Chapter Two

Constitutions

*Thomas Jefferson and James Madison*

 It was axiomatic for Thomas Jefferson and James Madison that the people’s participation in their own government was critical to the success of the new nation’s republican experiment. Yet it was unclear who the “people” were or how exactly they would participate. Membership in the new Revolutionary republics could not be taken for granted. Peoples only came into existence when provincial Anglo-Americans abjured their allegiance to King George III, organized new governments, and recognized each other as fellow citizens. Rebels against royal authority could only establish their legitimacy by performing these constitutive acts in the most solemn and authoritative fashion. Jefferson and Madison were convinced that Virginians had fallen far short of that exalted standard by failing to draft and ratify a proper constitution to replace the charter hastily adopted by the Revolutionary Convention of 1776. The great popular leader Patrick Henry thwarted their repeated efforts to promote constitutional reform: he had no doubts that his countrymen constituted a patriotic, self-governing people, notwithstanding their constitution’s supposed defects.

 When Jefferson left for his diplomatic assignment in Paris in 1784, Madison continued to push for reform. Jefferson was particularly gratified by his younger colleague’s success in persuading the legislature to pass his Bill for Religious Freedom.[[1]](#footnote-1) But Madison fared less well in other legislative struggles with Henry and his followers. Frustrated by Henryite obstruction, Madison looked to a more energetic and powerful federal government for relief from majority tyranny in Virginia and the other states. Replacing the dysfunctional Articles of Confederation with a proper constitution—drafted by a duly authorized convention and ratified by the peoples of the respective states—would check the democratic excesses that threatened to subvert state governments and destroy the union.

 Madison’s campaign for a new federal Constitution reflected what he saw as a broad crisis of republican government in the increasingly disunited states. His faith in republicanism was sorely tested by the “multiplicity,” “mutability,” and “injustice” of state laws that led him to condemn legislative majorities and their all too easily duped constituents. “Public opinion” could not temper factious majorities, he insisted, for the “opinion of the majority” was simply the “standard . . . fixed by those whose conduct is to be measured by it.”[[2]](#footnote-2) Madison’s celebrated effort to constitute an extended republic on a continental scale affirmed his fidelity to republican principles. But it also betrayed misgivings about the people’s capacity for self-government.

Factiousness would be tempered in Madison’s “extended republic” by the authority of a distant federal government that was insulated from selfish and unruly local majorities. But the regime would be republican. The people would be represented, either directly or indirectly, and their liberties secured in separate branches of the federal government that checked and balanced each other; the will of the American people would be authoritatively expressed by ratifying a new federal constitution that made them into a single people and guaranteed their independence in a dangerous world.

 Madison’s project resonated with the American minister in France. Jefferson recognized the urgent need to reform or replace the Articles of Confederation. But he was much more impressed—and embarrassed—by the Confederation Congress’s incapacity than by the endemic factiousness that Madison thought was subverting the state republics. The “anarchy” that troubled Jefferson was the geopolitical “state of nature” that threatened to demolish the union.[[3]](#footnote-3) Jefferson was no less a “nationalist” than Madison. By virtue of his position, he was more immediately concerned with the capacity of the United States to function as a “treaty-worthy” nation than Madison, for whom foreign relations were a secondary concern.[[4]](#footnote-4) From his distant perch in Paris, Jefferson could also view Shays’ Rebellion and other agrarian disturbances with equanimity, even enthusiasm. Where Madison saw a rising tide of disorder and the imminent collapse of state authority, Jefferson celebrated a vigilant populace asserting its rights and exercising a vitally important censorial function over governments.

If Jefferson and Madison brought different perspectives to the critical period of the 1780s, the crisis led both of them to reaffirm their commitment to Revolutionary republican principles. Their disagreements were always cautiously expressed—or generously overlooked—and their ongoing political alliance and friendship were never in doubt. The two Virginians did not experience the “Madison problem” that has so preoccupied scholars. Their divergent perspectives generated a constructive “conversation” that laid the groundwork for their great collaboration in the 1790s and beyond.[[5]](#footnote-5)

Madison’s advocacy of a strong central government was a function of his efforts to conceptualize constitutional government on a continental scale. The failures of republican governments in the states that he catalogued in his “Vices of the Political System of the United States” convinced him that a comprehensive, top-down reform of American politics was imperative. Further efforts to amend the Articles were pointless: only by transforming the Confederation itself into a republic could the central government overcome debilitating legitimacy deficits; only when Americans constituted themselves as a single people would they be able to govern themselves.

Jefferson never doubted that patriotic Americans constituted a single people or nation.[[6]](#footnote-6) The ambivalence of his initial response to the proposed Constitution reflected his conviction that the republicanism of his countrymen was fixed and irreversible, and that future constitutional reforms—in the states and the union as a whole—would build on that solid foundation. His advocacy of a Bill of Rights and of a second convention to amend the Constitution was predicated on his faith in the durability of American republicanism. “I think our governments will remain virtuous for many centuries,” Jefferson reassured a skeptical Madisonin late 1787.[[7]](#footnote-7) Jefferson never embraced Madison’s hyperbolic characterization of American politics as irredeemably factious, but Madison did succeed in persuading him that ratification *without* prior amendments was urgent and imperative.[[8]](#footnote-8)

Madison and Jefferson’s perspectives were complementary. The younger Virginian’s great contribution was to recast their republican project on a grand, continental scale. In order to justify his radical reconstruction of American politics, Madison offered an uncharacteristically dire diagnosis of its pathological factiousness. To reverse the customary formulation, creating an “extended republic” of imperial dimensions was as much an end in itself as it was a “remedy the diseases most incident to republican government.”[[9]](#footnote-9) Jefferson endorsed that expansive goal. The constitution was “a good canvas,” he told Madison, “on which some strokes only want retouching.”[[10]](#footnote-10) Madison got the big picture right. And with a few appropriate strokes—most notably the adoption of a Bill of Rights—the newly constituted American people would see themselves in that picture.

*I. Constitutional Collaborators*

 Jefferson’s critics, in his own time and ever since, have accused him of being overly theoretical or “philosophical,” prone to grand—and often empty—abstractions. The realistic, down-to-earth Madison is credited with exercising a calming influence over his friend, the “philosophical Legislator.”[[11]](#footnote-11) Jefferson’s blithe comment about Shays’ Rebellion—that “the tree of liberty must be refreshed from time to time with the blood of patriots and tyrants”—seems to confirm that judgment.[[12]](#footnote-12) But if Jefferson’s language was provocative, it also reflected a thoughtful comparative assessment of the political cultures of Old World and New. The intense engagement of Americans in their own government, occasionally leading them to challenge legitimate authority, was preferable to the oppression of the masses and much more frequent outbreak of violence in European monarchies. The “people” of the American republics were their own sovereigns: popular dissidence was predicated on the belief that their rights and vital interests were jeopardized by the abuse of power supposedly exercised in their name and for their benefit. For Jefferson, that sense of the people’s active presence in and ownership of their governments was the genius of a truly republican constitution.

Madison’s relentless focus on factionalism in the critical period of constitutional reform authorized a profoundly pessimistic assessment of American political culture. The people had to be saved from themselves by being subjected to—and “refined” and improved by—the elaborate constitutional machinery of a compound, extended republic. This was Madison’s Enlightenment project: in a constitutional sense, the “people” would be produced by the regime. Madison and his fellow founders rejected the conventional idea that constitutions had to be fitted to the unique circumstances and character of particular peoples. One size would fit all. Americans were not an “exceptional” people animated by their virtuous commitment to the public good. What was exceptional about them was the extraordinary opportunity they had to transcend their factiousness and rise above themselves by ratifying the constitution.

Madison leveled the people down to the lowest common denominator, asking voters to recognize that what made them equal was their irresistible natural impulse to form alliances—or factions—that would enable them to promote their own selfish interests. Like the grace of God, the constitution would miraculously convert factious sinners into good citizens. If voters would only see beyond their parochial and immediate interests, they could avoid the otherwise inevitable descent into the anarchic abyss. In Madison’s reductive analysis of American politics, the “people” signified the total number of self-interested actors in the civic arena. The sum of individual parts constituted the whole.

Madison wiped the conceptual slate clean. An evanescent majority might claim to speak for the “people,” but it could never be more than a party or faction—terms then interchangeable. There was no such thing as “public opinion” distinct from the particular groups that sought to promote their own particular purposes; “national character” simply described the ways subjects or citizens adapted to the distribution of power in particular regimes. With no illusions about the superior virtue of American republicans, Madison could then envision constructing a continental constitution from the ground up, working with the recalcitrant and uncompromising building materials that came to hand. It was a “miracle” that the delegates who assembled at Philadelphia were able to overcome their own diverse and conflicting interests. Their great compromises should be an inspiration to voters in the state ratifying conventions.

 Jefferson saw things differently. Developments in France as well as in America led him to a much more positive assessment of the role of the “people” in the constitution of a durable republic. While the disenchanted Madison came to question the very existence of the “people,” national differences became increasingly conspicuous to Jefferson. His efforts to shape public opinion in Europe by vindicating the American national character made him what we now call an “American exceptionalist.”[[13]](#footnote-13) Distance gave the enlightened reformer a fresh, more forgiving perspective on Virginia’s defective constitution and the demoralizing “manners” of his fellow slaveholders. Comparing America with France, Jefferson looked beyond Virginia. The new nation enjoyed obvious advantages in everything from widespread literacy and political participation to wholesome gender relations and family forms: even American slavery seemed relatively benign in comparison to the misery and exploitation of the European masses.[[14]](#footnote-14)

In the exciting days leading up to the French Revolution, Jefferson could imagine that the benighted peoples of France and other old regime monarchies might eventually—in the far distant future—fulfill their human potential and achieve the exalted condition of their American counterparts. But it was absurd to suggest that the French were in any meaningful sense “equal” to and interchangeable with the Americans. To do so would be to deny the world-historical significance of the American Revolution and of the uniquely fortunate circumstances of the American colonies before independence. Failure to reform the Articles and strengthen the union would jeopardize the new nation’s prospects, but republicanism was firmly and irrevocably imbedded in the American national character. In 1787 Madison was so overwhelmed by the immediacy of a political and constitutional crisis that threatened to destroy everything he cherished that he lost sight of the role a spirited people had played in winning their own independence and constituting the new American republics.

In their conversation about constitutions in the critical years from 1787 to 1790, Jefferson was much better attuned than Madison to the sentiments of wary electorates fearful of radical change. Jefferson’s was the voice of prudence, cautioning his younger colleague to avoid alienating skeptical voters who were determined to secure their liberties against an overly energetic, consolidated central government. For Jefferson, the republican character of a highly politicized people was the new regime’s greatest asset, not a problem to be overcome by the ingenious design of complicated constitutional machinery. For Madison, the struggle to draft and ratify the constitution was an often humbling learning experience, teaching him that there was no escape from politics and preparing him for his great collaboration with Jefferson in forging a popular opposition party in the 1790s. Jefferson embraced Madison’s constitution and Madison embraced Jefferson’s people as the two Virginians worked together to shape public opinion and overthrow the Federalists.

*II. Extending the Republic*

Madison’s great contribution to American constitutionalism was to conceive of the federal union as an “extended republic.” Commentators on the bookish framer’s intellectual journey from commonwealth to continent generally emphasize the ways he built on—and broke with—the conventional wisdom on a republic’s optimally small size. By scaling up, they argue, Madison assumed the leading role in an elite nationalist campaign against popular political forces in the states. Madison’s constitutionalism thus diverged significantly—if only temporarily—from Jefferson’s more consistent commitment to democracy and states rights. There is considerable evidence for this characterization: during the campaign for a new federal constitution Madison called into question the role of the state governments, and his indictment of endemic factionalism betrayed misgivings about popular politics. But Madison’s supposedly antidemocratic turn is largely a function of contingent political circumstances and a historical narrative originating in debates over the ratification of the Constitution that pitted “democracy” against “aristocracy.” When Madison conceptualized the continental republic, he took his bearings from the British imperial past, not from the supposed class interests of an emerging national elite.

