The Declaration of Independence and the Crisis of American Identity

Identity, Authority, and Power in Anglo-American History and Historiography

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By

Jason C. Ross, M.P.P.

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Almost without exception Americans agree that we are and ought to be united as a people under the authority of a common national identity. This identity is almost always held to be creandal in form, and the contents of this creed are almost always thought to be contained in the famous preamble to the Declaration of Independence. Though these propositions are accepted almost without exception as self-evident by Americans, there remains profound - even irreconcilable - disagreement about the origins, meaning, and implications of the creed held to define American national identity.

Our debates about the origins, meaning, and implications of our creandal form of identity obscure the prior questions of where this peculiar form of identity came from and whether it is desirable or even possible for a polity characterized by radical cultural and religious diversity, to be united under a singular national identity. This dissertation frames these fundamental questions about American identity within the context of a recent reexamination by British historians of the formation and dissolution of English national identity and the British imperial state. Drawing from this new British historiography and from a treatment of revolutionary American political discourse, this dissertation contends that
the crisis of American identity is not found in the present dispute about the content of the
American creed. Rather, the true crisis of American identity is whether we should be or-
ganized as a people under a singular national creed that authorizes the American state or
under another form of identity, suggested by Madison (and Tocqueville), that accommo-
dates a multiplicity and diversity of identities within the differentiated institutional
framework of Madison's novel federal republic.
# INTRODUCTION

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Introduction

This dissertation began with a sense of puzzlement over the state of public discourse on American national identity. Virtually all Americans agree there is and ought to be a common national identity that compels the allegiance of all Americans; virtually all agree that this national identity is and ought to be creedal in form; virtually all agree that the language of this creed is and ought to be found in the preamble to American Declaration of Independence; virtually all agree that this creedal language demands an ethical commitment to the equality of all individuals, and asserts our possession of the natural rights of life, liberty, and the pursuit of happiness; all agree that acceptance of this creed ought to be requisite for citizenship in the American body politic; and finally all agree that the political institutions which represent this body politic cannot be thought legitimate unless they serve to make real the ideals stated in the creed. Despite this broad range of agreement about the existence and necessity of a common creedal identity among American citizens, there exists profound disagreement among citizens about the origins, meaning, and implications of that creed.

The situation is no better among academics, who likewise agree upon the existence and necessity of a common creedal identity, and about its location in the Declaration of Independence, but who disagree about the origins, meaning, and implications of that document and the creed it contains. Nor does the academic literature on the American Revolution and Founding eras shed any light upon these questions about American national identity, or offer any solutions to the present polarization of that identity. Instead,
this literature is hopelessly fragmented along methodological and ideological lines, and the conclusion one arrives at from following one particular methodological or ideological approach may appear entirely contradictory to the conclusion one arrives at from following a rival approach. What is more, there appears to be a strange disconnect within scholarship which attends to the ideological or ideational origins of the Revolution; treating the ideology behind the Revolution as itself revolutionary, this scholarship inevitably dismisses without consideration the claims of the Framers of the Constitution to have established a revolutionary - indeed, unprecedented - political form, instead treating the American Founding as representing a declension from a more pristine classical republican form or as a failed effort to establish a modern liberal state.

After contemplation of these problems it began to appear that scholars, like citizens, so deeply hold notions about the meaning of our identity as a people as effectively to embed in their minds certain inter-related claims about the ideological origins of the creed that authorizes that identity and institutional implications about the political forms through which that identity must be represented. Indeed, contemplation of these problems revealed the obvious but overlooked axiom that history is the trace of identity projected back into the past. The corollary to this axiom is that in a time when identity has become polarized, traditional historical attempts to clarify the origins, meaning, and implications of that identity can only serve to extend that conflict into other fronts; with questions about the normative meaning of American identity and the institutional imperatives that identity sustains already answered before historical inquiries begin, the writing of history
becomes a project of justifying a certain conception of institutional arrangements and of compelling allegiance to a particular conception of American national identity.

Finally, at this point it became clear that American national identity is connected - in a powerful, though hidden, sense - with the conceptions of authority to which American citizens and scholars refer in their attempts to legitimate the acts of public power, and with the institutional form held to represent the people arranged under that authority. Identity, authority, and power appeared to be linked together in a mutually reinforcing triad; upon further reflection, the particular form of national identity appeared to be linked - historically and theoretically - to particular forms of authority and power. These connections became apparent in substance through a new body of research into the history of English or British national identity, which has now decayed to such a point as to allow for the kind of scientific dissection that is impossible upon the still-living specimen of American national identity. These connections became apparent methodologically through the tools of historical sociology, which forbids the treatment of ideas and institutions in abstraction from one another and requires - insofar as is possible given a particular institutional setting - the reconstruction of a comprehensive ideational and institutional social reality, with its corresponding and authoritative language (or competing languages) of legitimation.

In light of this historical and methodological perspective, the crisis of American identity appeared starkly different from the crisis as treated in traditional debates. The historical literature describing the origins of English national identity made clear the
causal link between a particular account of England as a divinely chosen people and the emergence of a particular institutional form - referred to variously as a church-state, a confessional state, or an identity state - that must necessarily carry out the purpose of that divinely chosen people. The methodological contribution of historical sociology permits it to be seen that the differentiation of social institutions and identities characteristic of the modern world cannot possibly be reconciled with the unitary authority of an established church or creed, nor with the undifferentiated institutions of the hierarchical state.

Both of these historical and methodological perspectives make it possible to see the peculiar confederal-republican experiment championed by James Madison as an institutional response to the sociological differentiation characteristic of the modern world. In response to the civil religious authority of an established church, Madison’s confederal republic relied upon the affections of citizens willingly granted. In response to the unitary and hierarchical institutions which represented the singular identity of the English people, Madison’s confederal republic relied upon a highly differentiated structural and institutional scheme designed to maximize, rather than minimize, the multiplicity and diversity of interests comprised within the republic - designed, in fact, to encourage in each individual citizen the development of a distinct and non-reproducible identity. In this, Madison explicitly denied the possibility, even the desirability, of imposing upon the people the same “opinions, passions, and interests”; but because he failed fully to sketch the institutional connections through which natural communities organized under the voluntary authorities of common opinions or interests could be accommodated into the new repre-
sentative framework established in the Philadelphia Constitution - because he failed fully to sketch a civic alternative to the national identity the first generation of Americans renounced - Americans readily filled, with their own content, the national form of identity they had inherited from England.

In this way, the current crisis of American identity appears not only as another episode of the permanent crisis that has plagued Anglo-American identity since the sixteenth century, it appears as the ongoing crisis in the American experience between an archaic national form of identity suitable for the unitary and hierarchical institutions characteristic of the early modern world and a civic form of identity necessary for the differentiated and voluntary institutions characteristic of the post-modern world. The crisis of American identity as addressed herein appears not as another battle in the historiographical war for the meaning of the Declaration of Independence which serves to authorize the American state and organize America’s civil religious identity, it appears as an attempt to recognize the Declaration as perpetually posing the question of which America we should be: the Madisonian republic in which sovereign individuals bearing a multiplicity and diversity of interests and identities were represented in an institutional form unprecedented in human history, or the modern liberal state in which competing certitudes about the self-evident truth of a unitary American national identity demand a unity and singularity of representation incompatible with the differentiated institutional form established in the Philadelphia Constitution.
Chapter 1: Outlining the Crisis of American Identity

1. **Defining the Crisis: Disillusionment with American Power, Dissolution of the American People**

   By all accounts, America faces a crisis of identity. The latest in a long series of episodes giving evidence of this crisis is America’s apparently failed quest to liberate Iraq, which has resulted in widespread disillusionment with the uses to which the power of the American people has been put. This disillusionment stands in stark contrast to the optimism with which the military campaign of liberation and democratization was launched, and this bitterness stands in stark contrast to the sense of American unity and patriotism that welled up in the wake of the horrific acts of terrorism committed against the American homeland on September 11, 2001. Seven years on from that tragic but galvanizing day many have taken down their flags and have turned their anger towards America itself, critical of its projection of power throughout the world, fearful of the possibility that America has been transformed from a virtuous republic to a corrupt empire. And more than four years on from the launch of military action to liberate the Iraqi people from a brutal dictatorship even the most vigorous supporters of the American military effort in Iraq have acknowledged that there is no Iraqi “people” to be liberated and given representation through the written constitution and formal political institutions characteristic of a liberal democratic state; rather, there are three peoples organized under apparently irreconcilable ethnic identities and conceptions of religious authority. The American state is faced with the seemingly impossible task of extricating itself from this unsuccess-
ful effort at democratic state building without leaving behind a failed state that presents a more direct threat to American security and way of life than did the toppled regime. What is more, the American people are faced with the troubling realization that perhaps the principles of our creed are not universal, and do not represent the highest aspiration of all peoples throughout the world.

This external challenge to the proposition that America’s liberal principles are universally desired and applicable intensifies a long running debate - referred to by some as a “culture war” - during which the precise meaning of American principles has been fiercely contested from within.¹ For some, the West’s simmering conflict with the Muslim world is simply another chapter in the conflict between the progressive principles of secular rationalism and the regressive principles of revealed religion - principles which stubbornly persist at the margins of American culture and politics.² For others, America’s position in the world is distinguished by its original possession of political and ethical principles, either derived explicitly from or supported by a “Judeo-Christian” political heritage, which are now threatened not simply by the political efforts of a secularist intellectual class but also by the suicidal and homicidal mania of a radical form of Islam.³

This pre-existing disagreement about the nature of American principles makes impossible

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any coherent response to the external threat of radical Islam; and, indeed, as the spate of recent literature on the West’s proper response to Islamic extremism suggests, this external threat to America’s liberal principles has had the effect of sharpening differences internal to the American polity about the meaning and implications of these principles.

Some social scientists downplay the importance of a conflict over American identity, claiming instead that this conflict is manipulated (if not manufactured) by political elites as a way of mobilizing the support of the mass of citizens. Whether or not there exists a culture war - a struggle to define the symbols of shared meaning through the control of public power - empiricists who dispute the culture war thesis are correct to note that polarization is, at the very least, intensified by certain structural conditions of American politics. The continual expansion of the federal government’s power has raised individuals’ hopes and expectations that this power can be used to transform our social and political environment, and has therefore raised the stakes of battles for control of that power; the professionalization and centralization of administrative functions has given to individuals who possess the most grandiose hopes or plans for the disposition of power comparatively greater incentive for political action; and the “democratization” of government’s electoral and political functions has transformed the framework of political associations through which the relationships of citizens with one another and with public power are mediated, privileging institutions that distill and crystallize mass support for

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single issues and inhibiting institutions through which citizens could build consensus for common actions. If it is not totally clear that Americans are in the midst of a culture war - profoundly divided in their beliefs about what their citizenship means and about the ends towards which their collective power should be directed - it is at least clear that the network of institutional bonds that mediate Americans’ relationships both with their fellow citizens and with public power is changing in troublesome ways. The institutional framework that has emerged extends the promise of a people’s reconnection with a power of unprecedented scope and scale, but this promise necessitates a perpetual war for formal control of that power. What is more, this promise can only be made (let us be clear - this promise has never yet been kept) at the cost of a whole range of mediating institutions within which a diverse body of citizens could negotiate the common purposes towards which their collective power should act, and through which these citizens could bear their share of this power.

As an ever-centralizing administrative power and an ever-polarizing cadre of political activists who seek to harness the power of the state to transform the social world conspire with one another to drive moderate Americans to the margins of political life, American civic life has followed a parallel course. Indeed, Americans’ retreat into private life over the past half century has proceeded exactly as Tocqueville might have pre-

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5 Fiorina (2004), Chapter 10.


dicted. Politics, he explained, “generalizes the taste for and habit of association; it makes a crowd of men who would otherwise have lived alone desire to unite, and teaches the art of doing it.”

Yet without the “art” (or “science”) of association in pursuit of common political goals, the individual in the modern state will lack the habit, even the skill, of associating for private purposes. As political parties and associations have become increasingly professionalized and centralized (or as the division of labor has been extended to encompass the labors of citizenship) citizens have been “freed” of the necessity to act publicly in defense of their own interests and in support of their own purposes. It is precisely this necessity from which the citizen has been freed, however, that compelled the individual to act as a citizen; nevertheless, having secured the services of those who promise to defend his interests and advocate his purposes or principles, the citizen easily succumbs to the illusion that he can gain the benefits of public action without acting publicly. If the individual can be misled to believe that the benefits of his public actions can only be measured by the successful defense of his private interests or by the triumph of his projects or principles, this individual is not far from the recognition that he - as one lone citizen among a vast body of citizens with competing interests and purposes - possesses very little ability to direct the acts of the public power. This realization encourages

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10 See Tocqueville’s comments on the role of interest in binding the individual to the fellow citizens of his township in *Democracy in America*, 1.1.5, 57-65; see also his comments on self interest rightly understood, 2.2.8, 500-3.
the individual to recede into his own private world, where he can live under the illusion that he is, if nothing else, sovereign over and capable of establishing order within his own small domain.

Tocqueville insists, by contrast, that individuals can never be self-sufficient in our political lives. What is more, Tocqueville is clear that we can never be self-sufficient in our private lives either. Thus as individuals lose the habit and skill of associating for political purposes, the network of civil associations that had bound them to one another will inevitably fray, making it impossible to sustain common actions or renew common culture. Tocqueville offers a somber warning: “A people among whom particular persons lost the power of doing great things in isolation, without acquiring the ability to produce them in common, would soon return to barbarism.”

Government is incapable of supplying the deficiencies created by the deterioration of a common culture; “a government knows only how to dictate precise rules; it imposes the sentiments and the ideas that it favors, and it is always hard to distinguish its counsels from its orders.” The sentiments and mores, ideas and institutions through which townships and other communities of citizens could accomplish common projects on a local scale, and through which a body of democratic citizens could exercise their sovereignty as a people on a national scale, grow

11 Ibid., 2.2.5, 490.
12 Ibid., 2.2.5, 492.
stale and lose their capacity to adjust to ever changing political and social conditions. Communities lose the power to accomplish communal goals, and the central power - which exploits every opportunity to extend its scope - nevertheless finds it impossible both to marshal the resources necessary to replace the cultural institutions dissolved by individualism and to defend the legitimacy of its broadened scope of actions.

Though countless lesser examples of this dynamic could be adduced, nowhere is Tocqueville’s fear more clearly realized than in the aftermath of Hurricane Katrina. Tens of thousands of New Orleans residents lacked the resources as individuals and as a community that would have been necessary to organize an evacuation from the path of an almost certainly devastating storm; and when the government came to take charge of sheltering and evacuating these residents after the storm, this government arrived under a declaration of martial law and bearing the weapons of war. This disaster, though unprecedented in the American experience for the scope of its destruction, nevertheless caused fewer problems than it revealed. Americans can no longer escape the recognition that the increasing number of individuals who live at the furthest margins of America’s receding civil society - and thus at the margins of established cultural institutions - know government only as a distant power, and obey government’s commands only by force.

