constituted, as a mediator between the two extreme branches of the legislature, that which represents the people and that which is vested with the executive power.

Let the Representative Assembly then elect by ballot, from among themselves or their constituents, or both, a distinct Assembly, which for the sake of perspicuity we will call a Council. It may consist of any number you please, say twenty or thirty, and should have a free and independent exercise of its judgment, and consequently a negative voice in the legislature.

These two bodies thus constituted, and made integral parts of the legislature, let them unite, and by joint ballot choose a Governor, who, after being stripped of most of those badges of domination called prerogatives, should have a free and independent exercise of his judgment, and be made also an integral part of the legislature. This I know is liable to objections, and if you please you may make him only President

discussion in *The Federalist No. 78* and the commentary by Richard B. Bernstein on *The Federalist Nos. 15, 70, and 78* in this volume.

10 Compare Adams's ideas about the judiciary with Hamilton's in *The Federalist No. 78*, and see the commentary by Richard B. Bernstein on *The Federalist Nos. 15, 70, and 78* in this volume. Ideas of separation of powers and checks and balances changed greatly between 1776 and 1787, according to Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill, 1969).

11 The editors of the *Papers of John Adams* suggest that this word should be "direct" rather than "distant."
of the Council, as in Connecticut: But as the Governor is to be invested with the executive power, with consent of Council, I think he ought to have a negative upon the legislative. If he is annually elective, as he ought to be, he will always have so much reverence and affection for the People, their Representatives and Councillors, that although you give him an independent exercise of his judgment, he will seldom use it in opposition to the two Houses, except in cases the public utility of which would be conspicuous, and some such cases would happen.

In the present exigency of American affairs, when by an act of Parliament we are put out of the royal protection, and consequently discharged from our allegiance; and it has become necessary to assume government for our immediate security, the Governor, Lieutenant-Governor, Secretary, Treasurer, Commissary, Attorney-General, should be chosen by joint ballot, of both Houses. And these and all other elections, especially of Representatives and Councillors, should be annual, there not being in the whole circle of the sciences, a maxim more infallible than this, "Where annual elections end, there slavery begins."

These great men, in this respect, should be, once a year

"Like bubbles on the sea of matter borne,
They rise, they break, and to that sea return."

This will teach them the great political virtues of humility, patience, and moderation, without which every man in power becomes a ravenous beast of prey.

This mode of constituting the great offices of state will answer very well for the present, but if, by experiment, it should be found inconvenient, the legislature may at its leisure devise other methods of creating them, by elections of the people at large, as in Connecticut, or it may enlarge the term for which they shall be chosen to seven years, or three years, or for life, or make any other alterations which the society shall find productive of its ease, its safety, its freedom, or in one word, its happiness.

A rotation of all offices, as well as of Representatives and Councillors, has many advocates, and is contended for with many plausible arguments. It would be attended no doubt with many advantages, and

12 Adams referred here to the Fundamental Orders of Connecticut of 1639, which, revised slightly in 1776, served as the constitution of the state until 1818. See the commentary on the Fundamental Orders of Connecticut by Donald S. Lutz in this volume (Chapter 2 above).

if the society has a sufficient number of suitable characters to supply the great number of vacancies which would be made by such a rotation, I can see no objection to it. These persons may be allowed to serve for three years, and then be excluded three years, or for any longer or shorter term.

Any seven or nine of the legislative Council may be made a Quorum, for doing business as a Privy Council, to advise the Governor in the exercise of the executive branch of power, and in all acts of state.

The Governor should have the command of the militia, and of all your armies. The power of pardons should be with the Governor and Council.

Judges, Justices and all other officers, civil and military, should be nominated and appointed by the Governor, with the advice and consent of Council, unless you choose to have a government more popular; if you do, all officers, civil and military, may be chosen by joint ballot of both Houses, or in order to preserve the independence and importance of each House, by ballot of one House, concurred by the other. Sheriffs should be chosen by the freeholders of counties—so should Registers of Deeds and Clerks of Counties.

All officers should have commissions, under the hand of the Governor and seal of the Colony.

The dignity and stability of government in all its branches, the morals of the people and every blessing of society, depends so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checks upon that. The Judges therefore should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness and attention. Their minds should not be distracted with jarring interests; they should not be dependent upon any man, or body of men. To these ends they should hold estates for life in their offices, or in other words their commissions should be during good behaviour, and their salaries ascertained and established by law. For misbehaviour the grand inquest of the Colony, the House of Representatives, should impeach them before the Governor and Council, where they should have time and opportunity to make their defence, but if convicted should be removed from their offices, and subjected to such other punishment as shall be thought proper.