In the tenth number of *The Federalist*, Madison famously offered his conception of the “extended republic” as the solution to the endemic factionalism that threatened the new nation’s republican experiment. According to the conventional wisdom, as codified in Montesquieu’s *Spirit of the Laws*, republican regimes were optimally suited to small states in which “virtuous” peoples could sustain high levels of civic participation and govern themselves; it followed that authority was necessarily consolidated in larger states, culminating in the despotic rule of monarchs over subject populations in great empires. Madison turned Montesquieu’s logic on its head. Drawing inspiration from David Hume’s “Idea of a Perfect Commonwealth,” Madison argued that “over-bearing,” mobbish majorities inevitably subverted the “public good” in small republics. Only a “well constructed union” on an enlarged scale could “break and control the violence of faction.”[[15]](#footnote-15)

Hume helped Madison shift his focus from Virginia to the union as a whole and so imagine Americans collectively as a properly constituted people. Yet most Americans did not need Hume to convince them of the continental destiny of their rising republican empire. At a time when the legitimacy of state governments was eroding, liberty-loving Americans were prepared to embrace constitutional government on a continental scale. Popular devotion to the Revolutionary “Common Cause” transcended parochial attachments, and wartime mobilization and economic dislocation promoted extraordinary geographical and social mobility. Extending the republic was the Revolution’s logical outcome—provided that the rights of ordinary Americans, including the right to participate in their own government, were adequately secured.

Convention delegates alarmed by popular tumults and “democratic despotism” in the states might be swayed by the Humean indictment of factiousness—though some, including Alexander Hamilton, were not persuaded.[[16]](#footnote-16) They might also be flattered by the juxtaposition of factious local interests to their own, presumably disinterested continental patriotism. But there is scant evidence that Madison’s argument for the extended republic in *The Federalist* convinced very many wavering readers to support the Constitution.[[17]](#footnote-17) Skeptics were more likely to find Madison’s polemic on the volatility and instability of democratic politics counter-suggestive, confirming the Antifederalist narrative of an “aristocratic” plot against the people’s liberties. They might well question Madison’s good faith in offering a “republican remedy” to the “mortal diseases” that supposedly afflicted every republic, including the American states, throughout history. How republican would his extended republic actually be?

Doubts about Madison’s republicanism would have been deepened had readers been privy to his original, aborted design for the Constitution. Madison was convinced, Alan Gibson persuasively argues, that the survival of the extended republic depended on the institution of an all-powerful central government with the authority to “negative” or veto state legislation.[[18]](#footnote-18) Factiousness, Madison told his fellow delegates in Philadelphia, was symptomatic of the “centrifugal tendency” of a plurality of sovereign states unconstrained by a strong central government.[[19]](#footnote-19) The “prerogative of the General Gov[ernmen]t. . . . must control” the states, lest they “continually fly out of their proper orbits and destroy the order & harmony of the political System.” Madison’s analogy of the American political System” to the solar system reflected his Enlightenment cast of mind—and his stunning failure to grasp political realities. Yet Madison’s failed vision also testified to his enduring republican faith.

Madison first broached his proposal “to arm the federal head with a negative *in all cases whatsoever* on the local legislatures” in letters to fellow Virginians in the weeks before the convention met.[[20]](#footnote-20) This would be the same sort of authority “the K[ing] of G[reat] B[ritain] heretofore had” to review colonial laws before independence, he told Edmund Randolph.[[21]](#footnote-21) As subjects of King George III, colonists had recognized the need for this royal prerogative: their allegiance was predicated on the protection he afforded them. The King was obliged to guarantee Americans’ rights as Englishmen as well as their collective security; as long as this “protection covenant”—or imperial constitution—was honored and upheld, provincial Americans could think of themselves, as Jefferson put it in his draft of the Declaration of Independence, as part of “a free and a great [British] people.”[[22]](#footnote-22) But George III betrayed his trust and made war against his loyal subjects. Cast into a state of nature, Americans were forced to declare themselves an independent people. Before 1787, however, they failed to secure their union and collective identity as a people, leaving them vulnerable to the centrifugal tendencies Madison decried.

As a constitutional theorist, Madison’s reasoning was impeccable; as a practical politician it was nearly disastrous.[[23]](#footnote-23) His proposed federal veto invoked the old empire as a template for constitutional reform in the new nation. Most remarkably, he seemed to endorse the *British* case for reforming the empire along consolidated lines when he invoked the language of Parliament’s 1766 Declaratory Act, asserting its sovereign authority over the legislatures of the American provinces “in all cases whatsoever.”[[24]](#footnote-24) The difference, of course, was that Madison rejected Parliament’s “unconstitutional” claims to rule the colonies as subject provinces, instead investing veto authority in the Crown. Madison’s new “federal head,” drawing its authority from the people’s suffrage, would succeed to the sovereign authority George III had forfeited. His proposed constitution would create a republican government for the American people as a whole that fulfilled Revolutionary patriots’ exalted conceptions of monarchical authority.[[25]](#footnote-25) In their sovereign capacity, the people would rise above self-interested factiousness and exercise their authority impartially, securing their cherished liberties under the rule of law.

Madison’s version of popular sovereignty stands in apparent contrast to Jefferson’s conception of the people’s continuous, active participation in their own government. A sovereign people would ascend toward “one paramount Empire of reason, benevolence and brotherly affection,” as Madison later wrote in his *National Gazette* essay on “Consolidation.”[[26]](#footnote-26) Jefferson was more intent on sustaining the vitality and legitimacy of republican government by bringing it down to the level of the sovereign people. But these differences should not be exaggerated. Popular sovereignty is an inherently ambiguous and protean construct, justifying both the concentration and diffusion of authority.[[27]](#footnote-27) In their protracted conversation about constitutional government, Madison and Jefferson pushed the idea of popular sovereignty to its conceptual limits. Madison and Jefferson’s democratic constitutionalism exalted the “majesty” of the people’s will and the mandate it conferred on its true representatives, even as it authorized popular political mobilization—or “factiousness”—on an unprecedented scale.

Madison’s most urgent imperative in the period leading up to the Constitutional Convention was to conceptualize Americans as a single people. As he did so, he focused his intellectual energy on cataloguing the “Vices of the Political System” and demonstrating, to his own satisfaction at least, that the state governments were the chief obstacles to creating a more perfect union.[[28]](#footnote-28) His great theoretical breakthrough—and near breakdown—came when he embraced the “modern,” unitary idea of sovereignty: the stability and ultimate survival of *any* political community depended on establishing the ultimate locus of authority. Embracing the idea did not make Madison an absolutist, for the Anglo-American constitutional tradition demonstrated that sovereign authority could be constitutionally limited: liberty and power coexisted in his idealized vision of the old empire, and could coexist again in continental republic. But it did make him what opponents of ratification would call a “consolidationist.”

Madison’s campaign to create a constitution for the American people authorized a war against the states. His unrelenting focus on factionalism did not express a profound judgment on human nature, nor should it be seen as an indictment of popular politics. He was instead underscoring “the evil of imperia in imperio”: the multiplicity of sovereign authorities in a particular state, or of peoples within the bounds of a great empire.[[29]](#footnote-29) Endemic factiousness was a function of the “American system” of politics, not a reflection on the people’s character. The distinction was not always clear, for Madison was in fact deeply troubled by democratic excesses in the states. But his intention was reconstructive, to overcome the anarchic, antirepublican “licentiousness” of competing sovereignties by constituting a true continental republic. Patriotic Anglo-Americans had been loyal subjects of the British King, and there was no reason to doubt their allegiance to a new republican regime that secured their individual rights and collective interests.

Sovereignty was indivisible, Madison repeatedly insisted. It was therefore axiomatic, he told Washington, “that an individual independence of the States is utterly irreconcileable with their aggregate sovereignty.” Recognizing that abolishing the states would be “inexpedient” and “unattainable,” Madison “sought for some middle ground.” After all, “local authorities” might be “subordinately useful” to the new central government. In order “to support a due supremacy of the national authority,” however, it was necessary to preempt potentially divisive initiatives from the state legislatures.[[30]](#footnote-30) Madison thus convinced himself—and sought to convince Washington and other correspondents—that his negative on state legislation was a significant concession, “the least possible abridgement of the State Soveriegnties.”[[31]](#footnote-31)

Madison’s “middle ground” did not offer a viable framework for serious compromise at the Philadelphia convention. His supposed concession only made sense if the states claimed to be—or were in fact becoming—independent “Soveriegnties.” The plain implication of his proposed scheme was that states in the reconstituted union would be subordinate administrative units, like counties in the various states.[[32]](#footnote-32) Madison’s advocacy of proportional representation in both houses of the new federal congress was animated by the same logic. If citizens from different states were equally represented, congress would speak for the American people as a whole. “A Citizen of Delaware was not more free than a Citizen of Virginia,” Madison told the convention, “nor would either be more free than a Citizen of America.”[[33]](#footnote-33)

Madison assumed the republican high ground when he argued that citizen equality was irreconcilable with state sovereignty. But if state governments were in fact subjected to the “aggregate sovereignty” of a federal government in which they had no voice, representatives of Delaware and other small states rejoined, why not abolish them altogether? David Brearly of New Jersey provocatively suggested that “a map of the U[nited] S[tates] be spread out “ and all existing state “boundaries be erased, and that a new partition of the whole be made into 13 equal parts.”[[34]](#footnote-34) The Virginia delegation, needless to say, was not prepared to sacrifice the state’s vast land claims on the altar of citizen equality in a consolidated continental republic. For Madison, national sovereignty was nonnegotiable, the fundamental principle that could not be compromised; for wary delegates at Philadelphia, sovereignty—the actual distribution of authority in a reconstituted union—was precisely what *was* being negotiated. A “more perfect union” was the best possible compromise they could craft.

Over the course of the convention Madison doggedly promoted his vision of the extended republic and the federal negative on which it depended. He was profoundly disappointed with the final draft of the Constitution. In his contributions to *The Federalist* and speeches at the Virginia ratifying convention he struggled to put the best possible face on the document’s potentially fatal flaws. The framers had not constituted a republic, he complained in an extraordinary letter to Jefferson in October 1787. The Constitution “presents the aspect rather of a feudal system of republics,” rather “than of a Confederacy of independent States.”[[35]](#footnote-35) The Constitution failed to express the sovereign will of the American people. It instead threatened to exacerbate the destructive factional conflicts among rival power centers that had brought Madison to Philadelphia in the first place.

Madison’s federal negative evoked a republicanized conception of monarchical authority, exercised impartially on behalf of loyal subjects. Without the negative, disorder was sure to reign. “And what has been the progress and event of the feudal Constitutions?” Madison asked Jefferson. Of course, his friend would agree, “the head and the inferior members” were doomed to struggle, “until a final victory has been gained in some instances by one, in others, by the other of them.” There was “a remarkable variance,” however, between the Americans’ misbegotten “feudal system” and the feudalism of yesteryear. Though the early modern sovereign exercised only limited authority, he was nonetheless “independent.” “Having no particular sympathy of interests with the great Barons,” the king would ultimately triumph over them in their “mutual projects of usurpation.” The *sovereign* thus would come to embody the principle of *sovereignty*, preparing the way for the “people” to declare *their* independence and govern themselves. But “the American Constitution” threatened to reverse this progress by disuniting the people and making it impossible for them to exercise their sovereign will. “The general authority will be derived entirely from the subordinate authorities,” Madison gloomily concluded. Federalism and republicanism were ultimately irreconcilable.