Such is not the fate of a people sovereign in any meaningful sense of the word. Our shock

13 Michael Oakeshott describes the process brilliantly in his essay “Rationalism in Politics” (in Rationalism in Politics and Other Essays, (Indianapolis: Liberty Fund, 1991 [1962]), 41: “Moral ideas are a sediment; they have significance only so long as they are suspended in a religious or social tradition, so long as they belong to a religious or a social life. The predicament of our time is that the Rationalists have been at work so long on their project of drawing off the liquid in which our moral ideals were suspended (and pouring it away as worthless) that we are left only with the dry and gritty residue which chokes us as we try to take it down.”
at learning, in the wake of this disaster, of the internal weakness of our body politic must
equal our disillusionment about the impotence of our terrifyingly powerful military to
garner allegiance for the universal principles of individual liberty and democratic
government. Such military strength as the American state possesses cannot mask the
weakness of our civil society.

These, then, are the constituent parts of the American crisis of civic identity: the
concentration of power at the national level and the consequent destruction of institutions
through which the relationships of Americans to that power could be mediated; the con-
ceptualization of this concentrated power as the proper location for our hopes of trans-
forming the political and social world, and the consequent battles for the control of the
institutions of political power and of the symbols of moral authority that legitimate that
power; and the perception of that sovereign power as alien and illegitimate by those who
are unable to share in the direction of that sovereign power.

2. POLARIZING AMERICAN IDENTITY, CONDEMNNING AMERICAN POWER: THE AMBIGUITY OF
THE AMERICAN CREED

The symptoms of crisis recited above may serve, in part, to remind us of the rift
that has long existed within America’s national identity; and recollection of this rift
should call attention to the ambiguity that has always been present in America’s creedal
form of national identity. For large numbers of Americans, the principles or ideals of the
American creed have appeared self-evident. The natural equality of men and the exis-
tence of natural rights to life, liberty, and the pursuit of happiness could all be verified by
the personal experiences of substantial numbers of Americans who had been born into a land of boundless opportunity and into a political culture barren of inherited ranks or hierarchies. Mistaking these experiential truths for creedal truths, the American creed can be seen by its adherents as a point of great pride, as a reason for celebrating the American way of life, even as a justification for extending it to peoples who do not know its blessings. Yet many who live within the boundaries of the American state, heirs of the unequal rank of forced servitude, do not know the blessings of its creed. Many in this minority think of the creed not as a celebration of American ideals but as an indictment of the power that falsely claims to represent those ideals and of the people that celebrates the universal truth of those ideals while denying the burden of any sacrifice these ideals might demand. Having always stood outside America’s shared identity and the social and political power that identity authorized, African-Americans could therefore only seek access to that identity from the margins of American political and social power. African-Americans seeking membership in America’s creedal identity have been forced to speak of that identity in prophetic terms, standing at the margin of a wayward nation, calling it to understand the expansive implications of the principles it espouses. Indeed, the prophetic understanding of the American creed has created in the American experience a profound tension between these two conception of our national identity - the former a civil religious conception that legitimates America’s peculiar way of life by defining it as derived from principles derived from “Nature and Nature’s God”, the latter an ethically
religious conception that places the American nation and state under the perpetual judgment of an authority that transcends both nation and state.\textsuperscript{14}

Despite the transformative energy released by the prophetic conception of the American creed that has been advanced by and on behalf of African-Americans, there remains substantial reason to question its success in incorporating a particular minority group into a broader national identity. Indeed, the limited success of this prophetic conception of America’s creedal identity in effecting a reformation of the American nation or state may well have culminated in a final rejection of the liberal ideal of binding all American citizens with one another under the creed’s comprehensive and all-encompassing national identity. This rejection, if truly final, implies the total dissolution of any bonds of affection that might bind members of this community to the American people or state. This dissolution is evident in the trajectory of African-American political rhetoric.\textsuperscript{15} Frederick Douglass, in his speech “What to the Slave Is the Fourth of July?” drew upon the Declaration of Independence as a symbol of colonial Americans’ righteous fight against the oppressive power of the British Empire, and thus of the triumph of American claims of justice over British imperial interests. The address, in which Doug-

\textsuperscript{14} Sacvan Bercovitch, in \textit{The American Jeremiad} (Madison: University of Wisconsin Press, 1978), details the transformation of the jeremiad as a rhetorical form into the dominant form of historical consciousness in America. Robert Bellah, in “Civil Religion in America,” \textit{Dædalus}, Journal of the American Academy of Arts and Sciences, Vol. 96, No. 1 (Winter 1967), 1-21, demonstrates how the jeremiad in both senses has lived on through the public ritual of presidential rhetoric. A problem emerges, however: As the jeremiad becomes domesticated by political power, it loses its prophetic power. The jeremiad serves as a way of marshaling support for \textit{raisons d'état}, rather than as a way of calling the state to higher purposes.

lass identifies African-Americans as bearing the same relationship to an alien power as American-Englishman had borne with respect to the power of the British Empire, is frequently adduced both as an expression of the African-American experience of oppression by an alien power and as an example of the rhetoric of the jeremiad. Douglass recites the history of American-Englishmans’ patient forbearance of British insults and injustices, their painstaking efforts to seek redress of their grievances against their oppressors, and their solemn resolve to maintain the dignity befitting freemen that culminated in final decision to renounce the British Empire’s claims to power over Americans. Here, at the very rhetorical peak of his address, at the very moment of his description of America’s liberation from British oppression, Douglass heaps scorn upon this moment that Americans celebrated with unparalleled pride:

What have I, or those I represent, to do with your national independence? Are the great principles of political freedom and of natural justice, embodied in that Declaration of Independence, extended to us? and am I, therefore, called upon to bring our humble offering to the national altar, and to confess the benefits and express devout gratitude for the blessings resulting from your independence to us?

What white Americans understood as a celebration of their national identity, African-Americans experienced as simply another confirmation of their exclusion from the body politic constituted by that identity. Douglass declaimed, “...I am not included within the pale of this glorious anniversary! Your high independence only reveals the immeasurable distance between us.” Continuing his denunciation of the American identity organized
under the Declaration of Independence, Douglass explained that, to the African-American, the Fourth of July was a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim. To him, your celebration is a sham; your boasted liberty, an unholy license; your national greatness, swelling vanity; your sounds of rejoicing are empty and heartless; your denunciations of tyrants, brass fronted impudence; your shouts of liberty and equality, hollow mockery; your prayers and hymns, your sermons and thanksgivings, with all your religious parade, and solemnity, are, to him, mere bombast, fraud, deception, impiety, and hypocrisy — a thin veil to cover up crimes which would disgrace a nation of savages.

This condemnation of America’s “sham” national identity is chilling and rightly attracts the attention of academics and teachers who seek to communicate the bitter experience of those who find themselves on the outside of the identity that organizes the American People. Still, this part of Douglass’s address is less important than his attempt to demonstrate how the organization of an American People under the principles of the Declaration of Independence actually constituted a departure from the spirit of the Declaration of Independence, which demanded not the creation of a simpler identity but the maintenance of a certain relation between the individual and public powers. At this point an extended citation is necessary:

...76 years ago, the people of this country were British subjects. The style and title of your “sovereign people” (in which you now glory) was not then born. You were under the British Crown. Your fathers esteemed the English Government as the home government; and England as the fatherland….

But, your fathers, who had not adopted the fashionable idea of this day, of the infallibility of government, and the absolute character of its acts, pre-
sumed to differ from the home government in respect to the wisdom and
the justice of some of those burdens and restraints. They went so far in
their excitement as to pronounce the measures of government unjust, un-
reasonable, and oppressive, and altogether such as ought not to be quietly
submitted to. .

Feeling themselves harshly and unjustly treated by the home government,
your fathers, like men of honesty, and men of spirit, earnestly sought re-
dress. They petitioned and remonstrated; they did so in a decorous, re-
spectful, and loyal manner. Their conduct was wholly unexceptionable.
This, however, did not answer the purpose. They saw themselves treated
with sovereign indifference, coldness and scorn. Yet they persevered. They
were not the men to look back.

As the sheet anchor takes a firmer hold, when the ship is tossed by the
storm, so did the cause of your fathers grow stronger, as it breasted the
chilling blasts of kingly displeasure. The greatest and best of British
statesmen admitted its justice, and the loftiest eloquence of the British
Senate came to its support. But, with that blindness which seems to be the
unvarying characteristic of tyrants, since Pharaoh and his hosts were
drowned in the Red Sea, the British Government persisted in the exactions
complained of.

The madness of this course, we believe, is admitted now, even by Eng-
land; but we fear the lesson is wholly lost on our present rulers.

Oppression makes a wise man mad. Your fathers were wise men, and if
they did not go mad, they became restive under this treatment. They felt
themselves the victims of grievous wrongs, wholly incurable in their colo-
nial capacity. With brave men there is always a remedy for oppression.
Just here, the idea of a total separation of the colonies from the crown was
born!

Fellow Citizens, I am not wanting in respect for the fathers of this repub-
lic. The signers of the Declaration of Independence were brave men. They
were great men too — great enough to give fame to a great age. It does not
often happen to a nation to raise, at one time, such a number of truly great
men. The point from which I am compelled to view them is not, certainly,
the most favorable; and yet I cannot contemplate their great deeds with
less than admiration. They were statesmen, patriots and heroes, and for the
good they did, and the principles they contended for, I will unite with you to honor their memory….

They were peaceful men; but they preferred revolution to peaceful submission to bondage. They were quiet men; but they did not shrink from agitating against oppression. They showed forbearance; but they knew its limits. They believed in order; but not in the order of tyranny. With them, nothing was “settled” that was not right. With them, justice, liberty and humanity were “final;” not slavery and oppression. You may well cherish the memory of such men. They were great in their day and generation. Their solid manhood stands out the more as we contrast it with these degenerate times.  

Three themes are worthy of attention. First, Douglass identifies the concept of sovereignty that authorized British claims to power over the colonies with the colonial experience of oppression. The legitimacy of Parliament’s claims to sovereignty over the colonies was widely accepted by Britons as a self-evident truth; thus any other claims the colonists advanced to defend the rights liberties they accepted as self-evident could be turned away with “sovereign indifference.” Yet this dispute about the rights of Englishmen and the powers of the British Empire was not simply a disagreement about history or constitutional law. Instead Douglass found in the Hebrew experience of oppression under the imperial power of Egypt confirmation of a deeper truth that “the unvarying characteristic of tyrants” is “blindness” to their own acts of injustice. Likewise Douglass looked outside of English history and constitutional law for a ground on which to declare the justice of the American revolutionary generation, honoring them as “statesmen, patriots, and heroes” because of the difficult middle road they walked in maintaining a commitment to

order, a commitment to liberty, and a commitment to justice: “They believed in order; but not in the order of tyranny. With them, nothing was ‘settled’ that was not right. With them, justice, liberty and humanity were ‘final;’ not slavery and oppression.”

The second theme worthy of attention in Douglass’s recollection of America’s revolutionary heritage, then, is the nobility of its fathers’ republican spirit, which Douglass calls men of “these degenerate times” to recall and to emulate. This theme of declension from a moment of republican greatness is the third point to be remarked in Douglass’s address. It is crucial to note that just as he contrasted the republican virtues of America’s revolutionary generation with the imperial vices of Britons convinced of their sovereignty over Britain’s colonial “dominions,” he came to identify Americans of his own generation as a people just as corrupt and tyrannical as was the British Empire. Thus three-score-and-sixteen years prior to his address, Douglass observes, Americans had not yet come to understand themselves as a “sovereign people” and they had not yet accepted the sovereign power of the state that represented them. Instead, he reminds white Americans of his generation, “your fathers, … had not adopted the fashionable idea of this day, of the infallibility of government, and the absolute character of its acts…. ”

Understanding the American political tradition not in terms of a sovereign people organized under a corrupt national identity and represented by an irresistible and all-powerful state, but rather in terms of the revolutionary generation’s republican noble aim to balance its commitments to order, liberty, and justice, Douglass was able to ground African-Americans’ claims to the legacy of the American Revolution. Celebrating the Constitution as a repub-
lican document, Douglass exclaims, “In that instrument I hold there is neither warrant, license, nor sanction of the hateful thing [slavery]; but, interpreted as it ought to be interpreted, the Constitution is a GLORIOUS LIBERTY DOCUMENT.”

Douglass’s republican argument justifying the claims of African-Americans (and implicitly the claims of any and all individuals subject to American power) to the heritage of the Revolutionary was far overshadowed by Lincoln’s attempt to reconcile slaves and their descendants to the American nation and state through a reconstruction of American civil religion and national identity. Nevertheless, more than a century after Lincoln’s crusade, African-Americans still struggled to claim an equal place in the American body politic. Some, led by Martin Luther King, Jr., turned to the prophetic voice, reminding Americans once again of his people’s sense of alienation from American identity and American power. One hundred years after Lincoln’s promise of emancipation, King argued, “the Negro still is not free. One hundred years later, the life of the Negro is still sadly crippled by the manacles of segregation and the chains of discrimination. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later, the Negro is still languishing in the corners of American society and finds himself an exile in his own land.” In response to African-Americans’ continuing experience of alienation from power, King called upon the American people to understand their creed not in civil religious terms but in the terms

17 Ibid, 510.

of ethical monotheism. He understood the Declaration’s promise of equality as a “sacred obligation,” as a trust granted by God to a particular state but belonging ultimately to “all of God’s children.”

Because not all Americans accepted this conception of the nation’s creed, King recognized the need to counsel his followers to exhibit patience as they petitioned white Americans to understand their civic obligations in terms of ethical religion rather than those of civil religion. As part of this project, King reminded African-Americans that they, too, were subject to the divine standards of justice claimed but never wholly adhered to by white Americans as far back as their Declaration of Independence.

...there is something that I must say to my people who stand on the warm threshold which leads into the palace of justice. In the process of gaining our rightful place we must not be guilty of wrongful deeds. Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred.

We must forever conduct our struggle on the high plane of dignity and discipline. We must not allow our creative protest to degenerate into physical violence. Again and again we must rise to the majestic heights of meeting physical force with soul force.

Additionally, King cautioned that the transformation of the American creed from a celebration of a civil religion to an obligation imposed by ethical religion had not been and would not be rapid. Instead, it would demand great sacrifices by the majority; and it

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19 King insisted that the sacred democratic trust that was the product of America’s revolutionary experience obligated the American people and their power to extend that trust to all peoples of the world, asserting, “…communism is a judgment against our failure to make democracy real and follow through on the revolutions that we initiated.” Quoted from “Beyond Vietnam,” in Ibid.,160.