14 Compare Adams's discussion of judicial power with Alexander Hamilton's fuller and more elaborate analysis in The Federalist Nos. 78-83, and see Richard B. Bernstein's commentary on The Federalist Nos. 15, 70, and 78 in this volume.
A Militia Law requiring all men, or with very few exceptions, besides cases of conscience, to be provided with arms and ammunition, to be trained at certain seasons, and requiring counties, towns, or other small districts to be provided with public stocks of ammunition and entrenching utensils, and with some settled plans for transporting provisions after the militia, when marched to defend their country against sudden invasions, and requiring certain districts to be provided with field pieces, companies of matrosses, and perhaps some regiments of light horse, is always a wise institution, and in the present circumstances of our country indispensible.\(^{15}\)

Laws for the liberal education of youth, especially of the lower class of people, are so extremely wise and useful, that to a humane and generous mind, no expence for this purpose would be thought extravagant.\(^{16}\)

The very mention of sumptuary laws will excite a smile. Whether our countrymen have wisdom and virtue enough to submit to them I know not. But the happiness of the people might be greatly promoted by them, and a revenue saved sufficient to carry on this war forever. Frugality is a great revenue, besides curing us of vanities, levities and fopperies which are real antidotes to all great, manly and warlike virtues.

But must not all commissions run in the name of a King? No. Why may they not as well run thus, “The Colony of to A. B. greeting,” and be tested by the Governor?

Why may not writs, instead of running in the name of a King, run thus, “The Colony of to the Sheriff,” &c. and be tested by the Chief Justice.

Why may not indictments conclude, “against the peace of the Colony of and the dignity of the same?”

A Constitution, founded on these principles, introduces knowledge among the People, and inspires them with a conscious dignity, becoming Freemen. A general emulation takes place, which causes good humour, sociability, good manners, and good morals to be general. That elevation of sentiment, inspired by such a government, makes the common people brave and enterprizing. That ambition which is inspired by it makes them sober, industrious and frugal. You will find among them some elegance, perhaps, but more solidity; a little pleasure, but

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\(^{15}\) This passage casts interesting light on the Second Amendment to the United States Constitution. See John P. Kaminski and Richard B. Bernstein’s commentary on the Bill of Rights in this volume in Chapter 18 below.

\(^{16}\) On governmental responsibility for education, compare Chapter V of the frame of government of the Massachusetts Constitution of 1780, and see Richard B. Bernstein’s commentary on the Massachusetts Constitution of 1780 in Chapter 11 below.
a great deal of business—some politeness, but more civility. If you compare such a country with the regions of domination, whether Mon­
archial or Aristocratical, you will fancy yourself in Arcadia or Elisium.

If the Colonies should assume governments separately, they should be left entirely to their own choice of the forms, and if a Continental Constitution should be formed, it should be a Congress, containing a fair and adequate Representation of the Colonies, and its authority should sacredly be confined to these cases, viz. war, trade, disputes between Colony and Colony, the Post-Office, and the unappropriated lands of the Crown, as they used to be called.17

These Colonies, under such forms of government, and in such a union, would be unconquerable by all the Monarchies of Europe.

You and I, my dear Friend, have been sent into life, at a time when the greatest lawgivers of antiquity would have wished to have lived.—How few of the human race have ever enjoyed an opportunity of making an election of government more than of air, soil, or climate, for themselves or their children.—When! Before the present epocha, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive? I hope you will avail yourself and your country of that extensive learning and indefatigable industry which you possess, to assist her in the forma­tions of the happiest governments, and the best character of a great People.—For myself, I must beg you to keep my name out of sight, for this feeble attempt, if it should be known to be mine, would oblige me to apply to myself those lines of the immortal John Milton, in one of his sonnets,

"I did but teach the age to quit their cloggs
By the plain rules of ancient Liberty,
When Io! a barbarous noise surrounded me,
Of owls and cuckoos, asses, apes and dogs."18

17 Note the limited purposes for which Adams suggested the necessity of a "Continental Constitution." A person holding such views eleven years later, in 1787, would be an Antifederalist. Note, however, Adams's willingness to assign authority over the "unappropriated lands of the Crown, as they used to be called," to the Congress. See, on this point, the commentary on the Northwest Ordinance of 1787 by Peter S. Onuf in Chapter 13 of volume.

18 These lines are slightly misquoted from John Milton, "On the Detraction Which Followed upon My Writing Certain Treatises," second part, "On the Same," lines 1–4. They exhibit John Adams's concern, a constant throughout his life but especially in the difficult months before the declaration of American independence in July 1776, that his countrymen were ready to scorn him rather than listen to him.