The contrast between Madison’s gloom and Jefferson’s cautious endorsement of the Constitution is striking. Madison feared the game might have been lost when the convention failed to establish the ultimate sovereign authority of the proposed federal government. For his part, Jefferson never would support a consolidated regime that deranged the federal balance and neutered the states. In June, while the Convention was still sitting, he dismissed Madison’s sovereign remedy, the federal negative, as absurdly disproportionate to the problem it was supposed to resolve. “Not more than. 1. out of 100 state-acts concern the confederacy,” he told Madison, and should be of any concern to congress. But instead of giving the central government the “1. degree of power which they ought to have” over acts that affected the union as a whole, the federal veto “gives them 99. more which they ought not to have, upon a presumption that they will not exercise the 99.” Perhaps, Jefferson suggested, federal judicial review of unconstitutional state legislation would “be as effectual a remedy, and exactly commensurate to the defect.”[[36]](#footnote-36)

For Madison the very existence of the state governments was problematic. The one bad law out of a hundred Jefferson stipulated (certainly a low estimate by Madison’s accounting) was symptomatic of an underlying pathology. Jefferson could not disagree more. The challenge, as he saw it, was to delineate the proper sphere of the states’ authority, not to destroy them. The bundle of interlocking compromises that the Constitution codified represented the delegates’ best effort to recalibrate the federal balance. This was the constitution that Jefferson, with some reservations, was prepared to support—the same compromised constitution that Madison, writing as “Publius,” had to defend in his contributions to *The Federalist*.

Jefferson recognized that the Constitution was a vast improvement on the Articles. He had misgivings, however, about the presidency and the absence of a bill of rights. Both reflected his overarching concern with balancing the claims of a plurality of governments, autonomous within their respective spheres and all drawing their legitimacy from the sovereign people. An overly powerful executive authority threatened the people’s liberties: the president’s eligibility of reelection could make him “an officer for life”—Jefferson had Washington in mind—and so pave the way toward a return to monarchy.[[37]](#footnote-37) The best defense of the republic was a vigilant citizenry. “A bill of rights,” Jefferson lectured Madison, “is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference.”[[38]](#footnote-38) Harking back to the imperial crisis, he conjured up the threat of unchecked despotic power—or sovereignty—to American liberties.

Sovereignty was a practical political problem for Jefferson. How, he wondered, could authority be distributed in ways that enabled the people to govern effectively without jeopardizing their rights? In thrall to his theory of the extended republic, Madison answered that sovereignty was the solution, not the problem. When they ratified the Constitution, Americans secured their rights by empowering the government that made them a people. The federal government would express and enforce the people’s sovereign will, offering the only efficacious remedy for the pathologies that inevitably afflicted *all* forms of government. The logic of sovereignty thus convinced Madison that the relationship between the people and their government must be direct and unmediated. State governments with some degree of independent or autonomous authority compromised the purity of his republican design. Popular political activity within an inherently unstable system of governments was “factious,” by Madison’s definition, for an imperfect union of “peoples” with conflicting interests and identities could never articulate a transcendent and inclusive conception of the public good, or *res publica*.

Jefferson did not question his friend’s fundamental commitment to republicanism. He recognized that Madison’s sustained polemic against factiousness did not represent a counter-revolutionary rejection of popular government, but instead reflected his vision of a single, self-governing people within an extended, continental republic. Jefferson embraced Madison’s conception of a constitutional people, and both shared the contemporary popular aversion to divisive and self-interested partisanship. Yet Jefferson could only breathe a sigh of relief when the Convention rebuffed Madison’s efforts to demolish independent state governments. Patriotism was not a zero-sum game: the attachment of the people to their respective states—and to the constitutions that made them into “peoples”—was the crucial predicate of more inclusive, national attachments.[[39]](#footnote-39)

Madison deployed the Humean argument against factionalism to evoke the specter of unrestrained state sovereignty and clear the way for constituting the extended republic. With the failure of his negative, however, his vision of a single great continental republic was compromised. He instead had to argue that the misbegotten “feudal system” that emerged from the Convention’s compromises would sustain the balance between state and federal authority that the frustrated reformer had originally sought to transcend. “The federal constitution,” he assured readers of *Federalist* number 10, “forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the state legislatures.”[[40]](#footnote-40) In number 39, he asserted that the constitution was “neither a national nor a federal constitution but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal, and partly national; in the operation of these powers, it is national, not federal; in the extent of them again, it is federal, not national; and finally, in the authoritative mode of introducing amendments, it is neither wholly federal, nor wholly national.”[[41]](#footnote-41) Madison’s famous formulation may have been the best possible description of a Constitution, but it was conceptually incoherent. It represented the return of the confusing world of conflicting, factious interests and interpretative ambiguity that Madison the theorist had sought to escape.[[42]](#footnote-42)

Madison’s theory of the extended republic loomed behind his *Federalist* essays, erupting in the recurrent outbursts against factiousness. But when he was reluctantly forced to abandon the principle of federal sovereignty that animated his theory, Madison refashioned himself as a more interesting and consequential advocate of what Jeremy Bailey calls “constitutional imperfection.”[[43]](#footnote-43) Thrown back on the fundamental commitment to majority rule that he and Jefferson shared, Madison reconceptualized the role of the people in his constitutional design. When he celebrated the “judicious modification and mixture of the *federal* principle” into its structure, Madison begrudgingly acknowledged the independence or “sovereignty” of the states.[[44]](#footnote-44) The authority of the people did not descend from on high, but moved upward by the people’s active consent, through ascending levels of government. The people were present, in all their factiousness, at all these levels.

As “Publius,” Madison brought the people back into his constitutional design, beginning the process of adapting the theory of the extended republic to the political realities of an expanding federal union that culminated in his polemics for the Jeffersonian-Republican opposition in the *National Gazette* in 1791-92. He sought to assuage Antifederalists’ anxieties about the ways in which a consolidated, neo-monarchical federal government might jeopardize their liberties—and immobilize them politically. *“*A dependence on the people is no doubt the primary control on the government,” he acknowledged in *Federalist* number 51. Of course, the people were the ultimate source of authority and they had the right to overthrow a despotic regime that violated their fundamental rights. But Revolutions would not be necessary in a well-constituted republic because citizens participated—and therefore were continuously present—in their own government. By ratifying the Constitution Americans would constitute themselves a people: the Constitution would be their own handiwork, and therefore subject to their ongoing supervision and future amendment.

The people’s presence emerged only gradually over the course of Madison’s contributions to *The Federalist*. Beginning with his dire diagnosis of epidemic factiousness, Madison emphasized the dangerous tendencies of misdirected popular political energy. But if at first the creation of a continental republic seemed like the obvious “remedy,” the threat of concentrated power in a distant, all-powerful central government became increasingly conspicuous to liberty-loving Americans. Of course, Americans needed to be protected from each other—and from themselves. But the greatest threat would come from a remote and unresponsive governing class, or what revolutionary republicans reflexively called “aristocracy.” In his later essays, Madison argued that no such class could ever exist in a “partly federal, partly national” government with its elaborate “auxiliary precautions.”[[45]](#footnote-45) Divisions *within* the federal government (and the federal system as a whole) channeled factiousness in ways that secured American liberties.

In *Federalist* number ten, Madison demolished the idea that a small republic could survive without “giving to every citizen the same opinions, the same passions, and the same interests.”[[46]](#footnote-46) As he told Jefferson shortly before drafting that essay, “no Society ever did or can consist of so homogeneous a mass of Citizens.”[[47]](#footnote-47) Yet by the end of the series, Madison had conjured up an American people, “a mass of Citizens” who overcame conflicting opinions, passions, and interests in their shared commitment to the republican principles animating the Constitution. In the process, Madison began to overcome his contempt for state governments and small republics.[[48]](#footnote-48) The genius of the new system, he argued, was that it was republican at all levels and in all its branches, either directly or indirectly. Madison thus gradually came to terms with a compromised and complicated federal system that he at first reluctantly defended. Initially, he promoted ratification out of desperation: the new Constitution was a stopgap measure, better than nothing. But he ultimately came to see that the Constitution’s virtues transcended its defective parts. Madison’s resistance to the addition of a Bill of Rights reflected this much more positive assessment. Such amendments would be redundant, mere “parchment barriers.” By creating a federal government of limited and delegated powers, the Constitution offered Americans ample security for their rights: it was therefore the equivalent—and superior—to bills of rights in state constitutions.[[49]](#footnote-49)

 Madison was by no means in perfect agreement with his senior colleague when Jefferson returned to America in late 1789, but their paths were converging. Jefferson overcame misgivings about the Constitution and urged its unconditional ratification. And though Madison remained wary of democratic excesses—questioning his friend’s enthusiasm for frequent elections and tactfully ignoring his rosy view of popular dissidence—he adapted his theory of the extended republic to the realities of popular politics. Madison’s contribution to their future collaboration was to conceptualize constitutional government within a continental framework. Casting Americans as authors and agents of their own government, he prepared the way for Jefferson’s more dynamic, democratic conception of popular political participation. Together they would transform selfish factiousness into high-minded partisanship, dedicated to upholding the new Constitutional order.

*III. The People’s Constitution*

An important part of Jefferson’s mission in France, as he saw it, was to defend the political character of his countrymen against the slurs of the Anti-American press. The “London newspapers,” he complained, were filled with reports of “mobs and riots,” fabricated by hacks in the pay of the British ministry “to deter strangers from going to America.”[[50]](#footnote-50) Ministerial polemicists projected familiar images of lower class disorder and dissidence on to the former colonies, warning of dire threats to person and property. They used the term “democracy” in a conventionally derogatory sense, as a synonym of the “anarchy” that signified the absence of government. This was not simply propaganda. Hostile observers in high government circles were convinced that the Revolution would fail. Unruly Americans were bound to suffer the consequences of their rebellion against legitimate authority: the postwar Confederation was disintegrating, and the states would soon follow.[[51]](#footnote-51)

Jefferson’s determination to vindicate the American character was reinforced by troubling reports from home. The democratization of state legislatures, increasingly dominated by new men with modest backgrounds and responsive to popular constituencies, generated an anti-democratic backlash. Displaced elites yearned for some sort of restoration, perhaps even a return to monarchy.[[52]](#footnote-52) “Without some alteration in our political creed,” General Washington warned Madison, the “superstructure” of the Confederation, “raised at the expence of much blood and treasure, must fall. We are fast verging to anarchy & confusion!”[[53]](#footnote-53) Constitutional reformers exploited such sentiments as they mobilized support across the continent for a “more perfect union.” At the same time, of course, they had to persuade skeptical voters of their fidelity to revolutionary republican principles. This was the fine line Madison sought to negotiate as Publius. By diagnosing factiousness, he could distinguish the disease from the body politic: his heroic remedies would restore the republic to good health.

Jefferson did not respond in writing to Madison’s polemical assault on faction. It seems likely, however, that he avoided using the term because of its association with key words in the ministerial arsenal of anti-American abuse. To say Americans were “factious” was to characterize them as unruly and riot-prone; to argue that their factiousness was a function of defective constitutions was to call into question their contribution to the progress of political civilization. “With all the defects of our constitutions, whether general or particular,” Jefferson exclaimed to a Virginia correspondent, “the comparison of our governments with those of Europe are like a comparison of heaven and hell.”[[54]](#footnote-54) As Madison’s coadjutor in a long-term campaign to reform Virginia’s constitution, Jefferson was certainly eager to rectify these “defects.” But advocates of the federal constitution seemed all too determined to wipe the slate clean and erect the “superstructure” of a more powerful central government on an entirely new foundation. Most disturbingly, their assault on the supposed excesses of popular politics in the states echoed—and fueled—the crescendo of anti-American polemics in the British press.[[55]](#footnote-55)

Jefferson’s ambivalence about the value of foreign travel reflected anxiety about anti-republican, aristocratic tendencies at home and the seductive appeal of the aristocratic way of life for visitors to Europe. Impressionable young Americans, male and female, should stay at home; once their republican characters were fully formed, mature Americans would come to share Jefferson’s horror at the exploitation, misery, and degradation of old regime society. They could be edified and enlightened by the glories of European civilization without risking their republican souls. Jefferson thus urged Madison and James Monroe to take the trip: their fresh perception and appreciation of their heavenly homeland would strengthen their commitment to its republican creed.[[56]](#footnote-56) They would recognize the moral superiority of American family life, grounded in consensual and affectionate marital ties and cultivating successive generations of good citizens. They would agree with Jefferson that that the exalted character of the American people was the foundation of republican constitutions that drew the admiration of Enlightened Europe—and threatened to subvert the legitimacy and survival of its despotic governments.[[57]](#footnote-57)