20 King, “I Have a Dream,” in Ibid, 83.
would continue to require great faith from the minority that a providential God recognized their suffering and would permit them to endure that suffering until such a time as He saw fit to redeem it. Thus King beseeched his followers, “Continue to work with the faith that unearned suffering is redemptive,” and he gave them the prophetic promise of a day “when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, ‘Free at last! free at last! thank God Almighty, we are free at last!’”\(^{21}\)

Sadly, few possess the faith to endure the persistent and apparently unending experience of oppression that follows from unequal status in the nation and alienation from the state; just the same, few possess the faith required to question a creed, identity, or culture they perceive as self-evidently just. The prophetic voice, repeatedly invoked, can begin to ring hollow, even to those who have invoked it. Thus in response to the apparent failure of more than a century of prophetic invocations of the Declaration’s creed, King’s contemporary Malcolm X issued, on behalf of African-Americans, a new Declaration of Independence embodying a new political program. Notwithstanding its rejection of America’s creedal principles, this program could easily be translated back into the terms of the American colonists’ debate with British Parliament: “The political philosophy of black nationalism means: we must control the politics and the politicians of our community. They must no longer take orders from outside forces. We will organize, and sweep

\(^{21}\) Ibid, 87.
out of office all Negro politicians who are puppets for the outside forces.” 22 Thus where Lincoln and King held out hope that African-Americans could, one day, be reconciled into a full membership with white Americans under the transcendent authority of the Declaration’s creed, X conceded that no such reconciliation was forthcoming. Responding to questions about his advocacy of black “separatism” within the territorial authority of the American state, X clarified that he did not advocate the mere establishment of African-American communities within the United States, he advocated that Africans make a final break with the American people and renounce, once and for all, the power of the American state. Again, in terms analogous to the experience of the colonists’ oppression at the hands of the British Empire, X explained, “A better word to use than separation is independence. This word separation is misused. The 13 colonies separated from England but they called it the Declaration of Independence; they don't call it the Declaration of Separation, They call it the Declaration of Independence. When you're independent of someone you can separate from them. If you can't separate from them it means you're not independent of them.” 23 For X, as for many others, the prophetic promise of the American creed had finally to be judged a false promise; to the extent the creed had meaning in the American experience, it was only as a particular people’s celebration of the American nation, state, and political culture they perceived as self-evidently good because of its goodness to them.


Following Malcolm X, theorists of a post-modern identity politics began to reject the American liberal ideal of a common creedal identity that could reconcile all Americans to one another and to the American state. Though X, in principle, repudiated the power of the American state, such a move - secession - was, in practice, impossible. For this reason, members of post-modern identity groups began to conceive of themselves as, effectively, separatists. Members of these groups did not claim to relate to other Americans and to the American state as citizens whose citizenship was grounded upon their allegiance to America’s creedal principles; instead they defined their public identity as members of groups that had been excluded from the American body politic and oppressed by the public power they control. They would no longer permit this public power to relate to them as weak and isolated individuals, rather they would demand that power relate to them as members of stronger groups united by their shared identities. In the eyes of multiculturalists, the constitutional institutions of an American liberal state that have repeatedly failed to acknowledge their grievances are patently illegitimate and inherently unjust. Members of these various oppressed groups who have existed at the margins of American society believe they can never be reconciled with any widely shared American civic identity; they have retreated into identities grounded in race, gender, and even religion as a way of seeking protection from the power of an American state with which they do not identify.²⁴

3. **Reinvigorating American Identity, Legitimating American Power? Recommitting to the Creed**

The radical critique of America’s creedal identity advanced under the guise of multiculturalism gave to some liberals the impetus for uncharacteristically vigorous efforts to defend America’s liberal civic identity. Indeed, these efforts are so out of keeping with the normative neutrality of late twentieth century liberalism as to have required their authors to devise new labels to distinguish them from the political doctrine they superseded.25 One important item on which these “neo-liberals” differ from one another is in their judgments about the identity groups who present the greatest threat to American civic identity. Some, including Tom West, direct their counter-attacks to scholars and practitioners of race, gender, and class-based criticisms of American principles; others, like Stephen Macedo, contend that conservative Christians, co-opting the multiculturalist language of oppression, threaten to undermine the America’s liberal polity. As a practical matter, however, neo-liberals agree that the appropriate response to the multiculturalist critique of liberalism is to advocate the liberal creed more forcibly, whether by re-tracing its historical origins or by employing the power of the state to impose that creed on recalcitrant groups. West offered a kind of polemical history of American principles, designed to combat, point by point, multiculturalist charges against the American founders and

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their legacy. Michael Zuckert, responding more broadly to the concern that Americans “appear uncertain about what the Declaration means and whether they still believe it,” engaged in an extensive study of Anglo-American intellectual history designed to re-state the origins of America’s creedal principles and to recapture the meaning of that creed.26

Both these variants of the Straussian response to the dissolution of American national identity elide the multicultural critique, however, failing even to acknowledge (let alone to respond to) the claims of those who have come to conceive of the liberal state as an alien power over which they have no control and for which they feel no affection. History is nothing if not the trace of identity projected back into the past, and for this reason historical argument cannot bridge the chasm that has opened between those whose identities are defined by their acceptance of the American creed (however conceived) and those whose identities are defined by their feelings of exclusion from and their subsequent opposition to the American state.

If historical argument is insufficient, our present crisis may call for a more explicitly normative response. Stephen Macedo offers a conception of “transformative” liberalism as precisely such a response to the modern crisis of liberal civic identity. And while he is far more attentive (and sympathetic) than the Straussians to the criticisms of the liberal state offered by certain groups (“blacks, native people, women, gays, the disabled”), he also insists that some groups “have been pushed to the margins of society for good

reason, and the last thing we want is a politics of indiscriminate inclusion."27 For Macedo, the critiques most threatening to the liberal civic identity are not those grounded in the obvious multiculturalist categories of race, class, disability, or gender; instead, the most threatening critiques to liberalism are those advanced by religious groups in the language of multiculturalism.28 Defending his more muscular attempt to press certain groups to the margins of political culture, he argues that “fundamentalists, or even the Amish, [could each] claim to be victims of oppression….”29 It may seem churlish of Macedo to include the Amish in his list of those who press the bounds of the principle of toleration, but he is quite serious in defending the authority of the state to impose a common ideological form of national identity. This begins with a comprehensive program of liberal civic education. After an analysis of the Supreme Court’s decision in *Wisconsin v. Yoder* (1972), in which the Court found that Amish children could not be compelled to attend public schools past the eighth grade, Macedo allows that such a small and self-contained group as the Amish can safely be permitted to abstain from compulsory education - and, by extension, from compulsory civic education. This is not the same for those he labels “fundamentalists”; “They are far more numerous and powerful, and they are actively engaged in political activity and are part of both our social and political orders.”30 For this


28 The leading advocates of a multiculturalist defense of Christianity, in Macedo’s view, are the legal scholars Michael McConnell and Stephen Carter.

29 Ibid., 24-5.

30 Macedo discusses both cases in Chapter 6, “Multiculturalism and the Religious Right,” 153-65; see quotation at 160.
reason, “fundamentalists” - or those who are not “willing to acknowledge for civic pur-
poses the authority of public reasonableness”\textsuperscript{31} - may justifiably be denied toleration for
their views and be compelled to present their children to the public education system
where they will be catechized in the liberal creed.

Macedo justifies this coercive regime of civic education, arguing, “As citizens of
a democratic polity, we are each partly responsible for the way that political power gets
used. And when push comes to shove, political power involves all of the coercion and
force that modern states can muster. The basic practical question that every citizen faces
is what, if anything, ultimately justifies the use of political power?”\textsuperscript{32} In other words,
Macedo accepts the existing configuration of state power as a given, and he seeks -
through the concept of civic identity and through the method of coercive civic education
(or re-education) - to justify and defend the liberal state’s power. Further, he fails (just as
his Straussian counterparts fail) to consider the defensive origins of non-liberal or opposi-
tional identities as locations within which individuals seek refuge from a power that they
have routinely experienced as alien, threatening, or oppressive. Indeed, Macedo’s “trans-
formative” liberalism allows the individual no point outside of liberal power from which
that power can be criticized and thus no mechanism by which that power can be trans-
formed. In this way, Macedo effectively rejects the prophetic conception of the American
creed advanced by Douglass and King, in which the American nation and state are consti-

\textsuperscript{31} Ibid., 175; emphasis in original.

\textsuperscript{32} Ibid., 174.
tuted under transcendent principles to which Americans as a people and as a power owe a religious obligation. Instead, in Macedo’s “transformative” liberalism, it is the individual who is transformed into the image of the liberal state.

In the multicultural rejection of a common American identity and in the neo-liberal defense of such an identity, the state is visible in both a negative and a positive sense as the power against which or under which civic identities are organized. Those who feel oppressed by the American state because of the color of their skin, or because of other traits that distinguish them from the American people as a whole, can no longer claim membership in the American people by invoking the principles of an American creed that bears transcendent, even divine, moral authority; instead, lacking the numbers to defend themselves politically, they can merely take refuge from the power of the American state in the psychological and legal shell constituted by the common identity of the oppressed minority. Those who feel persecuted by the American state because of their dissent from its liberal (and increasingly secular) civil religion can no longer reliably seek refuge in the institutional protections of the First Amendment’s establishment and free exercise clauses; instead, they increasingly seek to defend their religious liberties by way of legal and political warfare. The mobilized groups of elites and activists on both sides of this legal and political war for control of America’s legitimating civil religion take for granted the state this civil religion legitimates; instead, each group accepts the state as presently constituted and seeks to portray itself as the rightful heir to America’s civil re-
ligion and therefore as the rightful bearer of American state power. In this situation, the language of the American creed can only serve further to polarize these disparate groups.
Chapter 2: Rethinking American Identity

1. INTRODUCTION

Having begun with an argument about the hollow hope that traditional treatments of American identity hold for a divided nation, it is now necessary to offer some methodological comments about the alternative approach toward American identity that will be presented herein. This dissertation, *The Declaration of Independence and the Crisis of American Identity*, offers unconventional treatments of both the contemporary crisis of American identity and of the Declaration of Independence that is held to constitute that identity. Conventional treatments of these issues, having unconsciously adopted certain historiographic forms and unknowingly performed certain civil religious functions, now serve more to obscure than to clarify, as authors of these conventional treatments arrive at irreconcilable historical interpretations and normative conclusions. Still, because the advocates of these conventional treatments seek to perform the same function of legitimating the American state and the uses of its power, they can only attribute disagreements with one another to ignorance or ill-will; and because citizens also accept the aims and categories of conventional treatments of American identity and of the Declaration of Independence, America’s fractured intellectual class continues, practically unchallenged, to claim authority over the traditional rites of American citizenship.

Widespread familiarity with the traditional form and categories of this ritualized scholarly project makes it likely that readers of this dissertation will expect to see the rit-
ual repeated here. For this reason, it seems prudent to begin with a few remarks designed to highlight the themes and categories that recur in this project but that diverge from the themes and categories characteristic of more conventional literature on these issues. Each of the central themes of this project touches on the relationship, unremarked in the conventional literature, of identity, authority, and power. These are the fundamental categories of political experience, it is argued; and though each of these categories can be defined and studied distinctly, it is further argued that this triad forms an irreducible whole and that particular forms of identity, authority, and power are compatible with and mutually reinforcing of one another. Finally, it is argued that these theoretical categories can be translated, in terms suitable for the American experience, into two ever-present but irreconcilable triads.

A central thesis of this dissertation is that the first of these triads appears in the mutually reinforcing relationship among national identity, civil religious authority, and the power of the state. This has been, by far, the dominant form within which the triad of identity, authority, and power has appeared, but this triad represents a declension from, rather than a completion of, the critical insights of our framers’ experiment in political science - the federated republic. The institutional form of the federated republic implies a much different relationship among the categories of identity, authority, and power than is evident in the triad of national identity, civil religious authority, and state power. In this latter form of the triad, individuals must accept a singular and inescapable identity as a member of a People organized under the authority of some abstract principle or Truth
which transcends their existence as a People and which serves as the legitimating principle of the unitary power - the State - which represents them as a People. The alternative form of the triad appears in the form of what will be termed “civic” identity, voluntary association, and the republic. This form of the triad - implied, if not wholly defined in the theoretical and practical experiment in federated republicanism spearheaded by James Madison - accepts the multiplicity and diversity of interests and identities under which individuals in the modern world can voluntarily organize themselves and attempts to craft a differentiated political form (the federated republic organized over an extended territory) designed to represent and build the consensus of a citizenry characterized by highly individuated interests and identities.

The other central thesis of this dissertation bears more directly upon the Declaration of Independence - upon its meaning and implications, but more importantly upon its function as a symbol of American identity. It will be argued that Americans’ unquestioned acceptance of the Declaration as a symbol of American national identity has, in practice, made it virtually impossible for American historians - and citizens - to understand the Declaration as anything but a statement of the transcendent authority organizing Americans as a People and establishing the legitimating principles of the State that exists to represent this People. The English colonists’ claims - embedded within the Declaration of Independence and within the debates of the Continental Congress leading up to the declaration - about their alienation from English identity and their oppression at the hands of British power are secondary in standard treatments of the Declaration to attempts to es-
tablish the extra-political authority of the document’s preamble. The obverse of this argument is that the peculiar teleological or providential structure characteristic of America’s self-identification as an exceptional people assumes and demands a mythical symbol that exists outside and above the People and the State that represents them; individuals whose highest allegiance is to a comprehensive national identity think of power in terms wholly unsuitable to the differentiated institutions of federalism and the consensual institutions of republicanism. The American sense of exceptionalism reflected and sustained by our national identity has the self-reinforcing effects of encouraging the continual consolidation of power in service of the principles the People believe make them exceptional; this consolidation has the consequence of exacerbating the profound differences that exist between differing conceptions of the authority held to animate the principles of American exceptionalism. As the power of the State consolidates and expands, the stakes of the fight for interpretive control over the authority of American principles intensifies, but the conceptions of authority - the reason of “Nature” and the revelation of “Nature’s God” drawn upon by interpreters - are, in practice, irreconcilable with one another. Less obviously but more importantly, the consolidation of power inevitably increases the distance between power and the individuals subject to that power; those who for ideological

33 In practice, Catholic and Straussian interpreters of American political thought have sought common ground in the shared concept of nature, but it is worth remembering Leo Strauss’s explicit disclaimer of any overlap between his conception of natural right and the Thomist conception of natural law. “To avoid a common misunderstanding, I should add the remark that the appeal to a higher law, if that law is understood in terms of ‘our’ tradition as distinguished from ‘nature,’ is historicist in character if not in intention. The case is obviously different if appeal is made to the divine law; still, the divine law is not the natural law, let alone natural right.” *Natural Right and History*, “Preface to the 7th Impression,” (Chicago: University of Chicago Press, 1971), vii.
or sociological reasons exist at the margins of power experience that power with an increasing sense of alienation.

