

Second, there were the radicals, liberal followers of Locke such as Jefferson, who despised England and believed—just as the French followers of Rousseau believed—that the dictates of universal reason made the true rights of man evident to all. For them, the traditional English constitution was not the source of their freedoms, but rather something to be swept away by rights dictated by universal reason. And indeed, when the French Revolution came, Jefferson and his supporters embraced it as a direct continuation of what the Americans had started. As he wrote in a notorious letter in 1793: “The liberty of the whole earth was depending on the issue of the contest [in France].... Rather than it should have failed, I would have seen half the earth desolated.”<sup>2</sup>

The tension between these conservative and liberal camps finds expression in America’s founding documents: The Declaration of Independence, drafted by Jefferson in 1776, is famous for promoting the Lockean doctrine of universal rights as “self-evident” before the light of reason;<sup>3</sup> whereas the Constitution of 1787, drafted at a convention dominated by the conservative party, ended a decade of shocking disorder by restoring the familiar forms of the national English constitution. In accepting it, the Americans gave a strong president, serving as the chief executive, roughly the powers of the British monarch, and balanced these powers in the English fashion by means of a bicameral legislature with the power of taxation and legislation. Even the American Bill of Rights of 1789 is modeled upon the Petition of Right and the English Bill of Rights, largely elaborating the rights of Englishmen that had been described by Coke and Selden and their followers. Notably, these later documents breathe not a word about universal reason or universal rights.<sup>4</sup>

The conservative aspect of the Constitution of 1787 has been emphasized many times. But it was also a nationalist document, uniting what had been thirteen independent states—each of them, like a

Greek polis, pursuing policies of its own—under a single American national state. Indeed, members of the Federalist Party of George Washington, John Adams, John Jay, Alexander Hamilton, Robert Morris, Gouverneur Morris, James Wilson, Oliver Ellsworth, Rufus King, John Marshall, and Noah Webster were not only conservatives, but American nationalists. They regarded Americans as one nation, and they saw the establishment of the forms of the British constitution and the English common law over and above the thirteen states as the best possible instrument for ensuring that Americans would remain a single nation. Similarly, in the 1780s, the Federalists' Jeffersonian opponents were not only Enlightenment liberals who rejected the traditional English constitution. They were also anti-nationalists, who were not especially inclined to regard Americans as one nation and who were appalled by the prospect that something resembling the British government in London—which they regarded as inherently tyrannical—might be resurrected on American soil and given enough power to suppress the newly won freedom of the thirteen independent states.

As we saw in the last chapter, English conservatism was inextricably linked to nationalism, having emerged in the sixteenth century in opposition to Catholic efforts to place England under the authority of Rome; and to the Puritan inclination to subordinate English practices to the authority of Geneva. Similarly, the American conservative tradition was born in the 1780s out of a conflict between American nationalists and their opponents. The Federalist Party was from the start the party of American nationalist conservatism.

In this chapter, I will tell the story of the Federalist Party, the nationalist conservatives who initiated and secured the ratification of the Constitution of 1787 and then went on to govern a unified American nation during its first twelve years. I will then examine the principles that made the Federalists one of the most important and

successful nationalist conservative movements in history—and a relevant model for nationalist conservatives in America and other countries today.

### *1. The Federalists, America's Nationalist Conservatives*

The thirteen British colonies declared independence from Britain in 1776. But for most of the 1780s, the newly formed United States were prevented from addressing the many political challenges they faced due to the weakness of the first American constitution, the "Articles of Confederation and Perpetual Union." Adopted by the Continental Congress in November of 1777, this constitution regarded the United States as an alliance of thirteen independent republics, under which "each state retains its sovereignty, freedom and independence." Having no unified executive or judiciary, the only national institution was the Congress, which required the consent of nine out of the thirteen state delegations to take any action at all. Although nominally responsible for overseeing the war effort against Britain, Congress lacked the ability to conscript soldiers for the Continental forces fighting the British under George Washington, or even to raise the taxes needed to arm and pay them. Indeed, when the moment came to land the decisive blow at Yorktown in 1781, Congress was broke, and Robert Morris, the newly hired superintendent of finance, had to write personal checks to cover the costs of moving the army into battle.<sup>5</sup>