Jefferson is famous for his stark, binary oppositions. The distinction he drew between New World and Old, “heaven and hell,” is exemplary. Yet if this Manichean cast of mind could blind him to complexity and nuance, it also helped him to see through and beyond the conventional wisdom of friend and foe alike. His campaign to vindicate the character of the American people is a classic case in point. While Madison focused obsessively on factious behavior, Jefferson’s wide-angle view enabled him to generalize from a more comprehensive set of data and reach far different conclusions: by his account, Americans were much *less* prone to rioting and mob action than their European counterparts. Shays’ “rebellion in Massachusets has given more alarm than I think it should have done,” Jefferson wrote Madison and other correspondents in late 1787: “Calculate that one rebellion in 13 states in the course of 11 years, is but one for each state in a century and a half.” The comparison with France was striking. “With all it’s despotism, and two or three hundred thousand men always in arms,” Jefferson wrote, France “has had three insurrections in the three years I have been here in every one of which greater numbers were engaged than in Massachusets and a great deal more blood was spilt.”[[58]](#footnote-58)

The American advantage, Jefferson plausibly inferred, reflected the closer and more harmonious relation between the people and their governments under their republican constitutions. The low incidence of popular political violence was obviously a good measure of the people’s welfare or “happiness.” Jefferson further insisted on a qualitative as well as a quantitative difference between popular uprisings in Europe and America. Turning Madison’s dire diagnosis on its head, he argued that Shays’ Rebellion signified civic good health: engaged citizens had a right to demand responsive government. “What country can preserve it’s liberties,” Jefferson asked John Adams’s son-in-law William Stephens Smith, “if their rulers are not warned from time to time that their people preserve the spirit of resistance?”[[59]](#footnote-59) In Europe riots reflected the desperation and misery of oppressed peoples. According to Voltaire’s famous formulation, cited approvingly by Jefferson, they were like the “anvil,” seeking relief from the “hammer” blows of rapacious and despotic rulers.[[60]](#footnote-60)

Anti-American critics equated democracy with mob rule. Jefferson replied that “mobs,” in the European sense, did not exist in the United States. Americans were law-abiding because they made their own laws. “There is not a country on earth where there is greater tranquillity, where the laws are milder, or better obeyed,” Jefferson told his dear friend Maria Cosway. The explanation for this happy state of affairs was the independence and self-sufficiency of individual citizens. There was no place in the civilized world “where every one is more attentive to his own business, or meddles less with that of others: where strangers are better received, more hospitably treated, and with a more sacred respect.”[[61]](#footnote-61) As they cultivated their own properties, Americans developed a healthy regard for their own rights and a corresponding respect for the rights of their neighbors.

The broad distribution of property and a widely dispersed agricultural population fostered rights-consciousness and the rule of law in the new American republics. “The mobs of great cities” were conspicuously absent in America, Jefferson reassured readers of his *Notes on the State of Virginia*: these cities and their mobs “add just so much to the support of pure government, as sores do to the body politic.”[[62]](#footnote-62) Far from being diseased, as Madison suggested, the American body politic was fundamentally healthy. When citizens or their elected representatives gathered, they did not lose themselves—and their minds—in factious mobs or crowds. Their political character was formed at home, in the “natural” attachments of family relations and the business of household management. Jefferson believed that naturally sociable individuals were endowed with a moral sense that flourished in republican America. Political participation enabled vigilant citizens to secure their autonomy and promote their collective interests.[[63]](#footnote-63)

Jefferson’s celebration of popular politics stood in stark contrast to Madison’s indictment of demagoguery and factiousness. For Jefferson, a “spirit of resistance” to abuses of authority brought liberty-loving citizens together, giving them a clearer sense of their rights. The Revolution marked the original, character-forming moment for Americans as a people. Had patriots been rational, self-interested calculators, they would have balked at independence: they had too much to lose, including their lives. But “hearts” triumphed over “heads,” enabling Americans to transcend profound divisions in their dedication to the “common cause.” Jefferson’s revolutionary people was not a *mob*: it was the mirror image of Madison’s *faction*. “If our country, when pressed with wrongs at the point of the bayonet, had been governed by it’s heads instead of it’s hearts,” Jefferson asked Cosway, “where should we have been now? hanging on a gallows as high as Haman’s.”[[64]](#footnote-64) By overcoming the “lethargy” and ignorance that sustained despotic regimes, Revolutionary patriots provided inspiring examples of good citizenship for future generations.

Jefferson acknowledged that the people might sometimes be misinformed and their resistance unjustified. “The people can not be all, and always, well informed,” he told William Stephens Smith. “The part which is wrong will be discontented in proportion to the importance of the facts they misconceive. If they remain quiet under such misconceptions it is a lethargy, the forerunner of death to the public liberty.” Shaysites thus were following a patriotic script when they mobilized against the Commonwealth’s tax-gatherers in defense of their farms and families. Their resistance communicated crucially important information about the impact of apparently misguided policies. Authorities should explain and justify those policies, while mitigating the damage they inflicted. “The remedy” he prescribed to Smith was “to set them right as to facts, pardon and pacify them.”[[65]](#footnote-65)

Jefferson elaborated the medical metaphor when he assured Madison that “a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical.” The survival of despotic regimes depended on brutally suppressing popular dissidence and convincing the people that they had no rights. But it was incumbent on “honest republican governors” to be “so mild in their punishment of rebellions, as not to discourage them too much. It is a medecine necessary for the sound health of government.”[[66]](#footnote-66)

For Jefferson, the pathologies of republican government proceeded from natural causes and, if properly diagnosed, would be self-correcting. Republican government should be transparent, legible to the people and responsive to their concerns; as they scrutinized the conduct of public servants, vigilant citizens would guarantee good government.[[67]](#footnote-67) “Cherish therefore the spirit of our people,” he enjoined Edward Carrington, “and keep alive their attention, for they “are the only censors of their government.” The greatest threat to republicanism was that complacent and preoccupied citizens would become depoliticized and withdraw from public life.

Shays’ Rebellion reaffirmed Jefferson’s faith in the American people. The rebels displayed a love of liberty, and a willingness to die, that had formed the character of “our people” in the crucible of Revolution. The contrast with European regimes was absolute: “under pretence of governing they have divided their nations into two classes, wolves and sheep.” The Shaysites were not sheep and their grievances demanded a respectful hearing. The appropriate remedy was education and enlightenment, not the heavy hand of despotic power. Not coincidentally, Jefferson famously opted for newspapers over government in his letter to Carrington: “were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.”

Properly constituted republican governments depended on the circulation of political information. A well-informed, self-governing people would not be driven to the desperate measures taken by the rebels in Massachusetts. But before the “tree of liberty” was firmly rooted in American soil, patriot blood would nurture, or “manure” its growth, as Jefferson so provocatively put it to Smith. Bloodshed was not the inevitable concomitant, or overhead cost, of popular politics. It instead marked the failure of *one* American republic to respond in a timely fashion to the people’s legitimate concerns—as it would, in the rebellion’s aftermath. The republican “experiment” was unfolding in the thirteen states and in subordinate jurisdictions as well, testing an array of constitutional models and offering multiple sites for citizen engagement. Jefferson emphasized the national character that emerged from, depended on, and ultimately transcended this diversity. Madison reached the opposite conclusion: where Jefferson saw a single American people, Madison saw a multiplicity of conflicting factions. This is why he thought it so imperative to establish a strong central government.

Madison’s campaign for a more energetic and effective national government prompted Jefferson—and Antifederalist critics of the proposed charter—to lack back to 1776, to a time when a (supposedly) united people rose up in arms against a distant and despotic royal government. For Jefferson and like-minded patriots, there was no question that Americans then constituted a single people. Ministerial writers might call the Americans “rebels,” juxtaposing the factiousness and licentiousness of the small minority of demagogic leaders and their deluded followers to the great majority of loyal and passive Anglo-American subjects. Outraged patriots rejected—and reversed—this characterization, silencing, ostracizing, and driving factious “enemies of the people” into exile. In declaring independence, Americans became conscious of their collective identity as a people. Oblivious critics of the Revolution did not recognize the ties that bound Americans to each other, enabling them to transcend their differences. For a moment, at least, they shared “the same opinions, the same passions, and the same interests.”

The great question was whether that unity could be sustained. With the war won, Jefferson worriedly predicted in his *Notes on Virginia*, “we shall be going down hill.” Because political leaders would no longer need “to resort to the people for support,” they would be “forgotten” and “their rights disregarded.” For their part, the people “will forget themselves, but in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights.” The alienation of the people from each other and from their governments jeopardized the republican experiment in America. But Shays’ Rebellion was a hopeful portent: when provoked, Americans would still unite to defend their rights: they would not be forgotten. The moral Jefferson drew from disturbances in Massachusetts thus had broad significance for constitutional reform on a continental scale. Of course, reformers had to reassure voters that their rights would be secure under the proposed system. Jefferson also suggested, however, that the new regime’s legitimacy and longevity depended on incorporating a spirited, politically active citizenry into the ordinary, ongoing business of government. A new continental constitution was certainly necessary: without one, the union would fall apart and the American people cease to exist. The new constitution could only survive and flourish if the people recognized it as *theirs*, and not a project designed to serve particular classes, interests, or factions.

 Jefferson’s democratic constitutionalism was shaped by developments in France as well as across the ocean. The fiscal crisis of the French monarchy precipitated a broader constitutional crisis, in which the “people” emerged as a distinct, self-conscious force. For Jefferson, the great achievement of the American Revolution was to create a free and independent people who would show the world that they—and peoples everywhere—were capable of self-government. Viewed from afar, Shays’ Rebellion vindicated his faith in the American people. As long as the spirit of liberty endured, Americans would preserve the precious legacy of their independence. Jefferson could justify “a few lives lost” because of his confidence in the republican character of the people and their genius for self-government.[[68]](#footnote-68) Jefferson was not bloodthirsty. When tremors of change awakened the French people to their rights, he predicted a peaceful, bloodless revolution—a “revolution in the public opinion”—that would produce a new constitution.[[69]](#footnote-69) The French would follow the lead of constitutional reformers in America.

There could be no “public opinion” as it is now understood until there was a more or less autonomous “people” capable of possessing it. Jefferson’s first use of the term, in his January 1787 letter to Carrington, was “conjectural,” celebrating the role of opinion among “those societies (as the Indians) which live without government” and who “enjoy in their general mass an infinitely greater degree of happiness than those who live under European governments.”[[70]](#footnote-70) Among the Indians, “public opinion is in the place of law, and restrains morals as powerfully as laws ever did any where.” European nations, by contrast, suffered from a surfeit of oppressive laws. Zealous in defense of their property rights, Americans could not emulate Indians and live without law. Self-governing Americans avoided these extremes, making laws that benefited them individually and collectively. “The basis of our governments being the opinion of the people,” Jefferson concluded, “the very first object should be to keep that right.”

 Over the subsequent and years, Jefferson excitedly reported, the French began to follow the American example. Though his enthusiastic support for the French Revolution is usually seen as a mark—or the source—of his “radicalism,” his response to ongoing events in Paris points in another, more complicated direction.[[71]](#footnote-71) “In the course of three months,” he wrote John Adams in August, “the royal authority has lost, and the rights of the nation gained, as much ground, by a revolution of public opinion only, as England gained in all her civil wars under the Stuarts.”[[72]](#footnote-72) Jefferson looked to Anglo-American history for the appropriate interpretative framework. Over the centuries the English had successfully struggled to make monarchy serve the public interest. American patriots sought to participate in the benefits of constitutional monarchy, but George III foolishly refused to be king on American terms and ended up forfeiting a great empire. Surely the French king, Louis XVI, would want to serve the interests of loyal subjects and strengthen their attachment to him. The happy outcome Jefferson thus envisioned for France was a British-style monarchy, governing in tandem with the people’s representatives in a national legislature.[[73]](#footnote-73)

Jefferson had no illusions about the political capacity of the French masses: they were far from ready to govern themselves, or to mobilize on a national basis to overthrow the old regime. He took heart, however, from the enlightened views of the privileged and powerful people he knew best in France. For Jefferson the idea of “public opinion” invoked the sentiments of this increasingly influential class—the civil society of the old regime—and an inspiring vision of the emergent nation. He was convinced that the French fiscal crisis would climax in a constitution that would redefine the relationship between king and people. “The nation is pressing on fast to a fixed constitution,” Jefferson wrote Washington in May 1788. “Such a revolution in the public opinion has taken place that the crown already feels it’s powers bounded, and is obliged by it’s measures to acknowlege limits.”[[74]](#footnote-74) In the process of this great struggle the fragments of old regime society coalesced and became conscious of their shared interests and identity. “At some epoch not distant,” the estates general would meet and the French people would assert their claims against the crown. The bloodless “revolution” would be complete.