In light of these two central theses, “the crisis of American identity” bears a dual meaning. Neither of these meanings, importantly, are to be found where conventional scholarship finds this crisis - at the level of disagreement about the origins, meaning, or implications of the Declaration of Independence or the authorizing principles of American identity it is held to communicate. Instead, the first dimension of the crisis is to be found deeper, in the recognition that this conflict for interpretive control over the authority of those principles held to organize Americans as a People and to legitimate the power of the State held to represent us is continually escalating and self-reinforcing, raising the possibility of an increasing polarization of American identity and of a growing sense of alienation from power among those at its margins. The other dimension of this crisis is to be found in the choice - ever-present in the American experience - between national identity and (what has been termed in this project) civic identity, and between their related conceptions of authority and power. This dimension of the crisis manifests itself in a series of characteristic features of American political thought that result from the awkward co-existence of two forms of relating identity, authority, and power, including (among others): the interpretation of a document that locates the origins of legitimate political authority in individual consent as a document demanding collective assent to principles.

that transcend politics; the unblinking invocation of religious or civil religious symbols and rituals in support of a secular state; and the persistent effort to judge constitutional institutions carefully crafted to elicit consent among a diverse people according to their purported inability to represent the singular will of a postulated People.

The following sections of this prefatory chapter are offered to expand upon the relationship of identity, authority, and power; to suggest the uneasy but generally unremarked coexistence in the American experience of the two triads introduced above; and to sketch some of the interpretive, normative, and methodological issues that will emerge in an attempt to address problems of identity, authority, and power as they have appeared in America’s historical experience. The first section, which serves as a kind of apology for the present project, addresses the limitations of a ritualized scholarship that operates, uncritically, within the categories of national identity, civil religion, and the state. Conventional treatments of the Declaration of Independence and of issues relating to American identity, in advancing claims that Americans should be organized as a nation under a comprehensive and all-encompassing national identity, implicitly assume the modern state as normative or as the fundamental ground of our being as individuals. To the extent this essentially positivist assumption is acknowledged as such, any concerns it raises can be explained away by reference to the transcendent authority of the creed that authorizes the power of the American state and that organizes individuals subject to that power as a People. Organized by the state under the authority of a creed held to transcend the state, American scholars and citizens can easily convince ourselves of the justice of the institu-
tion of the modern State which represents our identity as a creedal people. And although virtually all recognize that the American state falls short of this latter ideal in practice, Americans can easily convince ourselves that if it were able to shed the undemocratic institutions that permit the representation of narrow self-interests or exclusive identities, and to reform these undemocratic individuals who have not accepted the principles of the American creed, then our state could and would exercise its power, in the name of the People, in a fashion both benign and unquestionably just.

Just as Americans take the state for granted, we take for granted that our national identity - creedal in character - makes us exceptional as a People. This sense of exceptionalism has always been central to American identity; and this sense of exceptionalism has continually been reinforced by observations - made by social scientists as far back as Tocqueville - of significant differences between American political culture and the political cultures of the nation-states of Europe. In this way we interpret such social scientific observations not as revealing the profound institutional differences that exist between the consolidated and hierarchical state institutions of Europe and the differentiated and decentralized federal republican form established in the American Constitution; instead, we interpret these observations, unconsciously, from within the categories of national identity, civil religion, and the state. In viewing the greatest of America’s interpreters in this way, we overlook Tocqueville’s more profound understanding of America’s exceptional character. We fail to understand Tocqueville if we fail to recognize that Tocqueville sees America as the republican exception to the process of state formation that had trans-
formed the rest of the Christian world touched, he claimed, by the providential movement toward equality of conditions described in *Democracy in America* and manifest, he explained, in the process of state formation he traced in *The Ancien Regime and the French Revolution*. The second section of this chapter elaborates upon Tocqueville’s account of America as an exception to the process of state formation that characterized a democratizing Europe and introduces the theme of an alternative American political tradition organized not in the form of national identity, civil religion, and the state, but in the rival form of civic identity, voluntary associations, and the republic.

In this way, finally, Tocqueville’s work is of interest for its treatment of the transformations of institutions of public power and of collective identity in an age increasingly characterized by individualization. The implications of such transformations as Tocqueville observed can scarcely be unpacked by the disciplines of intellectual history or political theory which have tended to operate in methodological categories suited for the legitimation of the state and for the defense of the collective identity of the People represented by the state (or of the People organized under its common claims of alienation from or oppression at the hands of the state). Instead, in his treatment of the transformations of institutions and identity in the modern age, Tocqueville points to the necessity of viewing these transformations from the perspective of historical sociology. From this theoretical perspective, reinforced in subsequent chapters both historically and through a treatment of Anglo-American historiography, it becomes possible to see, in an

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abstract sense, the mutually reinforcing relationships among the kind of compact collective identity we understand as national identity, the kind of civil religious authority we understand in terms of our American Creed, and the kind of unitary state power we seek to create in the American state. What is more, it becomes possible to see how, in an age characterized by the multiplicity and diversity of institutions and authorities, the compact identity we know as national identity must become increasingly difficult, perhaps ultimately impossible, to sustain.

2. THE VIEW FROM THE STATE: AN APOLOGY FOR THE PRESENT PROJECT

2.1. A Critique of Conventional Treatments

Conventional treatments of the Declaration employ the tools of intellectual history to locate the Declaration within a particular intellectual context in order to discern the meaning of a document that is understood to contain the creed under which American identity is organized. Conventional treatments of the crisis of a polarizing American identity employ the principles of the Declaration according to the central premises of liberal political theory, in which the state’s power is legitimated by its application of certain rational and universal principles, and citizenship - or full membership in the community constituted under the state - is earned by the individual who assents to these rational and

universal principles. These conventional arguments, advanced by progressive and neo-conservative liberals alike, suffer several weaknesses. First, they generally fail to ask what national identity is. American citizens and scholars have been accustomed to participating in or being shaped by a “national” identity; and we have been accustomed to conceiving of that identity, in terms of a religious (or civil religious) conception of a transcendent (or at least trans-political) authority, as organized under an “American creed”. Because we have the sense that our creedal form of identity makes us the exception among modern nations - which have, by contrast, generally been organized under narrow and regressive ethnic or cultural identities - Americans have not paid much attention to the historical origins or functions of national identities broadly speaking or of our own particular creedal identity. American scholars simply take for granted the premise that such a common national identity has always existed in America, rather than demonstrating the historical growth of such a common American identity. What is more, American scholars take for granted the premise that this common national identity authorizes, legitimates, and is represented by the institutions of the state, rather than exploring complicated normative issues about the institutional forms through which individuals should organize for common purposes.

In this way, historical interpretations of the Declaration and normative accounts of American identity reveal themselves to be the two constituent tasks of the broader liberal project of legitimating the power of the modern state. But taken together as constituting the form through which the power of the American liberal state is legitimated, these two
tasks appear to have a circular relationship, with each argument grounding itself upon the other - and upon nothing else. Those who craft historical interpretations of the Declaration often justify their works by appealing to a “crisis” of American identity. Whether they find the origins of this crisis in a declension from a pristine American identity or in the stubborn unwillingness among some to accept the terms of the American Creed, intellectual historians and political theorists who advance interpretations of the Declaration of Independence do so with the hope that their revelations of the obscured truth of our nation’s historical origins will serve to release America from its crisis of national identity.

At the same time, scholars who offer normative responses to crises of American national identity invariably do so in response to bitter disagreements about the meanings and implications of the Declaration’s “self-evident” principles by grounding their responses upon particular historical interpretations of the Declaration. Thus the challenge of legitimating the state - a challenge that grows increasingly complex as the state absorbs more cultures, assumes more responsibilities, and concentrates more powers - demands that those who compete for control over state institutions extend their contest into the ter-

37 This work, to be clear, appeals to a deeper theoretical concept of collective identity grounded in an account of the history of the national form of political consciousness.

38 Samuel Huntington, for instance, argues against standard claims of the Jeffersonian authorship of America’s Creedal identity that “The ‘American Creed,’ as initially formulated by Thomas Jefferson and elaborated by many others, is widely viewed as the crucial defining element of American identity. The Creed, however, was the product of the distinct Anglo-Protestant culture of the founding settlers of America in the seventeenth and eighteenth centuries. Key elements of that culture include: the English language; Christianity; religious commitment; English concepts of the rule of law, the responsibility of rulers, and the rights of individuals; and dissenting Protestant values of individualism, the work ethic, and the belief that humans have the ability and the duty to try to create a heaven on earth, a ‘city on a hill.’” *Who Are We? The Challenges to America’s National Identity* (New York: Simon and Schuster, 2004), xv-xvi.
rain of historiography, just as it encourages those who understand themselves as keepers of the nation’s historical consciousness to place their craft in the service of state power.

These shortcomings point to a third oversight in standard treatments of the Declaration of Independence and the American identity it is employed to define. Together, these standard treatments demonstrate that scholars have taken the state for granted. Normatively, these treatments take the state as their implicit premise. Accepting the power of the state, those who compete for control of its institutions find it necessary to advance claims about the conditions under which the control and use of that power are legitimate, and to advance claims about the extent of individual citizens’ obligations to obey that power. Such claims are produced and elaborated in the conventional scholarship on the Declaration of Independence and on American identity. But these treatments, because they implicitly take as their premise the task of legitimating the modern state, fail to ask whether there may exist causal relationships between national identity and the process of state formation, and they fail to explore the normative issues involved in the authoritative imposition of a common national identity. Historians and political scientists, operating in their capacity as scholars, should not fail to notice that the modern state is the historical exception rather than the rule; more importantly, they should not fail to note that the decentralized and differentiated form of the federal republic is more historically exceptional still. Far more common throughout human history have been the compact forms of clan, tribe, kingdom, in which undifferentiated political institutions represent a people which recognizes itself as constituting a comprehensively meaningful community
organized under a singular conception of authority to which all are obligated to grant their highest allegiance. Alternatively, there has also existed the political form of empire that compels the obedience of the disparate groups of individuals organized under its political power. In taking the state for granted, then, scholars have failed to ask critical questions about whether the modern identity-state is or should be different from archaic - institutionally and ideationally compact - political forms in which all members of the political community must be organized under a common conception of the meaning of their collective existence, and must grant their highest allegiance to the power which exists to represent the collective meaning of that people’s existence. Still, American historians and political scientists do not always operate as scholars strictly speaking; the former frequently act as priests or scribes of a civil religion under which they believe Americans ought to organize as a community of meaning, and the latter frequently act as counselors to the centralized unit of power that continually seeks to make its rule more complete and efficient.

Finally, conventional treatments of the Declaration of Independence and of American identity are marred by liberalism’s blindness to the irreducible relationship of identity, authority, and power. Some in America’s founding generation - namely Madison - came to understand themselves as articulating a new mode of politics grounded upon consent sustained through affections, as opposed to an older mode of politics dependent upon religious obligation manifest in compulsory allegiance to the singular representative of sovereign power. In this way America’s founding generation insisted upon a new -
consensual and political - form of authority; this form of authority demanded a differentiated institutional form and a civically defined form of common identity. Liberalism, by contrast, implicitly accepts the categories of national identity and state power, and, indeed, the effectively religious form of an authority that must be held to transcend politics, seeking only to define the origins and content of that trans-political authority. Thus liberalism, insofar as it emerged in response to the authority of religious establishments that identified and organized peoples as nations under the centralized power of the modern state, can conceive of religious authority only as an inherited and inherently oppressive structure of political obligation; in this way, liberalism has set for itself the tasks of establishing a state liberated from the normative authority of religion and of supplying a new source of normative authority within the state. Further, insofar as liberalism emerged in response to the differentiation of social institutions characteristic of the modern world, it can conceive of religion only as one of several social institutions that organize individuals in communities that must be subordinated to the more comprehensive power and purposes of the state; in this way, liberalism has set for itself the task of establishing a “pluralist” society in which the state consolidates its power by pitting against one another the institutional authorities of different religious sects and congregations. Finally, insofar as liberalism is held to have emerged in an age characterized by the dominance of a particular conception of Reason, it can conceive of religion only as an impediment to the rationalization of state and society; in this way, liberalism has set for itself the task of substituting a rationalist and scientific public reason for religion’s mythic and traditional beliefs as
the authoritative knowledge under which the people organized by the state should be
gathered. Because it competes with established or civil religions to exercise normative
authority in the modern state, to claim the most comprehensive and sovereign authority in
the modern state, and to control the ideational forms under which individuals are consti-
tuted as a nation under the power of the modern state, liberalism cannot recognize these
tasks as functions of established or civil religion, nor can liberalism recognize itself as
performing these civil religious functions. Though liberalism prides itself on having dis-
covered a new political form distinguished by its secularism, its pluralism, and its ration-
alism, liberal defenses of the modern state nevertheless rest on a civil religious structure
of authority and theory of obligation remarkably similar to those presupposed by the es-
tablished state religions of the unitary church-states of early-modern Europe - best exem-
plified by England’s so-called “confessional” state - uniting a people under a common
purpose revealed to them through a particular form of authoritative knowledge, and con-
secrating the power that represents the people to this common purpose.

2.2. A Defense of the Present Treatment

This unconventional treatment of the Declaration of Independence and of Ameri-
can identity must be excused, then, for eschewing the categories and methods of conven-
tional treatments of these issues. Unlike standard treatments of American national iden-
ty, this work seeks to understand the origins and functions of the ideational form of na-
tional identity and of the peculiar American form of national identity. With respect to the
origins and functions of national identity, this work engages with a number of British his-
torians who have explored the history of English national identity with an eye towards explaining its causal and normative relationship to the process of English state formation. This work, which will be shown to reveal the historical dimension within which English national identity was contained, and the historiographical means by which this national identity was maintained, also raises important questions about the role of historiography in legitimating state power by shaping citizens in the image of a particular national identity. Further, this work, along with the work of American cultural historians (historians of American religion - or of what might also be thought of as American civil religion), serves as a necessary background for a deeper historical and theoretical understanding of America’s national identity and of the challenges that face it today. In particular, the context provided by an account of English national identity in light of the process of English state formation and the related process of British imperial formation serves to demonstrate that Americans of the revolutionary and founding generations sought to establish a republican political form distinct from England’s centralized monarchical form, and that they therefore presumed that Americans would relate to one another and to the power of the American national government through other means than those of the national identity characteristic of Englishmen.