The nationalist party in American politics was born out of these experiences, with much of its leadership consisting of soldiers, businessmen, and lawyers who had witnessed firsthand the inability of the American national government to act in a decisive fashion in matters of war, diplomacy, and finance. Even before the Treaty of Paris formally ended the war, both Washington and Morris, as well

their young protégé Alexander Hamilton, then a member of Congress, had gone on record calling for a revision of the first American constitution, which they blamed for having needlessly prolonged the war and almost lost it. They were joined by John Jay, the celebrated architect of the peace with Britain, who had discovered that in the absence of a national government with appropriate coercive powers, the terms of the treaty could not be enforced on the American states. These nationalists urged a unification of the American nation under a government with the authority to conduct national finances and diplomatic and military affairs. But they found themselves opposed by a large anti-nationalist or confederationist camp, which regarded proposals to establish a national government possessing significant coercive powers, a standing national army, national taxes, and a national bank as a betrayal of the ideals of the revolution and a return to the “monarchical” government of Great Britain.

Although the divide between nationalists and confederationists seemed, at first, to be a disagreement over practical proposals for how best to govern postrevolutionary America, it quickly became clear that the argument was far deeper than that. In fact, the sides in this argument were inspired by competing visions of American identity and citizenship, which drove the formation of two clearly opposed political parties. The first of these, which came to be called the Federalist Party, wished to see America become a unified nation and an industrial, commercial, and military power—in effect a republican version of Britain. Nationalist and conservative, the Federalists admired British constitutional structures, including the British political tradition of a strong executive and judiciary alongside the elected legislature; the common law heritage that had governed Americans in the 150 years preceding independence, upholding property and liberty as inherited rights; and the Protestantism that was still the established religion in most states. They were, in other words,

Anglo-American traditionalists, who regarded national identity as rooted in the particular traditions of a people and expected newcomers to adopt these traditions as a prerequisite to becoming citizens. For the most part, they looked forward to the decline of slavery and its eventual abolition.

Against this nationalist vision of America, there emerged a confederalist vision that was eventually called "democratic republicanism"—and finally gave its name to the Democratic Republican Party. This view, whose greatest spokesmen were Thomas Jefferson and Tom Paine, regarded the American Revolution as having been fought not only against British monarchy and aristocracy, but more generally against Britain's centralized government, established religion, and financial system. On this view, political society was founded on the virtue and natural rights of the consenting individual, who owed little or nothing to national and religious tradition. Such a society needed little government besides local government, an arrangement as close as possible to the small republics of the ancient world, with no armed forces beyond the local militia except in times of emergency. For Democratic Republicans, the ideal citizen was the independent farmer, to a great degree self-sufficient, even if this sometimes involved owning slaves to work his fields; whereas large-scale commerce, manufacturing, and public debt were regarded as threats to the independence and virtues of the individual. In a country as large as America, the only way to maintain such a regime was by creating a loose confederative arrangement of individuals, cooperating within a larger confederation of states.

The first American constitution, the Articles of Confederation, had been cast in precisely this democratic-republican mold, and for nearly a decade the political viewpoint that had created it remained ascendant. But by 1786, with the states embarking on an increasingly bitter tariff war against one another, Hamilton seized

the opportunity at a failed conference on interstate trade, to announce a national convention to discuss revising the Articles of the Confederation. This initiative bore no relation to the decision-making processes described in the constitution of the confederation. But the need for it was dramatically demonstrated in the fall and winter of 1786, when the states found themselves unable to raise an army to meet "Shays' Rebellion," an organized insurrection in western Massachusetts that had to be put down by privately funded troops. Against the backdrop of these events, Jay and Hamilton sought and won Washington's agreement to serve as chairman of their proposed constitutional convention. In this effort, they were joined by other nationalists such as Robert Morris, Gouverneur Morris, and James Wilson, as well as by James Madison, until recently a protégé of Jefferson, who had swung into the nationalist camp after his mentor left to serve as ambassador to France. The Constitutional Convention met from May 25 until September 17, 1787.