Jefferson proved to be a notoriously poor prophet. As the Revolution lurched violently through successive regime changes, “rivers of blood” flowed. European devastation cast a disturbing light on his enthusiastic commentary on popular uprisings in America. Yet Jefferson remained convinced that the nation-making “revolution of public opinion” in both the United States and France was peaceful and progressive: self-governing peoples under republican constitutions would only make war in their own defense. The counter-revolutionary “Conspiracy of kings” brought on the European bloodbath.[[75]](#footnote-75) In America, the successful conclusion of the campaign for constitutional reform secured peace in the disintegrating union. Both Jefferson and Madison recognized that such a “peace plan” for the American state system was absolutely imperative. Jefferson also recognized that republican government on a continental scale faced a fundamental and ongoing crisis of legitimacy. His answer was to mobilize the people and sustain their spirited engagement in their own government. Jefferson would thus exploit the factiousness—or spiritedness—that Madison originally sought to suppress.

The articulation of public opinion enabled the people to be an ongoing force in government as well as the original source. A robust, ever-vigilant public opinion would sustain the vital connection between the people that the new constitution brought into being and their government. It would help solve the fundamental problem of size and legitimacy Madison’s “extended republic.” Rather than feeling “veneration” for a distant, all-powerful central authority, the people would see themselves in their own governments, at all levels. At the same time, however, their presence and voice would be mediated, cool and collected. The people were not a riotous mob, prone to spontaneous combustion. They would keep instead the “sacred fire of liberty” burning by upholding the rule of law. Their dedication to the constitution would make democracy possible.

*IV. Generations*

 Over the course of the campaign to draft and ratify the Constitution, Jefferson and Madison conceived of the character of the American people and their role in the expanding federal republic in radically different ways. Overlooking the endemic factionalism that Madison feared would subvert state governments and destroy the union, Jefferson celebrated the spirit of the people. The coincidental “revolution in the public opinion” in France provided an optimistic framework for interpreting American developments that ratification of the Constitution ultimately vindicated. Madison and his allies were able to direct the current of public opinion in a progressive direction, thus overcoming “factious” opposition—and widespread skepticism about their own good faith. Ratification logically led Madison to embrace Jefferson’s narrative of democratic constitutional change. When the American people, acting through their state conventions, ratified the Constitution they became its true authors. The people made the constitution, and they could revise it to suit their changing needs.

 Jefferson explored the broad implications of his democratic constitutionalism in an extraordinary letter he wrote to Madison from Paris in September 1789. Jefferson famously told Madison that the “earth belongs in usufruct to the living,” and then went on to elaborate his conception of generational sovereignty.[[76]](#footnote-76) According to calculations he based on mortality tables, a new generation appeared at roughly 19 year intervals, and its coming of age should be marked by drafting a new constitution. This was not, of course, a description of demographic reality, but rather a provocative thought experiment designed to illuminate the fundamental principles of political society. Preoccupied with the practical business of organizing the new federal government, Madison had little inclination to indulge Jefferson’s theoretical fancies. The two men did spend some together after Jefferson’s return from France in November, when Madison recruited his friend to serve in Washington’s cabinet as the first secretary of state. Evidently the generation theme did not come up in conversation.[[77]](#footnote-77) Madison only responded to Jefferson’s letter in February, politely but dismissively.[[78]](#footnote-78) It might be easy for Jefferson to theorize about writing a new constitution every 19 years, but it was a prospect the “father” of the recently ratified federal Constitution could not happily contemplate.

 The exchange between Jefferson and Madison has inspired much excellent scholarship.[[79]](#footnote-79) Focusing on the immediate context, most writers understandably highlight the contrasting perspectives of the “philosophical legislator” and the practical politician. By most accounts, Madison makes the most sense. Jefferson’s call for a periodic return to first principles was a prescription for “anarchy” and “licentiousness,” exacerbating endemic factiousness and “subverting the very foundation of Civil Society.” Jefferson insisted on the right of each generation, “by the law of nature,” to determine its own destiny, freed from the past’s dead hand: “one generation is to another as one independant nation.” But generations only existed in Jefferson’s mind, not in the real world. Starting all over again “at the end of a given term” risked the “consequences of an interregnum,” Madison replied. In this period of no government, or state of nature, the “voice of the majority” could no longer bind the minority: majority rule was predicated on a “compact founded on utility,” not on natural law.

Jefferson’s theory was based his idiosyncratic conception of the “generation.” In Madison’s world of endless conflict among competing factions, no such thing as the generation could possibly exist. Pretending that it did would have disastrous consequences, dissolving all the attachments and obligations that enabled individuals to escape their brutal natural state. “No person born in Society, could on attaining ripe age, be bound by any Acts of the majority,” Madison concluded, “and either a unanimous renewal of every law would be necessary, as often as a new member should be added to the Society, or the express consent of every new member be obtained to the rule by which the majority decides for the whole.”

Refusing to suspend disbelief, Madison could easily demolish Jefferson’s theoretical edifice. Jefferson undoubtedly anticipated Madison’s criticism. The point of his exercise was not to plan for another constitutional convention that would undo his friend’s hard work, and thus precipitate another, potentially violent regime change. To the contrary, Jefferson was charting an agenda for popular political engagement that would guarantee the new Constitution’s continuing legitimacy and efficacy. If the people’s engagement was essential for the Constitution’s enduring success, it was also true that the future of popular self-government depended on the Constitution. Jefferson’s letter to Madison explored these reciprocal connections, sketching out the broad ideological framework for party political mobilization in the 1790s. Jefferson’s ideas had practical implications that Madison soon seized on and would develop in his *National Gazette* essays.

Jefferson’s challenge was to make the idea of popular sovereignty practically meaningful. The compromises Madison had been forced to accept to his original design for the Constitution represented the crucial first step in this direction. In the “partly national, partly federal” regime authorized by the convention, the state governments would continue to be important sites of political activity, thus serving as mediating links in a chain of authority originating in the people. Madison originally intended to eliminate these links, so insulating the new national government from the endemic factiousness that jeopardized property relations and social order; his idea of the American people or nation was a great legitimating fiction, abstracted from—and in opposition to—popular politics in the states. Following the maxim of “divide and rule,” he hoped to suppress factions and immobilize the people.[[80]](#footnote-80) Jefferson pushed back, calling for *more* popular political participation. The broad distribution of authority in a federal regime would bring the people closer to their government—and to each other. When the people divided the government, *they* would rule.

Jefferson’s argument for generational sovereignty represented an important contribution to the development of his democratic constitutionalism. His idea of the “generation,” like that of the “people,” only made sense within a constitutional framework. Madison was quite right: there is no such thing in nature, and Jefferson certainly knew this. But this is equally true of a “people” whose collective identity is an artifact of its distinctive history or, as in the case of Americans, of their deliberate choice. “Sovereignty” was also a social construction, as we would say, not a naturally occurring phenomenon. American patriots recognized this when they declared their “independence,” so invoking yet another term of art. Jefferson understood that all these terms were closely related: their ambiguous, apparently promiscuous deployment reflected efforts to stabilize and fix meanings in an era of rapid conceptual change.

When Americans drafted and ratified constitutions, they were defining the terms they would live by. If the people made the Constitution, the Constitution made the people. And they could also constitute themselves into distinct “generations,” each possessing the same authority that Americans exercised in 1776 and again in 1787-1788. Successive generations seized the moment, and those moments constituted the nation’s history. It could also be said, with equal plausibility, that the moment made the generation.

 When Jefferson asserted that “between society and society, or generation and generation, there is no municipal obligation, no umpire but the law of nature,” the cascading analogies seem strained beyond common sense. Yet Jefferson moved logically from man in his most natural form of association, or “society,” to the highly artificial and conventional “law of nature” governing relations among supposedly civilized modern states. Imagining generations in a state of war illuminated the fundamental challenge to the success of the new nation’s republican experiment. “Tacit assent” to the outmoded, antiquated constitutions and laws of previous generations was incompatible with the living generation’s self-government. “The dead have neither powers nor rights” over the living. Submitting to the hereditary claims of monarchical and aristocratic regimes enabled their dead founders to rule living subjects from their graves. The foundational principle of equal rights should be applied through time, between generations, as well as across space, among citizens within the living generation.

The idea of generations came naturally to Americans. In a society where land-owning farmers and planters enjoyed an extraordinary degree of autonomy, each household could be seen as a patriarchal republic, with property and authority passing from father to son. Political and military mobilization promoted solidarity among “sons of liberty,” linking family to family and emphasizing the ties of brothers-in-arms in the Revolutionary struggle against King George III, the despotic father figure. Radical republicans distinguished “society”—grounded in the natural, spontaneous attachments that created families and drew them together—and “government”—the arbitrary, unnatural rule of a few privileged families over all the rest.[[81]](#footnote-81) When the “living generation” threw off the dead hand of the past and declared independence, the distinction between society and government disappeared. Under well-designed republican constitutions, successive generations would secure their own independence by reaffirming their patriotic ties to each other and their obligations to future generations. If it was natural for one father to provide for the future independence of his sons, it was equally “natural” for all fathers acting collectively—as a *constitutional* generation—to provide for their sons, the rising generation.

The crucial point for Jefferson was that the living generation would be continuously active in politics, whether as voters, office-holders, or “censors” assessing the government’s performance. The generational cycle of constitution-writing would renew and sustain political engagement, preempting dangerous concentrations of power. Madison worried about an anarchic “interregnum” as one constitutional regime gave way to another; Jefferson insisted that continuous popular political activity would guarantee peaceful transfers of power. Standing outside of government, the “people” provided the stabilizing force in a constitutional republic: they could initiate a “revolution” in government by constitutional means, without recourse to violence. Despite the absence of constitutional forms of collective action in France, Jefferson witnessed a peaceful “revolution in public opinion” that promised to transform its constitution. Jefferson’s French friends faced formidable obstacles to reform, for they would have to dismantle a “whole catalogue” of privileged interests and “hereditary orders” in church and state that were incompatible with his principle of generational sovereignty. The contrast with America, where there was no old regime to overthrow, was striking. Jefferson predicted that the “public opinion” of an enlightened vanguard in France would work wonders; he feared that the complacency of an ill-informed, disengaged public in in America would jeopardize everything the Revolution had achieved.

Applying the principle of generational sovereignty in America therefore would not entail radical changes. This was instead Jefferson’s prescription for keeping the “old spirit of 1776” alive and preserving the civic health of republics that depended on engaged and vigilant citizens.[[82]](#footnote-82) The authority of the American people to write their own constitutions and their capacity for self-government were already well established; the success of Madison’s campaign for a federal constitutional reform testified to the emergence and progressive enlightenment of a national political public. The challenge was to sustain political engagement on a continental scale. The solution Jefferson proposed to Madison was to mobilize Americans on a regular basis to renew their fundamental attachments to each other. Each successive generation would reenact the revolution, modeling itself on the first revolutionary generation. Conscious of its own mortality, the “living” generation would be spurred to action on behalf of its successors.