Finally, though the Declaration of Independence is given prominent place in this project, it has scarcely been addressed to this point, and in this project it will not be addressed in the same way as it has been in more conventional treatments. Whereas most treatments of the Declaration employ the tools of intellectual history to establish the idea-
tional and normative context within which the Declaration and its creed must be under-
stood, this project rejects such (conscious or unconscious) attempts by advocates of a par-
ticular conception of American identity to trace this identity back into the past. Instead, as
should be clear, this project insists that the Declaration of Independence must be under-
stood within the context of the intertwined histories of national identity and state forma-
tion. The Declaration is not treated (as it almost invariably is in other scholarship) as the
singular symbol of American identity; rather, it appears as an explicit renunciation of
English national identity, and as an explicit rejection of the English state that simultane-
ously received its authority from and coerced acceptance of that national identity. What is
more, the process by which English colonists in America decided to declare independ-
ence is treated not simply as a process by which English national identity polarized be-
tween the emerging British Empire’s center and the colonial periphery - though this di-
mension of the American Revolution cannot be denied - it is also treated as evidence of
the incompatibility of the comprehensive and irresistible form of national identity with
the voluntary and increasingly differentiated individual identities characteristic of the
modern world. In this way, it can be shown how the Declaration, which was once under-
stood to advance a set of claims about the decentralized and differentiated institutional
forms through which individuals in the modern world should relate to power, has been re-
visioned through the lens of national identity as the authority under which the American
civil religion should be organized and by which the power of the American state should
be legitimated. It is hoped that by removing the lens of national identity, it will become
possible to see the American founding experience as exceptional not because it advanced a creedal form of national identity, but because it promised an alternative to the central-
ized monarchical states of the Old World the powers of which depended on compulsive allegiance to established or civil religions.

3. **AMERICAN IDENTITY AND THE IDEA OF EXCEPTIONALISM: REVISITING TOCQUEVILLE**

In treating the Declaration of Independence and the crisis of American identity from within the context of the process of state formation - that is, in treating these topics from outside of the historical dimension of what is already a contested American identity - this project draws from the concerns and methods characteristic of Tocqueville’s *Democracy in America*. Indeed, part of the purpose of this project is to re-create that Tocquevillian moment in American history, and indeed within the history of state-formation in the Christian world, when America had before it the opportunity to introduce an alternative response to the conditions of modernity than had appeared in the form of the unitary nation-state that had begun to develop throughout post-feudal Europe. Clearly, the differences between America’s political culture and the political cultures of Europe were of central concern to Tocqueville, just as they have always been central to the sense of exceptionalism that characterizes Americans’ understanding of ourselves. Nevertheless, though America is almost invariably thought by its scholars and citizens to be an exceptional nation, and though Tocqueville is generally adduced as the first scholar to recognize America’s exceptionalism, we tend to attribute to Tocqueville arguments about our exceptional character that depend more upon our own pride in that exceptionalism than
on any precise understanding of his account of America’s divergences from the process of state formation as it occurred in Europe. In order to remove the lens of identity, then, it will be useful to be precise about Tocqueville’s claims about America’s exceptional character, before addressing the broader context of the theory of state formation in which his judgment of exceptionalism was offered.

3.1. American Exceptionalism and the Process of State Formation

One way of defining America’s exceptional character is by observing the absence of the social hierarchies of the aristocratic world.\(^{39}\) Though Americans feel pride in this primary fact of our democratic culture, Tocqueville, who had serious reservations about the implications of the loss of aristocratic institutions, did not perceive their absence as an unqualified good. He observed that aristocratic society, whatever its faults, produced “several kinds of happiness one can conceive and appreciate only with difficulty in our day”; among these benefits were the stability and security of a tranquil social order, the cultivation of bonds of affection between those of different social ranks, and perhaps most importantly, defenses against the concentration of power.\(^{40}\) Clearly Tocqueville would concur with this observation, fundamental to liberal America’s self-understanding, that the New World was almost wholly barren of the formal institutions of aristocracy during its formational period. Still, where the American liberal finds in this fundamental

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fact of our political culture a trait worthy of celebration, Tocqueville found in the loss of this political culture something worth mourning.

Viewed analytically rather than normatively, this foundational absence of aristocratic cultural hierarchies in the New World permitted Tocqueville and American liberals following him to distinguish America from Europe on the grounds of the young republic’s pervasive equality of conditions. Crucially, however, Tocqueville insisted that equality of conditions was not a trait limited to America; rather, he saw this would become the constitutive feature of the modern democratic world. Thus, whereas the absence of deeply entrenched cultural hierarchies permits Americans to conceive of ourselves as categorically exceptional from the states of Old Europe, Tocqueville’s judgment of America’s exceptionalism - grounded in the modern movement toward an equalization of conditions - allowed the young American nation to be distinguished from the nations of Old Europe only in degree and not in kind. Having found in America an equality of conditions that was “the generative fact from which each particular fact issued, and...a central point at which all my observations came to an end,” Tocqueville then turned his gaze to the Old World of Europe, “and it seemed to me I distinguished something in it analogous to the spectacle the New World offered me. I saw the equality of conditions that, without having reached its extreme limits as it had in the United States, was approaching them more each day; and the same democracy reigning in American societies appeared to me to be advancing rapidly toward power in Europe.”\footnote{Ibid., 3.} Indeed, this rapid social transformation was
so pervasive and irresistible in the Christian world as to permit Tocqueville to accept it as “providential.” As important as the absence of entrenched social inequalities was for Tocqueville’s evaluation of the peculiar form of American social organization, and as important as this absence continues to be in shaping Americans’ understandings of ourselves, we err in neglecting Tocqueville’s more fundamental claim that America was utterly unexceptional from Europe in being subject to the providential progress of equality of conditions.

3.2. The Ancien Regime and the Process of State Formation

Because it is easy to conflate Tocqueville’s concept of equality of conditions - which depends upon an irresistible historical process - with his observation of the absence of social inequalities entrenched in inherited feudal institutions, it will be useful to draw out the connection implied in Tocqueville’s analysis between the gradual equalization of conditions and the emergence and institutional entrenchment of inequality. A preliminary observation about the nature of feudal inequality is necessary. In Tocqueville’s telling, inequality was, in a way, invisible in feudalism properly so-called. Instead, he portrayed feudal society as presenting itself as an irreducible and unquestionable whole to the minds of those individuals who constituted and were constituted by that society. Depicting this comprehensive social unity (and attending in particular to its salutary features), Tocqueville recalled how

...kings, feeling themselves vested in the eyes of the crowd with an almost divine character, drew from the very respect they generated the will not to abuse their power.
The nobles, placed at an immense distance from the people, nevertheless took the sort of benevolent and tranquil interest in the lot of the people that the shepherd accords to his flock; and without seeing in the poor man their equals, they watched over his destiny as a trust placed by Providence in their hands.

The people, not having conceived the idea of a social state other than their own nor imagining that they could ever be equal to their chiefs, received their benefits and did not discuss their rights. They loved their chiefs when the chiefs were lenient and just, and they submitted to their rigors without trouble and without baseness, as they would to inevitable evils sent by the arm of God. Moreover, usage and mores had established boundaries for tyranny and had founded a sort of right in the very midst of force.

As the noble had no thought that anyone wanted to wrest from him privileges that he believed legitimate, and the serf regarded his inferiority as an effect of the immutable order of nature, one conceives a sort of reciprocal benevolence that could have been established between two classes sharing such different fates. One would see inequality and misery in society at that time, but souls were not degraded.42

Recognition of the invisibility of inequality to those individuals who constituted and were constituted by the social unity of the feudal world raises the question of how men became conscious of this inequality. If the feudal world was characterized by an invisible inequality of conditions, what allowed the modern world to become characterized not only by the consciousness of this inequality but also by the irresistible movement to dissolve this inequality? Tocqueville implicitly answers this question by relating the gradual equalization of conditions to a series of institutional changes that are increasingly

42 Ibid, 8.
understood by historians as constituting the process of state formation. Describing the decidedly non-statelike feudal structure of twelfth century France, Tocqueville explains, “I find it divided among a few families who possess the land and govern the inhabitants; at that time right of command passes from generation to generation by inheritance; men have only one means of acting upon one another - by force; only one origin of power is to be discovered - landed property.” Yet in describing the process by which this social form was slowly challenged, Tocqueville refers to three specific institutional developments characteristic of the formation of modern states. First, the Christian Church began to grow in strength relative to the aristocracy. “The clergy opens its ranks to all, to the poor and to the rich, to the commoner and to the lord; equality begins to penetrate through the church to the heart of government, and he who would have vegetated as a serf in eternal slavery takes his place as a priest in the midst of nobles, and will often take a seat above kings.” Next, the increasing size and complexity of political entities that had grown “civilized and stable” after the period of instability that followed Rome’s collapse necessitated the emergence of a more regular and professional administration. “The need for civil laws makes itself keenly felt. Then jurists are born; they leave the dark precincts of the courts and the dusty recesses of the registries and go to sit at the court of the prince beside feudal barons covered with ermine and mail.” Finally, the competition for power and honor that had existed among the old aristocratic families was intensified by the existence of

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43 In addition to the literature on English state formation that will be addressed in Chapter 3, see Jeremy Smith, *Europe and the Americas: State Formation, Capitalism, and Civilizations in Atlantic Modernity* (Leiden: Brill, 2006).
these new claimants to power and prompted a competition for the allegiance of the people. Tocqueville explains that “it sometimes happened that the nobles, in order to struggle against royal authority or to take power from their rivals, gave political power to the people. Even more often one saw the kings have the lower classes of the state participate in the government in order to bring down the aristocracy.” Finally, Tocqueville notes how those kings who have long been understood as symbols of France’s ancien régime “showed themselves to be the most active and constant levelers…. Louis XI and Louis XIV took care to equalize everything beneath the throne, and finally Louis XV himself descended with his court into the dust.”

In this description of a social form in which the clergy and bureaucratic administrators regulate the details of social life and enjoy the perquisites of public office granted to them by their service to an increasingly powerful monarchy, Tocqueville sketches the institutional form of the ancien régime - conspicuous by its absence in America - within which the inequalities originating in the feudal world were intensified and entrenched in France and elsewhere in Europe. But just as the feudal world was characterized by the invisibility of inequality, the modern or democratic world is characterized by the almost singular influence of inequality on the minds of men. For this reason, American interpreters of Tocqueville have been satisfied to conflate the inequalities characteristic of feudalism and of the early modern state under the term ancien régime that, lacking any precise definition, is employed simply to sustain a distinction between the modern egalitarian

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44 *Democracy in America*, 4-5.
state and any inegalitarian forms that preceded it. Such a facile distinction obscures the relationship Tocqueville suggests between the processes of equalization of conditions and state formation; and in obscuring this relationship, the imprecise use of the term ancien regime likewise obscures the function that concept played in Tocqueville’s analysis as the corrupt institutional form that developed in the modern world, entrenching a kind of inequality under which “souls were degraded”.

Tocqueville develops his argument in greater detail in his treatment of the *Ancien Regime and the French Revolution*. Two substantial differences exist between Tocqueville’s understanding of the ancien regime and the understanding of this concept widespread among American interpreters of Tocqueville. First, Tocqueville denies any simplistic juxtaposition of the egalitarian state against inegalitarian forms that preceded it. Though he accepts that the French in their 1789 revolution attempted to sever their connection to the past in a fashion unprecedented in history, he insists that “they were far less successful in this curious attempt than is generally supposed.” Instead, he professes to be “convinced that though they had no inkling of this, they took over from the [ancien] regime not only most of its customs, conventions, and modes of thought, but even those very ideas which prompted [French] revolutionaries to destroy it; that, in fact,

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45 Hartz admits, “There is no precise term for feudal institutions and feudal ideas as they persisted into the modern period amid the national states and economic movements which progressively undermined them. The phrases ‘quasi-feudal’ and ‘ancien regime’ are nebulous enough…. Under the circumstances it seems best to retain the simple word ‘feudal,’ realizing that its technical meaning is stretched when one applies it in the modern era.” *The Liberal Tradition in America*, 3-4.

though nothing was further from their intentions, they used the debris of the old order for building up the new.”^47 Second, and more importantly, the preceding passage indicates that in referring to the ancien regime, Tocqueville referred explicitly to the hierarchy of monarchical, religious, and administrative institutions that had developed out of the concurrent processes of equalization of conditions and of state formation. Tocqueville’s ancien regime was emphatically not the social unity of the feudal world; rather, it was the institutional framework inherited from that world upon which what he called the “ideal” regime of the early modern French state was built. As such, the differences between the ancien regime of the early modern monarchical state and the ideal regime of the modern “democratic” state did not appear nearly as great to Tocqueville as they appeared to his contemporaries, or to his successors.

In advancing this claim about the deep continuities between the “ideal” regime of the revolutionary French state and the ancien regime it was formed to replace, Tocqueville begins by addressing the most obvious challenge - that the virulently secular French Revolution was intended to destroy the social authority of religion. Clearly French revolutionaries zealously attacked religion, but Tocqueville observes that these revolutionaries generally saved their venom for the established Church rather than for religious belief or for the Christian faith.

It was far less as a religious faith than as a political institution that Christianity provoked these violent attacks. The Church was hated not because its priests claimed to regulate the affairs of the other world but because they were landed proprietors, lords of manors, tithe owners, and played a lead-

^47 The Old Regime and the French Revolution, vii.
ing part in secular affairs; nor because there was no room for the Church in the new world that was in the making, but because it occupied the most powerful, most privileged position in the old order that was now to be swept away.  

Tocqueville’s qualification about the “room for the Church in the new world that was in the making” is important, as it suggests a peculiar feature of the regime that was re-fashioned out of the ancien regime’s debris. On the one hand, he observes that as the political and social privileges enjoyed by the Church were swept away, “the Church has tended to recover its hold upon men’s minds.” Indeed, in the age of the formation of democratic states in Europe, and particularly in light of the terrifying specter of democratic revolution, Tocqueville observes, “there is hardly any Christian church in Europe that has not acquired a new lease on life in the period following the French Revolution.” The resurgence of individual religious belief and of the desire of these individuals to participate in common religious practice could scarcely have been otherwise; it is perhaps inevitable that common peoples loosed from their particular places under the organizing

48 Ibid., 6-7.
49 Ibid., 7.
50 See also Part 3, Chapter 2 of Ancien Regime; “What Frenchman of today would dream of writing books like those of Diderot and Helvetius and, supposing anyone were to do so, who would read them? Even the names of the books written by those two once-famous authors are all but forgotten. Our experience of public live during the last sixty years...has been enough to give us a distaste for this subversive literature. Trained in the hard school of successive revolutions, all the various classes of the French nation have gradually regained that feeling of respect for religious faith which once seemed lost forever. The old nobility, which before 1789 had been the most irreligious class, became after 1793 the most pious; first to be infected with disbelief, it was also the first to be ‘converted.’ Once the bourgeoisie woke to the fact that its seeming triumph was likely to prove fatal to it, it, too, developed leanings toward religion. Thus little by little religion regained its hold on all who had anything to lose in a social upheaval and unbelief died out, or anyhow hid its head the more these men became alive to the perils of revolution.” Ibid, 154-5.
structure of an old regime and amassed in no particular order under some “ideal” regime will turn to established or civil religions as a common authority under which they can organize and interpret their common existence. Tocqueville, asserting the inevitability of such a religious resurgence, observes, “The facts of history go to show that in all periods the religious instinct has had its most abiding home in the hearts of the common people….”