Some accounts downplay the fact that the Constitutional Convention was orchestrated by what would soon become the Federalist Party. Of the initiators and the most consequential participants, most were longtime nationalists and later Federalists—the principal exceptions being Madison and his fellow Virginian Edmund Randolph. Only four years into civilian life, Washington was intent on avoiding the suggestion of a military intervention in political affairs. But it appears that Washington agreed to participate as the highly visible chairman of the convention only on condition that its agenda would be the establishment of a nationalist government.<sup>6</sup> These prior guarantees to Washington largely assured the outcome of the convention, but it also helped that thirty-five of the fifty-five participants of the convention were former officers who had served under Washington in the Continental Army.<sup>7</sup> Thus while the nationalists were forced to compromise on some points, the convention did indeed open by

passing a resolution outlining a new national government along lines agreeable to Washington. Thereafter, the text of America's second constitution was drafted by a committee controlled by nationalists John Rutledge, Oliver Ellsworth, and James Wilson. And the final draft was written by a leading nationalist, Gouverneur Morris.

It was at the Constitutional Convention, as well, that the term "Federalist" came into use to refer to the nationalist party and its program. Up until this point, Americans had used the terms *federal* and *confederal* interchangeably to describe the cooperation of the thirteen independent states under the Articles of Confederation and Perpetual Union.<sup>8</sup> However, as the Constitutional Convention opened in 1787, nationalists discovered that the word "national" was troubling to some of the participants, precisely because it implied a single, unified nation rather than a coalition of independent states.<sup>9</sup> The nationalists decided to concede the term, while preserving the substantive achievement of a national government. On June 20, the prominent Connecticut nationalist Oliver Ellsworth moved to simply strike the word "national" from the proposed constitution. Thereafter, all of the descriptions of the American government as "national" were removed and replaced by the terms "United States," "general," and "federal." In this way, the term *federal* became a synonym for *national* (and the opposite of "confederal"). It was soon widely popularized after Hamilton initiated a defense of the new national constitution in a series of newspaper essays in which he was joined by Jay and Madison, which were known collectively as *The Federalist: A Collection of Essays in Favor of the New Constitution*. From this point on, the term "Federalist" denoted a political view and then a party devoted to a nationalist government. American nationalists were called "federalists."<sup>10</sup>

The nationalists' success at the convention and in the subsequent ratifying conventions of the states amounted to what has rightly been

called the Second American Revolution.<sup>11</sup> A series of unconstitutional but democratic and peaceful political maneuvers led to the retirement of the decentralized and anti-nationalist American constitution of 1777 and to its replacement by the new nationalist Constitution of 1787, modeled on the British constitution.<sup>12</sup> The first administration under this nationalist Constitution was inaugurated when Washington took office as president on April 30, 1789. In addition to nationalists such as himself, John Adams (vice president), Hamilton (secretary of the treasury), Henry Knox (secretary of war), and Jay (chief justice of the Supreme Court), Washington sought to give his administration the appearance of a unity government by appointing the leading Democratic Republican, Jefferson, as secretary of state and the moderate Randolph as attorney general.

But Washington also made sure that both foreign policy and judicial matters remained firmly under nationalist control, and a frustrated Jefferson began orchestrating public pressure against the administration in which he was serving by means of a proxy war in the press. In 1791, Jefferson and Madison founded a newspaper to counter Federalist policies. Jefferson resigned from office two years later, and in 1795 launched a campaign against a treaty of friendship and commerce with Britain initiated by Hamilton and concluded by Jay, still serving as chief justice. The famous "Jay Treaty" in effect ended America's alignment with France, blocking the Jeffersonians' desired alliance with the revolutionaries who had overthrown and executed the French king. Jefferson, Madison, and others, including many former opponents of the nationalist Constitution, assembled what became the Democratic Republican Party, which supported states' rights over the power of the national government, state courts over national jurisdiction, the disestablishment of religion, the expansion of slavery, and a foreign policy favorable to France, while opposing the Federalist Party's nationalist economic and immigration policies.