*V. Faction to Party*

Jefferson’s conception of the generation was a template for party political mobilization. The patriots of 1776 were a “party” in this exalted sense, a generation that forged its identity in the struggle against monarchical despotism. Their dedication to constitutional government and the rights of man lifted them above the sordid machinations of the self-interested “factions” that Madison railed against. In practice, the distinction between party and faction hinged on the plausibility of high-minded professions: one man’s party was another’s faction. In a June 1792 letter to Madison, Jefferson thus excoriated his nemesis Hamilton for “daring to call the republican party *a faction*” in newspaper essays defending the proposed national bank.[[83]](#footnote-83) Jefferson and Madison had no doubts about their own disinterested motives. The “republican” designation signified devotion to the pure principles of disinterested patriotism: theirs was a party devoted to the public good.

As party divisions threatened to rip the country apart later in the decade, Republicans insisted that they spoke for the whole people.[[84]](#footnote-84) Jefferson’s old friend John Page contrasted the “infernal Spirit” of the Federalists—“that Spirit which in all Countries & in all Ages has been found inflating agitating & infatuating Factions against the Liberty & true Interests of the People”—and “the celestial Spirit which influences [the] pure patriotic Party” of the Jeffersonian-Republicans. “The truely virtuous,” Page exhorted, “should firmly unite & form a Party capable at all Times of frustrating the wicked Designs of the Enemies of the Doctrine of Equallity & the Rights of Man.”[[85]](#footnote-85) Of course, credulous citizens were easily led astray. But factiousness was not the “natural” condition of the people under republican governments. It was instead symptomatic of corrupt, self-dealing, antirepublican tendencies within governing elites that brought on yet another “long train of abuses” under Federalist rule. As Republicans mobilized in the 1790s, they sought to revive “the celestial Spirit” of their Revolutionary predecessors. They thought of themselves in generational terms.

When Jefferson elaborated his generational sovereignty theme to Madison in 1789, he could have no idea that he would play a leading role in forming a “Party of the People” in opposition to the administration he soon joined.[[86]](#footnote-86) Jefferson had every intention of supporting the new federal Constitution, as ratified and amended. Yet when he proclaimed that the “earth belonged *in usufruct* to the living,” he articulated the fundamental justification for partisan mobilization. Defining the “people” in relation to *their* constitution in generational terms, he cast ordinary citizens as the authors and active agents of their own government.

The constitution enabled citizens to monitor the new administration’s performance according to strict construction of its delegated powers and of their own rights. The crucial conceptual distinction between “people” and “government” thus was mediated by the constitution. Through the ongoing operation and periodic renewal of their constitution, the people became more than an abstraction or legitimating fiction. The living generation became conscious of itself in the sequence of generations, past and future, and therefore of its urgent and momentous responsibilities. Most momentous of all was the obligation to preserve the constitutional republic itself.

Jefferson’s ultimate goal was to sustain republican government through future constitutional revision and regime change. The ratified federal Constitution provided the original framework within which a constitutional people emerged on a national, continental scale. Identifying with that people, Republicans justified constitutional mobilization against the new federal government: Jefferson’s generation became Madi

son’s party. The essays Madison contributed to the *National Gazette* from late December 1791 through the following year offered a compelling ideological rationale for forming of a great, nation-wide political party.[[87]](#footnote-87) Elaborating on themes Jefferson first developed in letters from France, Madison launched a campaign to enlighten and energize the American political public.

The origins of party conflict in the first Washington administration have been exhaustively chronicled. Treasury Secretary Hamilton’s controversial fiscal policies, loose construction of the constitution, and conspicuous solicitude for creditors raised troubling questions for cabinet colleague Jefferson and congressman Madison about the character of the new regime. Hamilton’s successes belied Madison’s efforts to assuage Antifederalist anxieties by adding the Bill of Rights to the Constitution, and Congress proved alarmingly ineffectual in resisting administration initiatives. The only hope for the embattled Virginians was to mobilize the people out-of-doors. By shaping and directing public opinion, self-styled “republicans” could counteract consolidationist tendencies within the federal government. If the national character were sufficiently republican, the regime would be republican. But Madison recognized that the American character was not yet fixed. There was work to be done.

Public opinion was both the subject and object of the *National Gazette* essays.[[88]](#footnote-88) By writing *about* public opinion Madison sought to make readers fully aware of—and capable of expressing—their own sentiments. “The Republican party,” he wrote, was “conscious that the mass of people in every part of the union, in every state, and of every occupation must at bottom be with them, both in interest and sentiment.”[[89]](#footnote-89) With the progress of political enlightenment, the republican part would become the American whole: eventually, the people would know itself. “How devoutly is it to be wished, then, that the public opinion of the United States should be enlightened; that it should attach itself to their governments as delineated in the *great charters*, derived not from the usurped power of kings, but from the legitimate authority of the people.” American constitutions were “political scriptures” that must be secured against any augmentation or diminution with “holy zeal.”[[90]](#footnote-90) Strictly construed, the federal Constitution would sustain the balance between the people and their government.

Enlightened public opinion would empower the people. When Madison wrote, “public opinion sets bounds to every government,” he was expressing the conventional wisdom. But when he added that it “is the *real* sovereign in every free one,” he was throwing down the partisan gauntlet, exhorting republicans to challenge the authority of the Washington administration.[[91]](#footnote-91) Jefferson anticipated that public opinion would transform the French constitution; Madison now claimed that it was “the force of public opinion” that upheld “the boasted equilibrium” of the British constitution. The problem was that—as of yet—the boastful British were too enamored of their partly republican, partly monarchical regime. “If a republican form of government were preferred,” he asked, “how could the monarch resist the national will?”[[92]](#footnote-92) A parallel question was implied: was it the will of the American people to uphold their republican constitution, or would they regress to some sort of British-style mixed regime? What then was the point of the American Revolution?

When patriots rallied to the common cause, as they did in the Revolution, they exercised irresistible force. “Philosophy has been searching, and humanity . . . sighing” for a government that derived its “energy from the will of the society.”[[93]](#footnote-93) The people’s presence in the government was the genius of republicanism. Echoing Jefferson, Madison put the framers’ (and therefore his own) contribution in perspective: “the partitions and internal checks of power” in the Constitution certainly merited “eulogies,” but “they are neither the sole nor the chief palladium of constitutional liberty. The people who are the authors of this blessing, must also be its guardians.”[[94]](#footnote-94) As patriots stepped forward, they would simultaneously affirm their identity with fellow patriots, honor the memory of the Revolutionary fathers, and secure the liberty of succeeding generations. Mobilizing in defense of the Constitution, they would see that the distinction between “enemies and friends to republican government” was the only one that mattered. Working to promote “a general harmony among the latter, wherever residing, or however employed,” they would transcend “circumstantial and artificial distinctions” and become a great, self-governing people.[[95]](#footnote-95)

 Madison situated the emergence of the Republican Party in the context of Revolutionary history. There were two prior moments when patriots mobilized in defense of their liberties and formed a party, not a faction. The first pitted “those who espoused the cause of independence” against “those who adhered to the British claims”; the drafting of the federal Constitution “gave birth to a second and most interesting division of the people” that “was terminated by the regular and effectual establishment of the federal government in 1788.” In both cases, Americans faced a profound, existential crisis. Would the people be able to vindicate the independence they declared in 1776? Would they ratify the Constitution and so preserve and perfect the union that made them a people? Now, Madison announced, a “third division . . . has arisen” out of controversy over the “administration” of the new federal government.

Yet again, the very existence of a self-governing people was at stake. Whether out of self-interest or from an impulse to dominate, Federalists in the administration and their supporters had “debauched themselves into a persuasion that mankind are incapable of governing themselves.” They were convinced that “government can be carried on only by the pageantry of rank, the influence of money and emoluments, and the terror of military force.” Federalists constituted the most dangerous sort of faction. Under the plausible cover of the Constitution, this small and insidious minority captured the machinery of the people’s government and turned it against them. The Republicans, like earlier generations of patriots, sounded the alarm. “Believing in the doctrine that mankind are capable of governing themselves, and hating hereditary power as an insult to the reason and an outrage to the rights of man,” Madison and like-minded “friends” rallied the people in constitutional resistance to the anti-republican “aristocrats” and “monocrats" who infested the administration. A “revolution in public opinion” would redeem the people’s Constitution, preempting recourse to violent means in defense of the liberties it was meant to secure.

Madison’s *National Gazette* essays constituted a precocious prospectus for party building. Early divisions within the new national governing class did not yet resonate with fragmented, state-based political publics. But Madison anticipated the shape of things to come, as public opinion coalesced in a great partisan conflict over the new nation’s place in a world turned upside down by the French Revolution. Republicans who identified with the French “sister republic” could turn back to Madison’s essays for a roadmap into the future. It was uncertain then “whether the republican or the rival party will ultimately establish its ascendance,” and that uncertainty deepened in subsequent years. “On one hand experience shews that in politics as in war, stratagem is often an overmatch for numbers,” and the looming prospect of war itself strengthened the hand of government.

Throughout the 1790s, Federalists exploited the reflexive—Republicans would say, unthinking—patriotism of the American people. At the same time, however, military mobilization and the burdens it imposed energized the Republicans’ counter-mobilization. Even in the darkest hours of what Jefferson called the Federalist “reign of witches,” Republicans kept the faith. The American people would come to their senses and see the light. If they failed to do so, there was no hope for republican self-government anywhere on earth. Madison’s *National Gazette* essay on the “State of Parties” in 1792 struck characteristically anxious and urgent notes in looking to the future. “The superiority of numbers is so great, their sentiments are so decided, and the practice of making a common cause, where there is a common sentiment and common interest, in spight of circumstancial and artificial distinctions, is so well understood,” he wrote, “that no temperate observer of human affairs will be surprised if the issue in the present instance should be reversed, and the government be administered in the spirit and form approved by the great body of the people.” The Republicans were the party of the American people—or would be, when the people became conscious of the identity that the Revolutionary fathers first forged in 1776.

\* \* \* \* \* \* \*

Madison’s history of the parties adapted Jefferson’s abstract, idealized schema of generational sovereignty and succession to the particular circumstances of the American Revolutionary experience. Jefferson proposed to constitutionalize time, to establish a recurrent cycle of regime change that would enable each “living generation” to reconstitute and so perpetuate the republic. He did not imagine that political conflict would be banished. Quite to the contrary, the point of his constitutional conjectures was to imagine conditions in which majority rule would be most legitimate in the eyes of the whole people, including minorities. His solution was to make the constitution the mirror of the people, a higher law in which they saw themselves—not some long-gone generation of law-giving founders—as its authors. Only then, he suggested, would the people willingly submit to their own authority.

Madison balked at the practical implications of Jefferson’s ideas. But his constitutionalism was animated by very similar intentions: to establish a stable and legitimate regime, based on the ultimate authority of the people, which would secure liberty, property, and the rule of law. As he came to see the threat of a minority faction capturing and corrupting the new federal government, Madison took Jefferson’s teaching about the ongoing presence of the people in their own government to heart. The formation of a great political party that would mobilize the people to secure their liberties in the name of the Constitution and through constitutional means would bring the body politic to life and thus serve Jefferson’s larger purposes.

Madison explicitly discussed the generation theme only once in his *National Gazette* essays. In “Universal Peace,” he anticipated the deepening partisan divisions over foreign policy that the threat of American entanglement in European wars would provoke. Madison now invoked Jefferson, “our republican philosopher,” who “might have proposed as a model to lawgivers, that war should not only be declared by the authority of the people, whose toils and treasures are to support its burdens, instead of the government which is to reap its fruits: but that each generation should be made to bear the burden of its own wars, instead of carrying them on, at the expence of other generations.”[[96]](#footnote-96) Of course, this was precisely what Jefferson *had* “proposed” to an impatient Madison in September 1789. When Americans faced the prospect of war, they would become conscious of themselves as a people. In these clarifying moments, the living generation would hold the government to the Constitution’s high standard.