Though the resurgence of individual religious belief and common religious practice may well be inevitable in a time of social revolution, Tocqueville concludes his observation ambiguously, noting, “it was there [in the hearts of the common people] that all the religions which have passed away found there last refuge.” This foreboding comment reminds us of Tocqueville’s suggestion that some revolutionaries may not have permitted room for the religious instinct of the common people in the “ideal” regime under creation. Indeed, France’s new intellectual class altogether denied space for this natural but humble religiosity, but substituted for it a most audacious ideological construction that they held with nothing short of the zeal of religious proselytizers and that they sought to impose with nothing less than the spirit of religious crusaders.

No previous political upheaval, however violent, had aroused such passionate enthusiasm, for the ideal the French Revolution set before it was not merely a change in the French social system but nothing short of a re-

51 Ibid
52 Ibid., 7.
53 Tocqueville describes this new intellectual class as “men of letters, men without wealth, social eminence, responsibilities, or official status, [who] became in practice the leading politicians of the age, ...despite the fact that others held the reins of government....” Ibid, 139-40.
generation of the whole human race. It created an atmosphere of missionary fervor and, indeed, assumed all the aspects of a religious revival…. It would perhaps be truer to say that it developed into a species of religion, if a singularly imperfect one, since it was without a God, without a ritual or promise of a future life. Nevertheless, this strange religion has, like Islam, overrun the whole world with its apostles, militants, and martyrs.54

Indeed, this quasi-religious revolutionary ideology became central to justifications of the new centralized democratic state formed by French revolutionaries out of the debris of the ancien regime. In this way, Tocqueville suggested, the radically anti-Christian ideology of French intellectuals performed effectively the same function within the “ideal” regime that the established Church had performed in the ancien regime, lending a trans-political authority to the purposes, institutions, and acts of state power.

Advocating an egalitarian transformation of French society as part of a project to create an “ideal” regime, France’s intellectual class was concerned not with the libertarian possibilities of democratic life but with the need for a concentrated power capable of demolishing and rebuilding even the most durable social institutions. Such a concentrated power had recently been consolidated at the center of the early modern monarchical state Tocqueville recognized as the ancien regime. Intellectual revolutionaries accepted this monarchy as “a ‘new’ power,” Tocqueville explains, rather than as part of any repressive ancien regime, “since it neither stemmed from the Middle Ages nor bore any mark of them…. ” For this reason they could embrace the centralized power of the monarchy as an almost irresistible agent of social transformation.

54 Ibid, 13.
Like them [the monarchy] favored equality among men and uniformity of law throughout the land. Again like them it had a strong aversion for all the ancient powers deriving from feudalism or associated with aristocracy. Nowhere else in Europe could they see a system of government so solidly established and so efficient, and it seemed to them a singularly happy chance that in France they had such an implement ready to their hand. In fact, had it been customary, as it is today, to see the hand of Providence in everything, they would have called it providential.\(^5^5\)

In addition, it is crucial to note that the emergence in France of such a powerful monarchy not only made possible but in a way made inevitable the very idea of a radical social transformation. Reforming intellectuals “did not regard the monarchy merely as a potential ally in their efforts to reform the social system; the new form of government contemplated by them was to be modeled to some extent on the monarchical government then in force, which bulked large in their vision of the ideal regime.”\(^5^6\) Power not only makes possible grand projects, it suggests them, almost demands them.

The ideal of an egalitarian society organized under the modern state - all-powerful, irresistible, and indivisible - was suggested to the minds of France’s revolutionary intellectuals by the early modern French monarchy, authorized by an anti-Christian ideology, but one nonetheless civil religious in its function, and made possible by the power it concentrated and administered by professional civil servants through an

\(^{55}\) Ibid, 161.

\(^{56}\) Ibid, 162.
extensive network of bureaucratic institutions. But this ideal demanded more than simply institutional changes. French intellectuals insisted that their transformation penetrate to the very political consciousness of the French people. These revolutionaries, Tocqueville explains, held that

the function of the State was not merely one of ruling the nation, but also that of recasting it in a given mold, of shaping the mentality of the population as a whole in accordance with a predetermined model and instilling the ideas and sentiments they thought to be desirable into the minds of all. In short, they set no limit to its rights and powers; its duty was not merely to reform but to transform the French nation - a task of which the central power alone was capable.

Tocqueville cites a passage that expresses a sentiment characteristic of this class of revolutionary ideologues: “The State makes men exactly what it wishes them to be.” These ideologues were scarcely concerned with the oppressiveness of such a regime; “The only safeguard against State oppression they could think of was universal education, and they endorsed [the] opinion that ‘when a nation is fully educated, tyranny is automatically ruled out.’” The state creates free men - or perhaps it forces men to be free - by educat-

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57 French intellectuals took as their model the administrative despotism of China. “Being unable to find anything in contemporary Europe corresponding to this ideal State they dreamed of, our [intellectuals] turned their eyes to the Far East, and it is no exaggeration to say that not one of them fails, in some part of his writings, to voice an immense enthusiasm for China and all things Chinese…. They went into ecstasies over a land whose ruler, absolute but free from prejudices, pays homage to the utilitarian arts by plowing a field once a year; where candidates for government posts have to pass a competitive examination in literature; where philosophy does duty for religion, and the only aristocracy consists of men of letters.” Ibid, 163-4.

58 Ibid, 162.

59 Ibid.

60 Ibid, 160.
ing every citizen to ensure they all share, in a manner of speaking, the same opinions, the same passions, and the same interests.

### 3.3. On the Absence and Presence of an Ancien Regime in America

This, then, is Tocqueville’s portrait of the ideal democratic regime that the French revolutionary class constructed out of the ruins of the ancien regime. The gradual dissolution of social hierarchies launched a competition among aristocratic families for the allegiance of the great mass of the French people; this competition ended in the exaltation of a singular and all-powerful monarch to a position high above this rough body of people and above the aristocratic families who had once claimed substantial social and political privileges. This emergence in the early modern era of an all-powerful monarchy suggested to the minds of a new class of political actors, guided not by experience but by ideology, the possibility of a thorough transformation of a society characterized by feudal inequalities along thoroughly egalitarian lines. The related development in the early modern era of a system of bureaucratic administration provided for this intellectual class the channels through which such a social transformation could be effected. Finally, despite the durability in the democratic class of the traditional forms of religious belief and practice under which they had been organized in the early modern era, the elites’ novel democratic ideology coercively organized the French people under the power of a sovereign state that had been liberated from any culturally, institutionally, or religiously imposed limits on power and that derived its authority, instead, from pure reason.
In this way, Tocqueville defines the ancien regime as the framework through which the processes of equalization of conditions and of the unguided formation of state institutions, led to the corrupt institutional form of the modern democratic state. Though this democratic state had not yet developed in early nineteenth century America, interpreters of Tocqueville must be open to the possibility that his analysis of the providential movement of equality of conditions throughout the Western (or Christian) world foreshadows the development in America of a similar institutional framework - one constituted under an irresistible central power, and administered to the most minute level of detail by an elite cadre of intellectuals and bureaucrats, and authorized by an established or civil religion. We have already indicated Tocqueville’s sense of terror at the despotic character of this ideal regime, which suggests his hope that the American exception to this institutional consequence of democratization and state formation would serve as a model for institutional reform in his native France. But the oppressiveness of the early modern monarchical state and the modern (and ostensibly democratic) state was only half of his concern. Just as the souls of men were degraded by the entrenched inequality between those in the modern state who identified themselves as bearers of power and those who identified themselves as subjects of power, souls were also degraded insofar as men were in practice denied the opportunity to participate in the project of building the social world of which they were part. These concerns were of special importance to Tocqueville in light of efforts to demolish wholly an existing social world.
...leaving the social state of our forebears, throwing their institutions, their ideas, and their mores pell-mell behind us, what have we gained in its place?

The prestige of royal power has vanished without being replaced by the majesty of the laws; in our day the people scorn authority, but they fear it, and fear extracts more from them than was formerly given out of respect and love.

I perceive that we have destroyed the individual entities that were able to struggle separately against tyranny; but I see that it is [the state] alone that inherits all the prerogatives extracted from families, from corporations, or from men: the force of a small number of citizens, sometimes oppressive, but often protective, has therefore been succeeded by the weakness of all.

The division of fortunes has diminished the distance separating the poor from the rich; ...for one as for the other, the idea of rights does not exist, and force appears to both as the sole argument in the present and the only guarantee of the future.

The poor man has kept most of the prejudices of his fathers without their beliefs; their ignorance without their virtues….  

Society is tranquil not because it is conscious of its force and well-being, but on the contrary, because it believes itself weak and infirm; it fears it will die if it makes an effort….  

By contrast to this French experience, America, lacking an ancien regime that served as the framework out of which the democratic state would emerge, had the opportunity to respond to the process of democratization differently than had the nations of Europe. Nineteenth century America was exceptional, Tocqueville suggested, because it was capable of pursuing an alternative path to democratic modernity than the process of state formation followed by the nations of Europe. These nations had been swept up in

61 *Democracy in America*, 9-10.
the movement of democracy in history - and, crucially, in the process of state formation it
fueled; and the pervasiveness and profundity of this transformation made it possible for
those who witnessed it to “give that development the sacred character of the sovereign
master’s will.” In this, “it would only remain for nations to accommodate themselves to
the social state that Providence imposes on them.”62 In the absence of such a providen-
tially authorized *ancien regime*, however, America made possible Tocqueville’s hope

To instruct democracy, if possible to reanimate its beliefs, to purify its mo-
res, to regulate its movements, to substitute little by little the science of
affairs for its inexperience, and knowledge of its true interests for its blind
instincts, to adapt its government to time and place; to modify it according
to circumstances and men….63

Tocqueville saw that America, in the absence of an ancien regime, had developed
formal political institutions that were markedly distinct from the institutions of European
states; indeed, Part One, Book One of *Democracy in America* was entirely devoted to ex-
plaining the peculiar features of American political institutions. Here, Tocqueville - di-
rectly challenging the centralized bureaucratic character of the French state - emphasized
that administrative decentralization and local government in America were crucial sup-
ports to the politically centralized national government established by its Constitution.
Tocqueville marveled that in America “nowhere does there exist a center at which the
spokes of administrative power converge”64; and while he acknowledged the (often dis-

63 Ibid.
64 Ibid, 69.
tressing) lack of enlightened rules and processes of administration in America that reigned in France, Tocqueville insisted that the “political advantages that Americans derive from the system of decentralization would still make me prefer it to the contrary system.” The uneven administration produced out of America’s decentralized system lent American political institutions a strength the states of Europe lacked.

There are nations of Europe where an inhabitant considers himself a kind of colonist, indifferent to the destiny of the place he inhabits. The greatest changes come about in his country without his concurrence; he does not even know precisely what has taken place; he suspects; he has heard the event recounted by chance. Even more, the fortune of his village, the policing of his street, the fate of his church and of his presbytery do not touch him; he thinks that all these things do not concern him in any fashion and that they belong to a powerful foreigner called the government. For himself, he enjoys these goods as a tenant, without a spirit of ownership and without ideas of any improvement whatsoever. This disinterest in himself goes so far that if his own security or that of his children is finally compromised, instead of occupying himself with removing the danger, he crosses his arms to wait for the nation as a whole to come to his aid.

The democratic nations of Europe that had overthrown their ancien regimes but continued to live under what might be seen, effectively, as a feudal relationship to power - as helpless children who depended utterly upon the protection of a parent. Yet this was no nurturing relationship, and in the absence of aristocratic cultural institutions this paternalistic relationship between the state and its subjects did not - and could never - encourage paternal affections between the former and the latter. Instead, Tocqueville explained, the weak subject of the modern European state, “although he has made such a complete sac-

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65 Ibid, 88.
66 Ibid.
rifice [to the state] of his free will, likes obedience no more than any other. He submits, it is true, at the pleasure of a clerk; but it pleases him to defy the law like a defeated enemy, as soon as force is withdrawn. Thus one sees him swinging constantly between servitude and license.” Tocqueville warns, “When nations have arrived at this point, they must modify their laws and their mores or they perish, for the source of public virtues is almost dried up; one still finds subjects in them, but one no longer sees citizens.”

Just as early nineteenth century America’s political institutions differed from the state institutions that had developed in Europe, so (at least in a limited sense) did American citizens demonstrate a different relationship to public power than their European counterparts. Moving in Part Two of Book One to the influence of America’s equality of conditions on its democratic institutions, Tocqueville elaborated on the issue of public spirit that becomes so crucial in sustaining the affections of a people for their political institutions in a democratic age. He identified “a native love of country” that, in an almost instinctual way, “binds the heart of the man to the place where the man was born.” Over the course of generations, “[t]his instinctive love intermingles with the taste for old customs, with respect for ancestors and memory of the past; those who feel it cherish their country as one loves a paternal home. They love the tranquility they enjoy; they hold to the peaceful habits they have contracted there; they are attached to the memories it presents to them, and even find some sweetness in living there obediently.” In addition to these bonds of custom and tradition that sustain a people’s affection for their native

Tocqueville observes that these affections are often intensified by common religious beliefs. Indeed, he explains that a people’s affections for their homeland often appear as “a sort of religion….”

Gradually turning from an abstract to a concrete description of public spirit in the early modern European monarchical states, Tocqueville states, “Peoples have been encountered who have, in some fashion, personified the native country and have caught a glimpse of it in the prince. They have therefore carried over to him a part of the sentiment of which patriotism is composed.” Speaking of his own nation directly, he recalls a time “when the French experienced a sort of joy in feeling themselves delivered without recourse to the arbitrariness of the monarch, and they used to say haughtily: ‘We live under the most powerful king in the world.’”68 This civil religious kind of public spirit, Tocqueville observes, is capable of motivating prodigious public efforts, but is incapable of sustaining them for any length of time. Further, he observes that there comes a time in the life of the nation when the supports for this kind of public spirit begin to crumble. At this point in the nation’s life “men no longer perceive the native country except in a weak and doubtful light; they no longer place it in the soil, which has become a lifeless land in their eyes, nor in the usages of their ancestors, which they have been taught to regard as a yoke; nor in the religion which they doubt; nor in the laws they do not make, nor in the legislator whom they fear and scorn.”69

68 Ibid, 225.
69 Ibid, 226.
Tocqueville recognized this danger in his own native land, but he remarked in America a new wellspring of public spirit. He sketched the outlines of a civic alternative to the religious or civil religious identities of European nations. America, without the customs, traditions, or even natural affections for the homeland that sustain public spirit, secured the people’s affections for one another and for institutions of public power by involving each citizen in the maintenance of public prosperity — through the mechanism of self-interest well-understood. “In the United States, the man of the people understands the influence that general prosperity exerts on his happiness…. Further, he is accustomed to regarding this prosperity as his own work. He therefore sees in the public fortune his own, and he works for the good of the state not only out of duty or out of pride, but I would almost dare say out of cupidity.” America lacked the deeply entrenched cultural and institutional hierarchy that had degenerated, in the French experience, into a prideful conflation of patriotism and civil religion, and into the idolization of an arbitrary and oppressive French monarchy. In this exception to the path of state formation followed in Europe, America permitted Tocqueville to “conceive a society . . . which all, regarding the law as their work, would love and submit to without trouble; in which the authority of government is respected as necessary, not divine, and the love one would bear for a head of state would not be a passion but a reasoned and tranquil sentiment.”