Democratic Republican enthusiasm for the French Revolution increased support for the Federalist Party among some southern conservatives, despite the nationalists' generally northern and commercial orientation. But it wasn't enough. Too many Americans resented the Federalists' affinity for Britain and their opposition to essentially unregulated immigration. In 1800, Jefferson's Democratic Republicans took office, and the political fortunes of the Federalist Party swiftly declined. At this critical moment, the Federalist Party lost its three most prominent leaders in quick succession. During the latter part of the Adams presidency, a quarrel between the president and Hamilton degenerated into an ugly pamphlet war that destroyed the reputations of both men, as well as the chances of the party uniting behind one of them. Meanwhile, Washington, the man who might have imposed a truce or thrown his weight behind one of them, died suddenly in 1799. Adams retired from political life when his presidency ended in 1801, and Hamilton's death in a duel with the Democratic Republican Aaron Burr in 1804 deprived the Federalists of the remaining leader of sufficient stature to reenergize them. Lacking clear leadership and split between feuding factions, the Federalists quickly disintegrated as a political force outside of New England. Their political fortunes were dealt a death blow by their perceived disloyalty to the Democratic Republican government during its war with Britain beginning in 1812. Rufus King, the last Federalist senator, was also the last, informal Federalist Party candidate for president when he ran unsuccessfully in 1816.<sup>13</sup>

However, the political decline of the Federalist Party did not mean the end of the American nationalists' political ideals. Washington and Adams appointed only committed Federalists to the Supreme Court, which was dominated by justices such as Jay, Ellsworth, Rutledge, Wilson, William Cushing, Bushrod Washington, and John Marshall through the 1830s. Wielding the doctrine that the Supreme Court was responsible for interpreting the Constitution, and later

the resulting power of "judicial review," these Federalist judges continued to protect the nationalist Constitution of 1787 until many of their ideas had been adopted, whether completely or partially, even by their Jeffersonian opponents.<sup>14</sup>

It is true that nationalism did not come easily to Americans. Hostility to British rule brought many to regard the "Spirit of '76" as being opposed to strong government in general, and to a distant national government in particular. But the Second American Revolution—and the "Spirit of '87"—was by no means conducted along these lines. The new nationalist Constitution was a restoration of the Anglo-American political inheritance that Washington and many of his officers and supporters had fought to preserve in the War of Independence. The Constitutional Convention of 1787 brought America's nationalists, the Federalist Party, into a position of decisive influence, permitting them to unite the American nation and establish nearly all of the institutions and traditions that came to characterize it. The Federalists' principles went on to serve as the model for subsequent American nationalism.

What principles defined the American Federalist Party? As in any political alliance, there were many differences of opinion and temperament among the Federalists. Moreover, the views of the leading Federalists clearly evolved over time. Nevertheless, we can point to eight broad political principles that may be said to have characterized the Federalists in their struggle against the anti-nationalists and the Democratic Republican Party. All of these principles derived from their belief in a unique American nation with a unique cultural inheritance derived from Britain, and the desire to unite the various parts of this American nation under a strong central government. These principles include regarding Americans as a distinct nation of British heritage, American constitutional continuity with the British constitution, the Supreme Court as the body responsible for interpreting the Constitution,

economic nationalism, a nationalist immigration policy, alliance with Britain, an alliance between religion and state, and opposition to slavery.

Let us look more closely at each of these.

## 2. *A Distinct American Nation of British Heritage*

As America gained its independence, nationalist and anti-nationalist visions were advanced for what should replace British rule. The argument ultimately came down to whether there really was such a thing as an American nation, with the weak constitution of 1777 reflecting the frailty of the fellow feeling tying the states to one another. For example, the Virginian Patrick Henry, a great proponent of independence from Britain, was also a great opponent of American nationalism. Henry rejected the concept of an "American people," arguing that the Constitution of 1787 would amount to taxation without representation, much as British rule had. As he put it:

Suppose every delegate from Virginia in the new [national] government opposed a law levying a new tax, but it passes. So you are taxed not by your own consent, but by the people who have no connection to you.<sup>15</sup>

The idea that there was "no connection" between the peoples of the various states obviously spoke to the feelings of a large public. Yet it was opposed by nationalists who felt that a genuine mutual loyalty already did exist among many Americans, and could be kindled in the hearts of many more.