Republicans would not resort to force. Were they to do so, Jefferson told his old friend Edmund Pendleton in February 1799, they would “check the progress of the public opinion” and rally the people “round the errors of the government.” The genius of republicanism was peaceful. Eschewing violence, the patriotic opposition will “bear down the evil propensities of the government by the constitutional means of election & petition.”[[97]](#footnote-97) In the “Revolution of 1800” a “mighty wave of public opinion” swept across the land and vindicated the people’s Constitution. Desperate Federalists could have blocked Jefferson’s ascension to the presidency, but the people would have risen to the occasion. “The federal government would have been in the situation of a clock or watch run down,” Jefferson wrote Joseph Priestley. “There was no idea of force, nor of any occasion for it. a Convention, invited by the republican members of Congress with the virtual President & Vice President, would have been on the ground in 8. weeks, would have repaired the constitution where it was defective & wound it up again.” This was the “peaceable & legitimate resource” of a constitutional people, “superseding all appeal to force, and being always within our reach, shews a precious principle of self-preservation in our composition.”[[98]](#footnote-98)

With Jefferson’s election, a new generation redeemed the Constitution and looked forward to a glorious future. “Possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation,” the new president promised, Americans would fulfill the imperial ambitions of American Revolutionary patriots. [[99]](#footnote-99)Madison and his fellow framers had made a Constitution for an “extended republic,” reversing powerful centrifugal tendencies that had threatened to destroy the union. When Madison and Jefferson mobilized opposition to the Federalist regime and ultimately triumphed at the polls, they democratized the Constitution. Size was no longer a problem. The new nation need not be confined to a “practicable sphere,” as Madison once urged.[[100]](#footnote-100) An expanding union of republican states would spread across a boundless hinterland. “Who can limit the extent to which the federative principle may operate effectively?” Jefferson asked in his Second Inaugural Address in March 1805.[[101]](#footnote-101) He exulted in “the union of sentiment now manifested so generally, as auguring harmony and happiness to our future course.”

Yet again, Jefferson proved a poor prophet. The ongoing expansion of the union would generate new, ultimately irreconcilable conflicts in his “empire of liberty.” An increasingly controversial constitution could not sustain Americans’ identity as a single great people. When they no longer recognized each other as countrymen, they turned to arms. Before he died, a despairing Jefferson was himself drawn into the sectional crisis that eventually demolished the union. The failure of the Americans’ republican experiment was “an act of suicide on themselves,” he lamented, “and of treason against the hopes of the world.”[[102]](#footnote-102)

1. Thomas Jefferson (hereafter TJ) to George Wythe, Aug. 13, 1786, *The Papers of Thomas Jefferson Digital Edition* (hereafter *PTJDE*), ed. Barbara B. Oberg and J. Jefferson Looney, Charlottesville: University of Virginia Press, Rotunda, 2008–2015; Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-10-02-0162> [↑](#footnote-ref-1)
2. James Madison (hereafter JM), Vices of the Political System of the United States [April-June 1787], *The Papers of James Madison Digital Edition* (hereafter *PJMDE*), ed. J.C.A. Stagg; Charlottesville: University of Virginia Press, Rotunda, 2010;

Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-0187> [↑](#footnote-ref-2)
3. After Jefferson became part of the new federal administration, he reassured his old Antifederalist friend George Mason that “much has been gained” by the federal Constitution, for the government of the Articles “was terminating in anarchy, as necessarily consequent to inefficiency.” TJ to George Mason, June 13, 1790, *PTJDE*; Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-16-02-0295>. See Peter S. Onuf, ““Anarchy and the Crisis of the Union,” in Herman Belz, Ronald Hoffman, and Peter J. Albert, eds., *“To Form a More Perfect Union”: The Critical Ideas of the Constitution* (Charlottesville: University Press of Virginia, 1992), 272-302; David C. Hendrickson, *Peace Pact*: *The Lost World of the American Founding* (Lawrence: University Press of Kansas, 2003). [↑](#footnote-ref-3)
4. Eliga Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge: Harvard University Press, 2012). [↑](#footnote-ref-4)
5. Peter S. Onuf, “The “Madison Problem’ Revisited,” *Law and History Review* 28 (2010), 515-25; Jeremy D. Bailey, *James Madison and Constitutional Imperfection* (New York: Cambridge University Press, 2015), 1-14. I am indebted to Andrew Burstein, Nancy Isenberg, the late Lance Banning, and George Van Cleve for my understanding of the relationship between Jefferson and Madison. See Burstein and Isenberg, *Madison and Jefferson* (New York: Random House, 2010); Banning, *The Sacred Fire of Liberty:* *James Madison and the Founding of the Federal Republic* (Ithaca, N.Y.: Cornell University Press, 1995); idem, *Jefferson and Madison: Three Conversations from the Founding* (Madison: Madison House, 1995); Van Cleve, *Stalemate Government: America Under the Articles of Confederation* (Chicago: University of Chicago Press, 2017). [↑](#footnote-ref-5)
6. Peter Onuf, *Jefferson’s Empire: The Language of American Nationhood* (Charlottesville: University of Virginia Press, 2000). [↑](#footnote-ref-6)
7. TJ to JM, Dec. 20, 1787, PTJDE, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0454> [↑](#footnote-ref-7)
8. See the excellent discussion in Burstein and Isenberg, *Madison and Jefferson*, 166-208. [↑](#footnote-ref-8)
9. JM, *The Federalist* Number 10 [Nov. 22, 1787], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0178> [↑](#footnote-ref-9)
10. TJ to JM, July 31, 1788, *PTJDE,* Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-13-02-0335>. [↑](#footnote-ref-10)
11. JM to TJ, Feb. 4, 1790, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-13-02-0020> [↑](#footnote-ref-11)
12. TJ to William Stephens Smith, Nov. 13, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0348>. See Conor Cruise O’Brien, *The Long Affair: Thomas Jefferson and the French Revolution, 1785-1800* (Chicago: University of Chicago Press, 1996), where TJ is compared to Pol Pot, 149-50; and Joseph J. Ellis, *American Sphinx: The Character of Thomas Jefferson* (New York: Alfred A. Knopf, 1997), where he is compared to Mao and Lenin, 150. [↑](#footnote-ref-12)
13. Brian Steele, “Inventing Un-America,” *Journal of American Studies* 47 (2013), 881-902. [↑](#footnote-ref-13)
14. TJ, *Notes on the State of* Virginia, ed. William Peden (Chapel Hill: University of North Carolina Press, 1955), Query 18 (“Manners”), 162-63. See Brian Steele, *Thomas Jefferson and American Nationhood* (New York: Cambridge University Press, 2012), 53-90; and Annette Gordon-Reed and Peter S. Onuf, *“Most Blessed of the Patriarchs”: Thomas Jefferson and the Empire of the Imagination* (New York: Liveright, 2016), 137-54. [↑](#footnote-ref-14)
15. JM, *The Federalist* Number 10 [Nov. 22, 1787], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0178>; Montesquieu (Charles Secondat), *The Spirit of the Laws* (Cambridge: Cambridge University Press, 1989), trans. and ed., Anne Cohler, Basia Carolyn Miller, and Harold Samuel Stone, Part I, chap. 9; Hume, “Idea of a Perfect Commonwealth,” in David Hume, *Essays Moral, Political, and Literary*, ed. Eugene Miller (Indianapolis: Liberty Press, 1985), 512-29. See Douglas Adair’s influential essays, "The Tenth Federalist Revisited," *William and Mary Quarterly* (henceforth WMQ), 8 (1951), 48-67; idem, “‘That Politics may be Reduced to a Science’: David Hume, James Madison, and the Tenth Federalist," *Huntington Library Quarterly* 20 (1957), 343-60, and Mark Spencer’s excellent commentary in “ Hume and Madison on faction,” *WMQ* 59 (2002), 869-96. [↑](#footnote-ref-15)
16. Colleen Sheehan, “Madison v. Hamilton: The Battle over Republicanism and the Role of Public Opinion,” *American Political Science Review* 98 (2004), 405–24. [↑](#footnote-ref-16)
17. Albert Furtwangler, *The Authority of Publius: A Reading of the Federalist Papers* (Ithaca: Cornell University Press, 1984), chap. 5. [↑](#footnote-ref-17)
18. Alan Gibson, Madison’s “Great Desideratum”: Impartial Administration and the Extended Republic, *American Political Thought*, 1 (2012), 181-207. [↑](#footnote-ref-18)
19. JM, speech of June 8, 1787, “Power of the Legislature to Negative State Laws,” *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0024>:“The negative proposed on the State laws, will make it an essential branch of the State Legislatures.” [↑](#footnote-ref-19)
20. See the excellent discussion in Charles F. Hobson, “The Negative on State Laws: James Madison, the Constitution, and the Crisis of Republican Government,” *WMQ* 36 (1979): 215-35. [↑](#footnote-ref-20)
21. JM to Edward Randolph, April 8, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-019>; see also JM to George Washington [hereafter GW], April 16, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-0208>. On colonial appeals to Privy Council, see Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge: Harvard University Press, 2004). [↑](#footnote-ref-21)
22. TJ, Notes of Proceedings in the Continental Congress [June 7 to Aug. 1, 1776], *TJPDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-01-02-0160>. on the protection covenant see James H. Kettner, *The Development of American Citizenship, 1608-1870* (Chapel Hill: University of North Carolina Press, 1978), 165-72. [↑](#footnote-ref-22)
23. Van Cleve, *Stalemate Government*, chap. 9. Van Cleve characterizes JM as “politically tone deaf.” [↑](#footnote-ref-23)
24. Parliament’s Declaratory Act, March 18, 1766, Avalon Project (Yale Law School), <http://avalon.law.yale.edu/18th_century/declaratory_act_1766.asp> [↑](#footnote-ref-24)
25. Brendan McConville, *The King’s Three Faces: The Rise and Fall of Royal America* (Chapel Hill: University of North Carolina Press, 2006); Eric Nelson, *The Royalist Revolution: Monarchy and the American* Founding (Cambridge: Harvard University Press, 2014). [↑](#footnote-ref-25)
26. JM, For the *National Gazette*, “Consolidation,” Dec. 3, 1791, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0122> [↑](#footnote-ref-26)
27. Edmund S. Morgan, *Inventing the People* (New York: W. W. Norton, 1988), TK. [↑](#footnote-ref-27)
28. JM, “Vices of the Political System,” *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-0187> [↑](#footnote-ref-28)
29. JM to TJ, Oct. 24, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0151> [↑](#footnote-ref-29)
30. JM to GW, April 16, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-0208> [↑](#footnote-ref-30)
31. JM to Edward Randolph, April 8, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-019> [↑](#footnote-ref-31)
32. JM repeatedly compared states to counties in arguing for proportional representation. JM, speech of June 28, 1787, on “Rule of Representation in the First Branch of the Legislature,” *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0047> [↑](#footnote-ref-32)
33. “Were it practicable for the genl. Govt. to extend its care to every requisite object without the cooperation of the State Govts. the people would not be less free as members of one great Republic than as members of thirteen small ones.” JM speech, June 21, 1787, “Relationship between Federal and State Governments,” *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0038> [↑](#footnote-ref-33)
34. Brearly Speech, June 9, 1787, Yates notes, Max Farrand, ed., *The Records of the Federal Convention of 1787* (3 vols., New Haven: Yale University Press, 1911), 1:182, [http://oll.libertyfund.org/titles/farrand-the-records-of-the-federal-convention-of-1787-vol-1?q=%22boundaries+be+erased%22#](http://oll.libertyfund.org/titles/farrand-the-records-of-the-federal-convention-of-1787-vol-1?q=%22boundaries+be+erased%22) See the discussion in Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787* (Philadelphia: University of Pennsylvania Press, 1983), 194-95. [↑](#footnote-ref-34)
35. JM to TJ, Oct. 24, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0151> [↑](#footnote-ref-35)
36. TJ to JM, June 20, 1787, *PTJDE*, Canonic URL:

<http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-11-02-0411> [↑](#footnote-ref-36)
37. “Our jealousy is only put to sleep by the unlimited confidence we all repose in the person [Washington] to whom we all look as our president.” TJ to Edward Carrington, May 27, 1788, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-13-02-0120> See Kathleen Bartoloni-Tuazon, *For Fear of an Elective King: George Washington and the Presidential Title Controversy of 1789* (Ithaca: Cornell University Press, 2014). [↑](#footnote-ref-37)
38. TJ to JM, Dec. 20, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0454> [↑](#footnote-ref-38)
39. On attachments, see Emily Pears, “Chords of Affection: A Theory of National Political Attachments in the American Founding,” *American Political Thought* 6 (2017), 1-29. [↑](#footnote-ref-39)
40. JM, *The Federalist*, no. 10, [Nov. 22, 1787], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0178> [↑](#footnote-ref-40)
41. JM, *The Federalist*, no. 39, [Jan. 16, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0234> At the Convention JM impatiently dismissed the “partly federal, and partly national” formulation, first introduced by Oliver Ellsworth. JM, “Rule of Representation in the Senate, {July 14, 1787], *PJMDE*, Canonic URL: Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0059> [↑](#footnote-ref-41)
42. On interpretative ambiguity see JM, *The Federalist*, no. 37, [Jan. 11, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0227> [↑](#footnote-ref-42)
43. Bailey, *Madison and Constitutional Imperfection*, 28-37, and passim. [↑](#footnote-ref-43)
44. JM, *The Federalist* Number 51 [Feb. 6, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0279> [↑](#footnote-ref-44)
45. JM, *The Federalist* Number 51 [Feb. 6, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0279> [↑](#footnote-ref-45)
46. JM, *The Federalist* Number 10 [Nov. 22, 1787], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0178> [↑](#footnote-ref-46)
47. JM to TJ, Oct. 24, 1787, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0151> [↑](#footnote-ref-47)
48. JM, *The Federalist* Number 55 [Feb. 13, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0292>: “I am unable to conceive that the state legislatures which must feel so many motives to watch, and which possess so many means of counteracting the federal legislature, would fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents.” [↑](#footnote-ref-48)
49. JM, *The Federalist* Number 48 [Feb. 1, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0269>; JM to TJ, Oct. 17, 1788, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-11-02-0218>: “Repeated violations of these parchment barriers have been committed by overbearing majorities in every State,” especially in Virginia. See the discussion in Banning, *Sacred Fire of Liberty*, 274-90; idem, *Jefferson and Madison: Three Conversations,* 1-26; and Burstein and Isenberg, *Madison and Jefferson*, 195-99. [↑](#footnote-ref-49)
50. TJ to Katherine Sprowle Douglas, July 5, 1785; TJ to George Wythe, Aug. 13, 1786, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-08-02-0199>; <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-10-02-0162> [↑](#footnote-ref-50)
51. Lord Sheffield [John Holroyd], *Observations on the Commerce of the American States* (London: J. DeBrett, 1784); Charles R. Ritcheson, *Aftermath of Revolution: British Policy Toward the United States, 1783-1795* (Dallas: Southern Methodist University Press, 1969). [↑](#footnote-ref-51)
52. Louise Burnham Dunbar, *A Study of “Monarchical” Tendencies in the United States, 1776 to 1801* (Urbana: University of Illinois Press, 1922); Cathy D. Matson and Peter S. Onuf, *A Union of Interests: Political and Economic Thought in Revolutionary America* (Lawrence: University Press of Kansas, 1990), 86-90. [↑](#footnote-ref-52)
53. GW to JM, Nov. 5, 1786, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-09-02-0070> [↑](#footnote-ref-53)
54. TJ to Joseph Jones, Aug. 14, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0038> [↑](#footnote-ref-54)
55. “All Europe is made to believe we are a lawless banditti, in a state of absolute anarchy, cutting one another’s throats, and plundering without distinction,” TJ to Maria Cosway, Oct. 12, 1786, *PTJDE*; Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-10-02-0309>; see also TJ to George Wythe, Aug. 13, 1786, *PTJDE*; Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-10-02-0162> [↑](#footnote-ref-55)
56. Gordon-Reed and Onuf, *Most Blessed of the Patriarchs*, 107-15. [↑](#footnote-ref-56)
57. Joyce Appleby, “America as a Model for the French Radical Reformers of 1789,” *WMQ* 28(1971), 267-86; Philippe Ziesche, *Cosmopolitan Patriots: Americans in Paris in the Age of Revolution* (Charlottesville: University of Virginia Press, 2010). [↑](#footnote-ref-57)
58. TJ to JM, Dec. 20, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0454>. [↑](#footnote-ref-58)
59. TJ to William Stephens Smith, Nov. 13, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-034> [↑](#footnote-ref-59)
60. TJ to Charles Bellini, Sept. 30, 1785, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-08-02-0448> [↑](#footnote-ref-60)
61. TJ to Maria Cosway, Oct. 12, 1786, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-10-02-0309> [↑](#footnote-ref-61)
62. TJ, *Notes on the State of Virginia*, ed. Peden, Query 19 (“Manufactures”), 164-65. [↑](#footnote-ref-62)
63. Jean M. Yarbrough, *American Virtues: Thomas Jefferson on the Character of a Free People* (Lawrence: University Press of Kansas, 1998). [↑](#footnote-ref-63)
64. TJ to Maria Cosway, Oct. 12, 1786, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-10-02-0309> [↑](#footnote-ref-64)
65. TJ to William Stephens Smith, Nov. 13, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-034> [↑](#footnote-ref-65)
66. TJ to JM, Jan. 30, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-11-02-0095> [↑](#footnote-ref-66)
67. TJ to Edward Carrington, Jan. 16, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-11-02-0047> [↑](#footnote-ref-67)
68. TJ to William Stephens Smith, Nov. 13, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-034> [↑](#footnote-ref-68)
69. TJ to John Jay, Sept. 22, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0159> [↑](#footnote-ref-69)
70. TJ to Edward Carrington, Jan. 16, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-11-02-0047>. On conjectural history, see Peter Onuf and Nicholas Onuf, *Nations, Markets, and War: Modern History and the American Civil War* (Charlottesville: University of Virginia Press, 2006), 42-48. [↑](#footnote-ref-70)
71. Richard K. Matthews, *The Radical Politics of Thomas Jefferson: A Revisionist View* (Lawrence: University Press of Kansas, 1984); O’Brien, *The Long Affair*; Ellis, *American Sphinx.* [↑](#footnote-ref-71)
72. TJ to John Adams, Aug. 30, 1787, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-12-02-0075> [↑](#footnote-ref-72)
73. TJ to Diodati, Aug. 3, 1789, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-15-02-0317> See the discussions in Ziesche, *Cosmopolitan Patriots*, TK [↑](#footnote-ref-73)
74. TJ to GW, May 2, 1788, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-13-02-0059> [↑](#footnote-ref-74)
75. TJ to Joel Barlow, June 20, 1792, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-24-02-0092> [↑](#footnote-ref-75)
76. TJ to JM, Sept. 6, 1789, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-15-02-0375-0003>. [↑](#footnote-ref-76)
77. Burstein and Isenberg, *Madison and Jefferson*, 204-207. [↑](#footnote-ref-77)
78. JM to TJ, Feb. 14, 1790, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-13-02-0033> [↑](#footnote-ref-78)
79. The authoritative discussion of this letter is Herbert Sloan, “‘The Earth Belongs in Usufruct to the Living,’” in Peter S. Onuf, ed., *Jeffersonian Legacies* (Charlottesville: University of Virginia Press, 1993), and idem, Principle and Interest: Thomas Jefferson and the Problem of Debt (New York: Oxford University Press, 1995). See also Banning, *Jefferson and Madison: Three Conversations,* 27-55. [↑](#footnote-ref-79)
80. Woody Holton, “’Divide et Impera,’ “*Federalist 10* in a Wider Sphere,” *WMQ* 62 (2005), 175-212. [↑](#footnote-ref-80)
81. According to Thomas Paine’s classic formulation, “Society is produced by our wants, and government by our wickedness; the former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices. The one encourages intercourse, the other creates distinctions. The first a patron, the last a punisher.” Paine, *Common Sense* (Philadelphia: W. & T. Bradford, 1776), *Project Gutenberg*, <https://www.gutenberg.org/files/147/147-h/147-h.htm> [↑](#footnote-ref-81)
82. TJ to James Monroe, May 5, 1793, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-25-02-0603>. See the excellent discussion in Banning, *Jefferson and Madison: Three Conversations,* 57-102. [↑](#footnote-ref-82)
83. TJ to JM, June 29, 1792, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-24-02-0134> [↑](#footnote-ref-83)
84. For a good overview of this tumultuous period, see Burstein and Isenberg, *Madison and Jefferson*, 211-348. See also Lance Banning, *The Jeffersonian Persuasion: Evolution of a Party Ideology* (Ithaca: Cornell University Press, 1978); idem, *Sacred Fire of Liberty.* [↑](#footnote-ref-84)
85. John Page to TJ, June 21, 1798, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-30-02-0304> [↑](#footnote-ref-85)
86. Thomas Cooper to TJ, Oct. 25, 1802, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-38-02-0510-0001> [↑](#footnote-ref-86)
87. For a close reading of JM’s *National Gazette* essays see Colleen Sheehan, *James Madison and the Spirit of Republican Self-Government* (New York: Cambridge University Press, 2009). See also Sheehan’s analysis of JM’s 1791 “Notes on Government,” drafted in preparation for the *National Gazette* essays in *The Mind of James Madison: The Legacy of Classical Republicanism* (New York: Cambridge University Press, 2015). [↑](#footnote-ref-87)
88. On the early history of public opinion in the U.S., see the excellent analysis in Mark G. Schmeller, *Invisible Sovereign: Imagining Public Opinion from the Revolution to Reconstruction* (Baltimore: Johns Hopkins University Press, 2016), particularly, 7-59. I am indebted to Bailey, Madison and Constitutional Imperfection, 59-113. See also idem, “From ‘Floating Ardor’ to the ‘Union of Sentiment’: Jefferson on the Relationship between Public Opinion and the Executive,” in Francis D. Cogliano, *A Companion to Thomas Jefferson* (Malden, Mass.: Wiley-Blackwell, 2012), 184-98. [↑](#footnote-ref-88)
89. JM, “A Candid State of Parties,” *National Gazette*, Sept. 22, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0334> [↑](#footnote-ref-89)
90. JM, “Charters,” *National Gazette*, Jan. 18, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0172> [↑](#footnote-ref-90)
91. JM, “Public Opinion,” *National Gazette*, ca. Dec. 19, 1791, *PJMDE,* Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0145> “FORCE is always on the side of the governed,” David Hume wrote, “and the governors gave nothing to support them but opinion,” Hume, “Of the First Principles of Government,” in *Essays Moral, Political, and Literary*, ed. Miller, 32-36. On this “maxim,” see the discussion in Schmeller, *Invisible Sovereign*, 17-18. [↑](#footnote-ref-91)
92. JM, “British Government,” *National Gazette*, Jan. 28, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0180> [↑](#footnote-ref-92)
93. JM, “Spirit of Governments,” *National Gazette*, Feb. 18, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0203> [↑](#footnote-ref-93)
94. JM, “Government of the United States,” *National Gazette*, Feb. 4, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0190> [↑](#footnote-ref-94)
95. JM, “A Candid State of Parties,” *National Gazette*, Sept. 22, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0334>. Subsequent quotations are from this essay. [↑](#footnote-ref-95)
96. JM, “Universal Peace,” *National Gazette*, Jan. 31, 1792, *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-14-02-0185> [↑](#footnote-ref-96)
97. TJ to Edward Pendleton, Feb. 14, 1799, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-31-02-0024> [↑](#footnote-ref-97)
98. TJ to Joseph Priestley, March 21, 1801, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-33-02-033> [↑](#footnote-ref-98)
99. TJ, First Inaugural Address, March 4, 1801, *PTJDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/TSJN-01-33-02-0116-0004> [↑](#footnote-ref-99)
100. JM, *The Federalist* Number 51 [Feb. 6, 1788], *PJMDE*, Canonic URL: <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/JSMN-01-10-02-0279> [↑](#footnote-ref-100)
101. TJ, Second Inaugural Address, March 4, 1805, in Merrill D. Peterson, ed., *Thomas Jefferson Writings* (New York: Library of America, 1984), 522-23. [↑](#footnote-ref-101)
102. TJ to John Holmes, April 22, 1820, ibid, 1435; Onuf, *Jefferson’s Empire*, 109-46. [↑](#footnote-ref-102)