70 Ibid.

71 Ibid, 9.
Finally, American political institutions represented an exception to the institutions of the modern European state in the sense that the latter political institutions rested in the hands of a highly educated and experienced class of statesmen whereas American political institutions rested, increasingly, in the hands of men almost alarmingly bereft of intellectual enlightenment. Tocqueville observed from the perspective of the modern European state, “The vices and weaknesses of the government of democracy are seen without trouble.” The classes of aristocrats who wielded power in modern European states demonstrated themselves “infinitely more skillful in the science of the legislator than democracy can be…. Aristocracy proceeds wisely; it knows the art of making the collective force of all its laws converge at the same time toward the same point.” By contrast, the Americans are often “mistaken” in their choices of elected officials, and the laws of democracy are “almost always defective or unseasonable.” Despite these flaws in American political institutions, however, Tocqueville insists that these apparent weaknesses actually worked to the benefit of democracy in America by ensuring that these elected officials did not possess interests contrary to the people they represented. “Those charged with directing the affairs of the public in the United States are often inferior in capacity

72 Ibid, 221.
73 Ibid, 222.
74 “It is doubtless important to the good of nations that those who govern have virtues or talents; but what is perhaps still more important to them is that those who govern do not have interests contrary to the mass of the governed; for in that case the virtues could become almost useless and the talents fatal. I said that it is important that those who govern not have interests contrary to or different from the mass of the governed; I did not say that it is important that they have interests like those of all the governed, because I do not know that the thing has ever been encountered.” Ibid, 223.
and morality to the men that aristocracy would bring to power; but their interest intermingles and is identified with that of the majority of their fellow citizens. They can therefore commit frequent infidelities and grave errors, but they will never systematically follow a tendency hostile to that majority; and they cannot succeed in impressing an exclusive and dangerous style on the government.” Nor did Tocqueville fear simply that the aristocracy would be corrupted by power; rather the indissoluble difference of class would necessarily result in public policies that - however prudently devised and carefully constructed - over the long term would tend to favor the interests of the aristocratic over the democratic class. Thus, speaking of the English state, he remarked, “I do not know if an aristocracy as liberal as that of England has ever existed, which without interruption has furnished men as worthy and enlightened to the government of the country.” Nevertheless, he found it “easy to recognize that in English legislation the good of the poor has in the end often been sacrificed to that of the rich, and the rights of the greatest number to the privileges of some: thus England in our day unites within itself all the most extreme fortunes, and one meets miseries there that almost equal its power and glory.”

In each of these ways - in its ability to thrive without administrative centralization, without a public spirit that depended upon civil religious affections, and without the existence of an enlightened class of political elites set apart from the greater population - the peculiar government of democracy in America stood, in Tocqueville’s analysis, as a remarkable exception to the process of state formation that characterized Europe. But the

75 Ibid., 223-4.
equalization of conditions that fueled the process of state formation in Europe continues; and persistent pressures of social individuation in America have perpetually forced Americans to revisit decisions about the formation of those political institutions under which we are organized as a people. In place of the exceptional, albeit flawed, republican institutions of America’s Tocquevillian moment, Americans have established a kind of state patterned after the nation-states of Europe.

4. **THE DIFFERENTIATION OF IDENTITY, AUTHORITY AND POWER**

4.1. **Political Science and the Multiple Faces of Power**

This prefatory chapter began by invoking the relationship of identity, authority, and power; and the previous sections of this chapter have suggested an opposition of the triads of national identity, civil religion, and the state, and civic identity, civic associations, and the republic. Further, this chapter has emphasized how conventional treatments of the Declaration of Independence and the crisis of American national identity, situated within the interpretive categories that a national identity demands, take for granted the role of power - of the state - in organizing a multitude of individuals habituated to identify themselves as members of a people constituted under a creed. This type of collective identification so profoundly shapes the American mind as to shroud normative issues relating to the organization of power in the institutional forms of the state - issues that that should be prominent not only in treatments of the crisis of American identity but also in the broader discourse of the American public and in the narrower discourse of political science. While the discipline of political science has served to apologize for and to sup-
port the consolidation of state power, it has also treated the concept of power with profound distrust.\textsuperscript{76} Power, whether it is constituted by the use or threat of force, or by the activity or mere existence of normative cultural institutions, frequently appears in contemporary works of political science as an alien and coercive force that compels a recalcitrant group who identifies itself by its minority status or that violates the sanctity of the individual’s autonomy. To those whose conceptions of power are influenced by considerations of individual autonomy, it is necessary to reconcile each individual to the state that guarantees autonomy. To those whose conceptions of power are influenced by issues of identity central to post-modern scholarship, no reconciliation of the alienated individual to the formal power of the state or to the informal power of a common national identity appears possible.

In either case, the theoretical problem of reconciling the individual to power is apparent. As a practical matter, it is possible to observe that power in its objective forms has grown so concentrated and centralized as to disconnect individuals and communities in this modern world from any sustained sense of identification with the various institutions of power to which they are subject. The fundamental modern experience of power, it seems, is of alienation from power, or of subjection to a power with which I as the in-

Despite the pervasive sense of alienation from power, each individual recognizes that power provides the framework within which he can conduct the various activities that make up a satisfying life. Power promises security - from the specter of unexpected death, and from a range of increasingly minute threats as power expands. To those who give themselves to be shaped by power and the public purposes that authorize it, it offers a sense of meaning; to those who aspire to control or direct power toward the accomplishment of public purposes, it offers an exhilarating and unmatched sense of pride. The experience of power as inherently and inescapably coercive sits uneasily alongside the belief each of us holds that power can and should be employed for benevolent or beneficent purposes; we are kept perpetually oscillating between these two poles of total alienation from and total reconciliation with power. Further, the understanding of power as oppressive cannot account for the native sense of affection, reverence, even awe, that each of us feels - or hopes to feel - for the power that rules over us. Each of us seeks a power that will speak for us, that will represent us - a power with which we can identify.

77 Trust, or rather the lack of it, was for Tocqueville one of the central problems of the democratic age. In a democratic epoch, individuals “are constantly led back toward their own reason as the most visible and closest source of truth. Then not only is trust in such and such a man destroyed, but the taste for believing any man whomsoever on his word. Each therefore withdraws narrowly into himself and claims to judge the world from there.” Yet without common beliefs, “there is no society that can prosper…; for without common ideas there is no common action, and without common action men still exist, but a social body does not.” Democracy in America, tr. Harvey Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), pp. 404, 407. For contemporary literature on trust in American political institutions see Joseph S. Nye, Jr., Philip A. Zelikow, and David C. King, Why People Don’t Trust Government (Cambridge: Harvard University Press, 1997).
4.2. Theoretical Sociology: Subjective and Objective Dimensions of Power

The explanation for this paradoxical situation lies in the divergence of what could be referred to— for lack of better terms—as the objective and subjective dimensions of power, or as power and the experience of power. To illuminate the subjective experience of power and its relation to objective institutions of power it is helpful to turn to Peter Berger’s classic work *The Sacred Canopy*.78 Berger is a sociologist influenced by the insights of phenomenology. Thus instead of dealing with institutions of social authority as separate from the individuals over whom these institutions rule—“Man cannot exist apart from society”—his starting point for analysis is the individual and cultural project of “world-building”. The human need to build a world is grounded in the biological peculiarity of the human species; unlike other species, we are born “unfinished,” lacking the fully developed instinctual structure and other protections that would allow us to survive apart from the educative and protective institutions of culture and society. We are forced, then, as a consequence of our biological nature, to create a world safe for our existence. Part of this process of world-building is the creation and maintenance of social institutions that facilitate our coexistence with other humans. Such institutions run the gamut from simple physical tools that ease the burden of obtaining sustenance; to the language through which we communicate our needs and desires to one another and facilitate cooperation in meeting those needs and desires; to the norms of behavior that allow each individual to understand his or her place within the context of the broader social project; to

the formal structures through which the individual is “socialized” or trained to fit into the world they inhabit and are compelled to perpetuate.

But the process of socialization cannot be thought of as exclusively a process of learning the habits and values shared by the community; it is also the process of identity formation. To press the point further, it is the process by which an individual comes to make sense of his own existence as part of a collective body that transcends that individual existence. Berger explains, “The individual not only learns the objectivated meanings [of these social institutions] but he identifies with and is shaped by them. He draws them into himself and makes them his meanings. He becomes not only one who possesses these meanings, but one who represents and expresses them.”79 This recognition is connected to that social body’s broader effort to understand itself as connected to or representative of a “meaningful order” or a “nomos”. Such an impulse - just like the impulse that motivates world-building itself - appears grounded in human nature or anthropology. Humans possess the inescapable need to seek protection against the chaos that plagues our existence. This need inevitably presses world-creators to project “the meanings of the humanly constructed order...into the universe as such”; this attempt to define the meaning of the social order is identical with the “human enterprise” of religion - though in a post-religious world it lives on under different names.80

79 Ibid, 15.
80 Ibid, 25.
This work - of forging a world of order that can protect individuals from the chaos of a disordered existence, and of forging a collective identity that can protect otherwise isolated individuals from the disenchantment, even terror, of a meaningless existence - is accomplished through the community’s social institutions. Though these institutions are themselves products or effects of the work of world-creation, and though the people who have collectively created that world share a consciousness of their proper relationship to them, these institutions also have an objective existence of their own. This means, for one, that they have come to exist independently from the community out of which they emerged, and that they therefore possess the ability to act back upon individuals within the community. What is more, they grow and develop according to their own internal logics and not necessarily with reference to the purposes of world-creation - both mundane and sacred - for which they were established. These institutions of power, as they exist in their objective sense, can be experienced by the individuals subject to them as powers capable of oppression.

The world that has been created must, for this reason, be maintained. Berger refers to the task of world-maintenance as “legitimation”. Simply speaking, “legitimations are answers to any questions about the ‘why’ of institutional arrangements” - whether simple explanations of institutions or norms or standards by which institutions can be judged. They can be grounded in anything that a social group accepts as authoritative knowledge; this legitimating knowledge can come in the form of habits or traditions, re-

81 Ibid, 30.
igious beliefs, or in the form of abstract theorizing. As society becomes more complex - as numerous bases of power differentiate themselves from one another, and as the religious forms of legitimation that once granted ultimate meaning to a society’s existence fail to comport with social reality or simply fall into neglect - it becomes easy to see how existing social institutions, which have an objective existence apart from the broader social order out of which they emerged, can routinely come to be experienced as alien and oppressive. What is needed at this point are more complex forms of legitimation, not simply (it must be emphasized) to explain away or justify the existence of these social institutions, but also to call them back into some kind of equilibrium with the consciousness of those subject to the power of those institutions - to prevent individuals subject to those institutions from experiencing them as oppressive.

Cultural entrepreneurs throughout the history of America’s political experience have undertaken the challenge of legitimating the power of the American state, attempting to place that state under the civil religious authority of a common creedal faith, under the philosophical authority of some historically unfolding conception of reason, or under the technocratic authority of the techniques of scientific administration. Yet none of these attempts at legitimation can even recognize, let alone overcome, the blunt fact that the artificial institutions of state power will always be distinct from the natural cultural institutions within which power is experienced transparently; individuals will always bear an ambiguous relationship to the objective institutions of state power that may, at any given moment, caress them or crush them. More troublesome, though, is the fact that each of
the dominant modes of legitimating state power identified above demands the concentration and expansion of state power. Each of these modes of legitimation is, in a manner of speaking evangelical with respect to its understanding of the gospel of the state, which promises a liberation from the wages of sin, a liberation from unequal social institutions and repressive cultural institutions, or a liberation to accumulate the goods that grant human happiness; and in expanding the artificial or super-natural power of the state, each of these forms of legitimation intensifies the demands placed on the state to provide for our individual salvation from the limits and imperfections of the natural world, however these are conceived.

What is needed is not another attempt to legitimate the American state. Rather, what is needed is an attempt to identify another form of institutional organization that permits individuals situated in meaningful natural communities to organize a common power that extends the power of those more parochial primary natural communities; that respects the authorities that constitute primary natural communities but that provides deliberative means through which these natural communities can accommodate the need for change; and that permits individuals to experience this common power not transparently - as not the only possible institutional form through which power could be made manifest - but with a reflective respect for an institutional framework that balances the goods provided by a concentrated power with those that cannot be enjoyed anywhere but in primary natural communities. This unconventional work attempts to identify at least certain features of such a form of institutional organization in the peculiarly American form of
federal republicanism sketched most compactly in the American Declaration of Independence.
Chapter 3: History, Historiography, and the English Nation

1. AMERICAN IDENTITY AND THE HISTORIOGRAPHY OF ENGLISH IDENTITY

1.1. The State and American National Identity

The implications of the politics of American identity are troubling. Despite these implications, American scholars have made no serious effort to move outside of this mode of politics; indeed, American scholars seem not to recognize an alternative to this mode of politics. Instead, our intellectuals have responded to the current crisis of American identity by asserting the moral or ethical principles of the American Creed with ever more vigor. This creedal response to the current crisis of American identity conceals crucial and questionable assumptions about the institutions that mediate Americans’ relationships with one another as citizens and with the state. With respect to the assumptions about the state that are embedded in a creedal form of identity, it must be noted that this method of legitimating of state power implicitly accepts the proposition that the unitary state as a political form is itself morally neutral. The logic of the creed forces Americans to view the state as a tool to be employed for the accomplishment of certain purposes that precede and transcend it; the particular features of its design and formation can only be understood, in this logic, as aristocratic or anti-democratic efforts to thwart the will of the
people to organize themselves under the unitary power of the state. This effectively positivist assumption is wholly embraced even by those who, in their celebration of the absolute and universal moral truths of the Declaration, react against positivist social science. Such an assumption about the neutral character of the consolidation of power - a development thought be acceptable so long as power is committed to the right purposes - is certainly out of keeping with the dominant strain of political thought of the American Revolution; several generations of scholarship on the Whig tradition of political thought have demonstrated that Englishmen at the margins of the emerging British Empire in the seventeenth and eighteenth centuries were deeply concerned about the moral dangers associated with concentrations of power. Nor should such an assumption about the a-

82 This is the thrust of the progressive critique of America’s complex constitutional framework. See, for instance, J. Allen Smith, The Spirit of American Government (New York: The Macmillan Company, 1907), and Charles Beard, An Economic Interpretation of the Constitution of the United States (New York: The Macmillan Company, 1929). This critique is also evident in the work of modern democratic theorists, including Robert Dahl, How Democratic Is the American Constitution (New Haven: Yale University Press, 2001), constitutional lawyers, including Sanford Levinson, Our Undemocratic Constitution (Oxford: Oxford University Press, 2006), and political theorists, including Sheldon Wolin, The Presence of the Past: Essays on the State and the Constitution (Baltimore: Johns Hopkins University Press, 1989). Finally, complaints about a government unrepresentative of “the people” - whomever they may be - are persistent in contemporary public discourse.


moral character of state power escape critical evaluation in this age bounded by the reality of the Holocaust and by the possibility of nuclear holocaust, both made possible by applications of concentrated state power, whether in service of a People organized under the authority of a virulent nationalist ideology, or in service of *raisons d’etat*.