In *The Federalist* 2, for example, John Jay supplied the nationalist framework for the entire series by describing the bond of mutual loyalty that he could see animating the American nation. As he wrote:

I have as often taken notice that Providence has been pleased to give this one connected country to one united people—a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established general liberty and independence. . . . It appears as if it was the design of Providence that an inheritance so proper and convenient for a band of brethren, united to each other by the strongest ties, should never be split into a number of un-social, jealous, and alien sovereignties.<sup>16</sup>

This is as compelling a nationalist view as one finds anywhere, arguing that a shared ancestry, language, religion, laws, and customs, as well as a common history of war against shared enemies, has made the American nation “a band of brethren united to each other by the strongest ties.” At the outset, then, *The Federalist* rejects the concept of a “creedal nation” bound by nothing other than reason and consent, of which Jefferson and Paine were the precursors. Instead, Jay describes a thick matrix of inherited language, values, and history, which those of foreign descent—such as Jay himself, descended from French Huguenot and Dutch immigrants—could nevertheless choose to adopt.<sup>17</sup>

A similar nationalist view is evident in Hamilton’s writings as early as his *Continentalist* essays of 1781, and certainly in *The Federalist*, where Hamilton too refers to “the affinity of language and manners; the familiar habits of intercourse” that characterize Americans.<sup>18</sup> Hamilton’s nationalism was likewise rooted in a culture one chooses to adopt, for he was himself a relative newcomer to America, having

been born to a Scottish father and a half-French mother on the Caribbean island of Nevis, and having arrived in the country only in 1772. Thus the "affinity" and the "familiar habits" to which he was referring were, for him, not native and local, but acquired and Anglo-American ones.<sup>19</sup>

The same outlook informed George Washington's "Farewell Address" of 1796, in which he argued:

The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles.<sup>20</sup>

### 3. *Continuity with the British Constitution*

The Federalists of the 1780s and 1790s were not radicals who considered America a clean slate on which they could try out new schemes devised by the philosophers of the "Age of Reason." They came to abhor Jefferson and others who favored such schemes, especially after 1789, when these were increasingly identified with the murderous policies of the French Revolution.<sup>21</sup> The Federalists understood that the freedom of Americans was a gift of the British constitutional tradition and the English common law, which had been incorporated into American colonial law, often formally so in the constitutions of the colonies. Indeed, it is telling that in the four years prior to independence, no fewer than twenty-one editions of Blackstone's *Commentaries on the Laws of England* had been published in America.<sup>22</sup> And when the thirteen newly independent states turned to writing their own constitutions after 1776, these were to a significant extent

designed on the pattern of the English system of dispersed power, with a strong executive balanced by a bicameral legislature and an independent court system.

Today, it is difficult to imagine how bizarre this adherence to the English constitution seemed to the enthusiasts of Enlightenment at the time. French philosophers such as Anne Robert Turgot and the Abbé de Mably, as well as the English Lockean Richard Price (the "Dr. Price" who is the target of Edmund Burke's *Reflections on the Revolution in France*), argued that by the light of reason, the best and most effective government would be one in which all powers—legislative, executive, and judicial—were combined in a single popular assembly. This view was influential in radical circles in America, where it informed the Pennsylvania Constitution of 1776, which placed dictatorial powers in the hands of a single assembly, unchecked by an executive or an upper house. The mob violence and attacks on property that followed foreshadowed, in many respects, the revolutionary regime in France a few years later. Similar radical experiments were undertaken in Georgia and Vermont.<sup>23</sup> But the most glaring deviation from the English constitutional tradition had been the first American constitution itself, the Articles of Confederation, which likewise mandated a government consisting of a single assembly in which all powers were vested.

Against these revolutionary proposals, the Federalists sought to restore continuity with the English constitution and common law. It has often been pointed out that much of the Constitution of 1787 and the subsequent Bill of Rights is borrowed from English constitutional documents or conventions. This English inheritance includes a long list of constitutional procedures and legal concepts, including the unitary executive power resting with the king; the bicameral legislature; the taxation initiative vested in the lower house of the legislature; the executive veto and the pardoning power; the procedure of

impeachment; due process of law; the jury trial; the right to free speech, to bear arms, and to be immune from unreasonable search and the quartering of soldiers; and so forth. At least sixteen of the twenty-one sections making up the first four articles of the Constitution, as well as much of the first eight amendments to the Constitution, implicitly refer to English sources.<sup>24</sup>

But it is rarely acknowledged that this conformity of the Constitution of 1787 to the English constitution was a matter of theoretical significance for the American nationalists. Earlier that year, John Adams, writing in London during Shays' Rebellion, published the first volume of his *Defence of the Constitutions of the United States of America*, which sought to vindicate the Anglo-American constitutional tradition in the face of attacks by rationalist philosophers. Adams's argument is two-pronged: He argues that even if English constitutional traditions were neither good nor evil in themselves, and "the people, by their birth, education, and habits, were familiarly attached to them," this would provide "motive particular enough for their preservation," which would be better than to "endanger the public tranquility . . . by renouncing them."<sup>25</sup> But Adams does not believe that English laws are neither good nor evil. Rather, he takes up a survey of constitutions throughout history in order to demonstrate that the greatest insights into the nature of free government have been implemented only in the English constitution, which is therefore closer to perfection than any other known to mankind. As he writes:

The English constitution is, in theory, the most stupendous fabric of human invention, both for the adjustment of the balance, and the prevention of its vibrations; and the Americans ought to be applauded instead of censured for imitating it as far as they have. Not the formation of

languages, nor the whole art of navigation and ship building, does the human understanding more honor than this system of government.<sup>26</sup>

Indeed, although Adams recommends reforms in the British House of Commons so that it may better carry out its democratic function, he nonetheless foresees the possibility that the Americans will, with time, "make transitions to a nearer resemblance of the British constitution."<sup>27</sup>

Adams's book arrived in the United States in mid-April of 1787. A few weeks later, Washington, Madison, and other members of the Virginia and Pennsylvania delegations agreed upon the so-called "Virginia Plan," which outlined a national government based on three branches of government and a bicameral legislature. At the convention itself, Oliver Ellsworth, John Dickinson, and others defended the British constitution. But the most prominent Federalist figure in this respect was Hamilton, who told the delegates explicitly that the closer the Constitution could be brought to the British one the better, explaining that "the British government was the best in the world, and that he doubted much whether anything short of it would do in America." Like Adams, Hamilton praised the English constitution for balancing a strong democratic element in a representative, elected lower house against an executive and upper house that served for life, and so were shielded from wild swings in public opinion. In this way, the British constitution "unites public strength with individual security."<sup>28</sup>

These views concerning the English constitution made both Adams and Hamilton early opponents of French revolutionary ideas. Adams was especially proud to have published his book before the outbreak of the French Revolution, and sometimes suggested it had influenced Burke's *Reflections on the Revolution*



*in France*, which appeared in 1790. Adams's later *Discourses on Davila* (1790) was written in the same anti-revolutionary spirit. Meanwhile, Hamilton encouraged and even funded several anti-revolutionary publications in the 1790s, himself composing a series of Burkean *Letters of Pacificus* in 1793.<sup>29</sup> At the same time, the Federalist judges on the newly appointed national Supreme Court determined, in a series of rulings during the 1790s, that the entire body of English common law was the inherited law of the federal government at its creation.<sup>30</sup>

The chief opponent of the nationalist conservatives in these debates was Jefferson. Long venerated for his role in securing American independence, Jefferson is now a hero to a large section of conservatives who admire him for his opposition to a strong national government. It is therefore sometimes hard to understand the ferocity with which the nationalist conservatives loathed their opponent, whom they saw as representing everything they abhorred: rationalism as opposed to traditionalism, states' rights and the philosophy of the individual as opposed to the building up of the American nation, agrarianism as opposed to an urban and commercial future, and, of course, the twin evils of atheism and slavery.<sup>31</sup> Nor was Jefferson a friend to the Federalists' Constitution of 1787. As a devotee of Enlightenment rationalist philosophy, he held tradition to be unimportant at best, and considered constitutions to be merely transitory and technical devices, to be rewritten from scratch every twenty years. For him, the only real constitution was the universal rights of man, which could be known by reason and had no need for constraints inherited from the past.

The historian Gertrude Himmelfarb once said, only half-jokingly, that the absence of Jefferson from the American Constitutional Convention was the clearest sign of Providence intervening in American history.<sup>32</sup> There is much to be said for this view. Jefferson was in Paris

from 1784 to 1789, where he and Tom Paine were active in assisting the efforts of the French revolutionaries. But France's loss was America's gain. For the fact that the two most outspoken and radical figures among the American philosophical rationalists were abroad in the crucial period when the restorationist Constitution of 1787 was composed and ratified meant not only that they were not around to oppose it. Their absence also meant that moderate Virginians such as Madison and Randolph were released from Jefferson's orbit and able to render crucial assistance to the nationalist effort. Indeed, by 1786, Madison had become one of Washington and Hamilton's closest nationalist allies, and he remained allied with the Federalists until shortly after Jefferson returned to America.

In 1791, Jefferson's hostility to the Federalists was made public when a laudatory note from his pen was published (apparently without his permission) as a preface to the American edition of Tom Paine's *Rights of Man*, which had been written as a refutation of Burke's *Reflections on the Revolution in France*. In the preface, Jefferson, the sitting secretary of state, endorsed Paine and praised his support for the French Revolution, attributing to it the same ideals that had animated the American Revolution. The same preface went on to condemn the "political heresies" of the new American "monarchists"—a reference to Adams and Hamilton. In a follow-up letter to Washington, Jefferson laid out the battle lines for the coming struggle, explaining that the American press was now divided into two camps, with the camp of Hamilton and Adams ("since his apostasy to hereditary monarchy and nobility") taking the side of Burke, and the other side supporting Paine.<sup>33</sup>

With regard to Burke's *Reflections on the Revolution in France*, Jefferson wrote to an English correspondent that it demonstrated "the rottenness of his mind." He continues:

We have some names of note here who have apostatized from the true faith.... Mr. Paine's answer to Burke will be a refreshing shower to their minds. It would bring England itself to reason and revolution if it was permitted to be read there.<sup>34</sup>

In this letter, Jefferson refers to his own Enlightenment liberalism as "the true faith" and his Federalist opponents as "apostates" from it. Moreover, he does not hesitate to hope that Paine's book will bring "reason and revolution" to Britain. In 1795, with Revolutionary France at war with Britain, and the Netherlands recently conquered by the French armies under General Pichegru, we find Jefferson writing to a member of Congress that he hopes soon to visit occupied London and to dine there with the general: "For I believe I should be tempted to... go and hail the dawn of liberty and republicanism in that island."<sup>35</sup>

This division between Jeffersonian imperialist liberals, eager to spread "the true faith" by force of arms, and nationalist conservatives, who wish to have no part in their forever wars—remains very much with us to this day.

#### *4. Executive Power Vested in One Man*

Uniting the American nation and bringing it under an effective national government was the most prominent Federalist goal, which early American nationalists pursued by a variety of means. The best-known part of this program was the Federalists' support for a powerful chief executive modeled on the British one. It is difficult today to fully appreciate how offensive the unitary chief executive was to enthusiasts of Enlightenment rationalism, who insisted on a plural executive—in effect, government by a committee—as a crucial impediment to tyranny. This model of a plural executive appeared repeatedly in

constitutions written under the sway of rationalist political theories: in the radical Constitution of Pennsylvania (1776), in which the executive consisted of twelve members appointed by the popular assembly; in the first constitution of the United States, the Articles of Confederation (1777), which made decisions by a vote of nine of the thirteen state delegations; and in plural executives such as the nine-man Committee of Public Safety (1793) that ruled during the French Revolution.

Conservative arguments against the plural executive were drawn from experience: Although it may seem “rational” to restrain the executive by multiplying its members, the actual experience of government shows that such committees are generally unable to make rapid, firm, and coherent decisions. And when a committee is able to wield executive power effectively, it is only because it is dominated by a single individual, albeit one whose responsibility for its actions is obscured from view by the multiplicity of its members. These arguments stood behind the “Virginia Plan,” prepared under Washington’s supervision and presented to the Constitutional Convention at the outset of its deliberations, which proposed to vest powers in the president that would be comparable to those of the British king.<sup>36</sup> This decision was explained by Hamilton in *Federalist* 70, which argues that a necessary characteristic of good government is energy:

Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; [and] to the security of

liberty against the enterprises and assaults of ambition, of faction, and of anarchy.<sup>37</sup>

Notice that Hamilton goes well beyond the common supposition that a strong executive is needed only to fight wars and prosecute criminals. He doesn't believe that the "ordinary course of justice" will always be sufficient to ensure the safety of property, and regards the energetic executive as a force necessary to break up "irregular and high-handed combinations" by powerful interests that manipulate the laws to their advantage. He sees clearly that without an energetic executive, the country is constantly threatened by individuals and factions that seek to advance themselves at the expense of the integrity of the nation as a whole. This constant threat of anarchy goes hand in hand with a "feeble executive"—precisely what Americans had experienced under the Articles of Confederation.

But the requisite energy, Hamilton argues, is generally possible only where the executive power is "in a single hand." As he writes:

Unity is conducive to energy. . . . Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater number. . . . This unity may be destroyed in two ways: Either by vesting the power in two or more magistrates of equal dignity and authority, or by vesting it ostensibly in one man, subject in whole or in part to the control and cooperation of others. . . .

No favorable circumstances palliate or atone for the disadvantages of dissention in the executive department. They serve to embarrass and weaken the plan or measure to which they relate, from the first step to the final conclusion of it. They constantly counteract those qualities in the

executive which are most necessary ingredients in its composition—vigor and expedition, and this without any counterbalancing good.<sup>38</sup>

This view of the unitary executive appears time and again in the arguments of the Federalist Party. James Wilson, for example, presented much the same arguments in the ratifying convention in Pennsylvania:

The *executive authority is one*. We may discover from history, from reason, and from experience, the security which this furnishes. The executive power is better to be trusted when it has no screen. Sir, we have a responsibility in the person of our President; he cannot act improperly, and hide either his negligence or inattention; he cannot roll upon any other person the weight of his criminality; no appointment can take place without his nomination; and he is responsible for every nomination he makes. We secure vigor. We well know what numerous executives are. We know there is neither vigor, decision, nor responsibility, in them.<sup>39</sup>

These descriptions of a powerful executive—one characterized by vigor and expedition, decision, activity, secrecy, and dispatch—are, as we know, unappealing to many Americans today, who hear in them premonitions of authoritarianism. This is because the powers of the American president in the Constitution of 1787 were modeled on those of the British king, and Jefferson and his allies never tired of accusing the Federalist Party of being monarchists. (“Their sight must be perfectly dazzled by the glittering of crowns and coronets,” Jefferson wrote to Madison concerning Washington’s administration in

1794.)<sup>40</sup> But setting aside these slanders, we see that Washington's nationalist conservatives really did advance a very different theory of government from that to which Jefferson and his party subscribed. Consider these famous lines from Jefferson's inaugural address in 1801:

What more is necessary to make us a happy and a prosperous people? Still one thing more, fellow-citizens—a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.<sup>41</sup>

Here, Jefferson claims that “the sum of good government” is that it “restrains men from injuring one another” and otherwise leaves them alone. According to this view, there is no need for the Federalists' energetic executive, which acts with “vigor and expedition” to break up “irregular and high-handed combinations” or to counter the “enterprises and assaults of ambition, of faction, and of anarchy”—because no grave injustices are likely to arise from the free activities of private individuals, organizations, or corporations, and no threat of anarchy is foreseen from the actions of ambitious persons or factions. For Jeffersonians, the only genuine threat is from the energetic, unitary executive itself.

To be sure, the Jeffersonian suspicion of government, and the accompanying desire to limit the powers of the executive, has its roots in Anglo-American tradition, going all the way back to the Bible. Nevertheless, the Anglo-American political tradition had sought to balance a powerful executive by granting competing powers to the legislature and by recognizing certain rights of individuals

under law. It had never supposed that a powerful and active executive is unnecessary for the well-being of the nation, nor had it sought to enfeeble executive power by placing it in the hands of a committee as the Americans had done under the Articles of Confederation. On this point, the Federalists saw things clearly: The preceding decade under a feeble executive—like the anarchic decades of the Wars of the Roses that preceded the rise of the Tudors in England—had revealed that a human society always stands at the edge of a precipice. And while a disciplined people may benefit from the lifting of certain constraints that have been imposed upon them, at the time of the next great threat they will invariably cry out for the energies of the executive to be unleashed in order to restore their safety, justice, and freedom. In providing their president with powers comparable to that of a British king, the Federalists made it possible for the United States to prepare for such threats and to meet them successfully, in this way proceeding as a strong, stable, and cohesive nation.

##### 5. *The Supreme Court and the Constitution*

Less familiar, but no less significant, is the Federalists' protracted struggle to forge a national judiciary with the authority to interpret the Constitution of 1787. Such authority would enable it to impose the Constitution on the states and individual citizens, and to fend off anti-nationalist challenges to the powers of the national government, both in its executive and judicial branches. However, Article III of the Constitution did not explicitly grant such authority to the national judiciary, and attaining it required the Federalists to carry out a concerted campaign to establish a judicial branch of the national government more powerful than in any other country, including even Britain, from which this effort drew much of its inspiration.