In addition to absolving the institutions of the unitary state from moral judgments, it must be noted that creedal principles serve only to relate individuals to one another through their collective devotion to the state. Though the principles of the creed - principles of individual equality and of private rights - are purported to have their origins in nature, and are therefore presented as the legitimate birthright of all individuals, those who claim this birthright must of necessity recognize that its promises do not exist in practice. Instead, individuals who claim this birthright must acknowledge their utter helplessness to acquire “natural” equality and “natural” rights without the intervention and protection of the state. To the extent that individual Americans define ourselves primarily as humans who, as humans, can claim natural equality and natural rights, we are forced to grant our highest allegiance to the state that possesses the power to establish and enforce on behalf of nature or nature’s God these features of what we accept as constitutive of our most comprehensive identity. In addition, we are expected to withdraw our allegiances to authorities under which other dimensions of our identities as individuals are organized. The individualist principles of the creed command individual Americans to place our highest allegiance in the state, they demand the consolidation of state power, they repudiate any authority that may claim to exist outside of the power of the state, and they force
all dimensions of individual identity to be subordinated to the collective individualism of the creed.

Clearly Americans do not understand our creed in this way, as something that individuates us and thus renders us helpless apart from the power of the state. Instead, Americans who celebrate their membership in a people constituted by a common creedal identity believe - regardless of bitter disputes about the implications of that creed - that American principles unify them with one another and grant them a means of controlling the power of the state they believe exists to represent them as members of a unified people. Further, Americans believe - regardless of bitter disputes about the origins and meaning of the creed - that American principles unify them with earlier generations of Americans. For this reason, although the principles of the creed individuate Americans with respect to social and cultural institutions, they organize individual Americans under common (albeit mutually exclusive) beliefs about our membership in a people characterized by a common historical project to bring into concrete reality the abstract principles of natural equality and natural rights.

1.2. Exceptionalism in Anglo-American National Identities

Americans understand our common identity not simply in terms of the specific principles that give it the character of a creed, we also understand our creedal identity as something that makes us exceptional as a people. Americans possess a deep belief in our difference from all peoples who have preceded us and of our mission and historical responsibility to recreate the world in our own image. Yet here it becomes possible to iden-
tify another oversight of creddal definitions of American identity. Such definitions overlook the irony of an American exceptionalism that is not at all exceptional. Instead, this sense of exceptionalism, which has constituted every formulation of national identity America has ever known, was inherited directly from the English experience. The issue of American exceptionalism that is central to questions about American national identity cannot be understood apart from the sense of exceptionalism that was, for over a thousand years, constitutive of English national identity.

This issue of English and British national identity has been central to recent generations of British historiography; an understanding of this historiography is crucial for a deeper understanding of the present crisis of American identity. This literature on English and British identity has developed along two paths. First, there is a literature of historical sociology that seeks to explain the formation of the state - a “historically constructed” “ideological artefact [sic]” which has long been taken for granted; more specifically, this literature seeks to explain the relatively early emergence, vigor, and durability of the English state, which social scientists generally see as the paradigmatic modern state.

The most persuasive explanation of state formation that has emerged from this literature (which will be treated later in this chapter) attributes the success of the English state to the development of a common national identity defined within and sustained by a shared account of a providential English history. A second body of literature, a more traditional


humanist historiography of English nationalism, has emerged out of reflections on the implications and meaning for English identity of recent political transformations that affect the United Kingdom. The British Empire has passed, and the United Kingdom is challenged from within by cultural pluralism and from without by the pressure to cede portions of its sovereign power to the supra-national European Union. Such pressures now make it impossible for Britons to take for granted the state institutions under which they, as Britons, have been organized; conversely, these transformations have made it possible - even imperative - for individuals organized under a British identity to question the origins, meaning, and validity of this national identity in what appears to be a dawning post-statist age.

In the bodies of literature through which British historians have addressed these issues, it is possible to discern the central features of a providentially grounded English identity which had appeared as early as the late middle ages, which formed the matrix within and against which Englishmen in the thirteen colonies would advance their claims of independence, and within or against which the identity of every generation of Americans since has been forged. What is more, in the leading works of the recent historiographical revolution by which Englishmen broke out of the providential mode of historical self-understanding in which the traditional concepts of English identity were grounded, there emerge important questions about the role of historiography in shaping the relationship between individuals and power. As Americans now struggle with many of the same challenges that led to the dissolution of English national identity, it is imperative that
American historians and political theorists learn from and build upon the work of British historians in exploring new ways of explaining to American citizens their relationship to the state and their relationships with those organized under the power of the state.

2. **Historical Sociology of the English State**

The state is the most obvious and defining characteristic of the modern political world. Precisely for this reason it has been easy - for both citizens and academics - to overlook the role of the state as a political form in framing the peculiar problems we face in the modern political world. Yet recent challenges to the sovereignty of states have raised previously unexplored questions about the origins of the modern state and about the means through which it had secured the legitimacy that is now slipping away. In British historiography, with the state and the process of state formation now subject to historical analysis, it becomes possible to raise the related question of the relationship between the formation of the modern state and the development of national identity. A substantial literature of historical sociology has emerged in Britain to address these questions; this literature has been ably surveyed by a leading British historian, Jonathan Clark. Because Clark’s important treatment of English identity and state formation is

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88 This survey is found in Clark (2000).
central to the broader thesis about the relationships among identity, authority, and power being developed in the present project, it will be useful to introduce his thesis through the synoptic and corrective treatment he offers of the literature of historical sociology.

2.1. Institutional and Ideological Explanations of the English State

Clark categorizes explanations of the formation of the English state along three lines: those which assume that the consolidation of state institutions preceded the emergence of a legitimating nationalist ideology; those which presume a nationalist ideology underwrote the consolidation of state institutions; and those, including Clark’s, which see the state as representative of an ideational reality deeper and more meaningful than materialist or positivist explanations accept, and find the origins of the English state in a national identity which exists at a more fundamental level than a nationalist ideology. Institutional explanations of the origins and durability of the English state emphasize the relative strength of the English state as a military power and as a collector of taxes. This insight constitutes a significant challenge to traditional Whig interpretations of English history which had always held that the English state was successful because of its libertarian character and light tax burden. This revelation prompted reexaminations of the English state’s bureaucratic and military apparatus, which those who came to advance the institutional thesis found to be relatively well developed by the early modern era. What is more, the institutional thesis holds it was the consolidation of a powerful state apparatus that consolidated England’s national identity; the institutionalist picture is of an English state that, prior to the ideology of nationalism, commanded allegiance by force. In this vein, a
leading advocate of the institutionalist interpretation concludes, “A viable state is not necessarily coincidental with a nation, the latter being defined by a sense of community in a common culture and patriotic feeling shared by both rulers and ruled.”\textsuperscript{89} Instead, the institutionalist thesis, as Clark describes it, suggests that the creation of a viable state is the necessary prerequisite of the development of a sense of nationhood - of a nationalist ideology capable of uniting the subjects of a modern state under a common national identity.

Though institutionalists insist there is no necessary connection between state and nation, they generally agree that an English nation became conscious of itself and was able to identify itself with (and thus legitimate) the English state through the development of a nationalist ideology. “Nationalism,” in Clark’s summation of that argument, “was evidently a late consequence, not an early cause, of national success.”\textsuperscript{90} By contrast, proponents of the ideological thesis present ideologies of nationalism or patriotism as the primary causal factors in explaining the English state’s development. In Clark’s judgment, however, the timing and character of the ideologies adduced by both institutional and ideological explanations of English state formation fail to support these respective theses. For their part, institutionalists seeking to explain the consolidation of a common identity to authorize and support the institutions of English state power in the early eight-

\textsuperscript{89} Ibid., 258-9; see esp. n. 46, quoting Lawrence Stone, ed. An Imperial State at War: Britain from 1689 to 1815 (London, 1994), 4.

\textsuperscript{90} Clark notes evidence of “riots, impressment, smuggling, coining, and the unpopularity of public criminal punishments [which] left the consistent impression that the state was strongly unpopular, a regime to be understood in functional terms rather than in terms of consensual acceptance, ideological hegemony, or shared national identity.” Ibid., 258.
teenth century point to an ideology that Clark contends is better thought of as patriotism than as nationalism. Clark judges this patriotism - defined as a rhetorical strategy employed by a political elite to mobilize partisan support rather than as a concept that emerged organically and served to unify Englishmen across partisan lines - to have been inadequate to the task of binding a people together as a nation. Proponents of the ideological thesis of English state formation adduce a fully developed nationalism that Clark concedes was capable of unifying a people under a state; but Clark responds that nationalism, having been “generated in the nineteenth century by the modern state, that is, by the populism, homogeneity, and vernacular unity of industrial society,” appeared far too late to explain the emergence of state institutions that had existed from the early eighteenth century, if not earlier.91

With these criticisms of institutional and ideological accounts of English state formation, Clark points to an important methodological challenge that students of the modern nation-state must confront - the challenge of how to conceptualize the relationship between institutions of political power and ideas of collective identity. One critical point to be made is that standard social scientific assumptions make impossible the appropriate conceptualization of this relationship. Taking as their point of departure the positive reality of the existing form of the nation-state, both institutionalist and ideological theses lack the conceptual equipment to understand any alternative forms of institu-

91 “Patriotism,” he argues, “was devised in England in the 1720s to give shape to a claim by the whig opposition to superior public virtue…. [I]n the early eighteenth century, patriotism involved a militant Protestantism, a rejection of public corruption, and an aggressive international stance based on naval power.” Ibid., 251.
tion or identity. The institutionalist thesis privileges materialist explanations of state formation, taking as its fundamental premise the institutional form of the modern nation-state and attempting to explain how the state encouraged the development of a nationalist ideology capable of sustaining it. Likewise, the ideological thesis too readily accepts this model of the nation-state, with its strict separation of tangible institutions of state power from intangible concepts of nationality or nationhood. This confusion introduced into historical and political analysis by the ideal-type of the nation-state is evident in the influential definitions of nationalism advanced by Eric Hobsbawm and by Liah Greenfeld.92

2.2.1. Nationalism and Materialism

Accepting the validity and global applicability of the concept of the nation-state, and accepting as the firm foundation of his analysis the reality of formal institutions of state power, Hobsbawm begins with the problem of defining the term “nation”. He observes that social scientists and members of political collectivities struggled with this definitional project throughout the nineteenth and twentieth centuries. Still, rather than questioning the institution of the state or the construct of the nation-state, Hobsbawm is content to conclude about the nation that “Neither objective nor subjective definitions are... satisfactory, and both are misleading....” For the purpose of analysis he concedes, “any sufficiently large body of people whose members regard themselves as members of a ‘nation’, will be treated as such.” In this way he does not deny to those who believe

themselves to be members of some meaningful community the ability to assert those claims, but his social science cannot permit consideration of the particularities that - because of their very particularity - constitute these communities as unique and distinct from one another. Instead, (quoting his own earlier work) “in approaching ‘the national question’ ‘it is more profitable to begin with the concept of “the nation” than with the reality it represents’. For ‘The “nation” as conceived by nationalism, can be recognized prospectively; the real “nation” can only be recognized a posteriori.’”\textsuperscript{93} From the standpoint of social scientific analysis, then, individuals who identify themselves as members of particular communities of meaning cannot validate that meaning without embodying it in the institutional and conceptual reality of the nation-state, and such communities cannot achieve the institutional and conceptual reality of the nation-state without translating the meaning of their common identity into the form of the ideology of nationalism. The social scientist can concede that the ideology of nationalism is real, but a group of individuals who share this ideology do not constitute a “real” people until they are organized under the institution of the nation-state.

Turning to a definition of “nationalism,” Hobsbawm relies upon another materialist student of nationalism, Ernest Gellner who treated this concept as “primarily a principle which holds that the political and national unit should be congruent.”\textsuperscript{94} But this definition is circular. In speaking of nations and nationalism, Hobsbawm has argued the im-

\textsuperscript{93} Hobsbawm, 8-9.

possibility of defining “nation”, concluded from this the necessity of beginning his analysis with “nationalism”, and defined “nationalism” in such a way as that definition depends upon the term “nation” which he has explained is undefinable. Concretely, Hobsbawm has contended that a nation does not have a “real” existence unless that existence is political (i.e. validated through the political form of the state); thus he has advanced nationalism as the mechanism by which a people’s “unreal” belief in their own nationhood can be made “real”, while defining “nationalism” in such a way that it can only be identified when “both the political and national unit” are “real” enough to “be congruent” with one another. The premise of Hobsbawm’s argument - the center around which his circular logic spins - is neither “the nation” or “nationalism” but the political entity which, in the context of his analysis, permits them both to be “real” - the state. The nation is “a social entity only insofar as it relates to a certain kind of modern territorial state, the ‘nation-state’, and it is pointless to discuss nation and nationality except insofar as both relate to it.” Indeed, this premise makes it possible for Hobsbawm to challenge further the reality of communal identities experienced by those who might refer to themselves as a “nation”: “Nations do not make states and nationalisms but the other way around.”\(^\text{95}\) The political form of the state is real and the ideology of nationalism is real (and their union is recognized as real by social science through the theoretical construct of the nation-state), but a community of common identity and shared meaning cannot be made real unless

\(^{95}\text{Hobsbawm, 9-10.}\)
manifest in these institutional and ideological realities and recognized as real by social science.

2.2.2. Nationalism and Idealism

The sociologist Liah Greenfeld offers an influential alternative account of nationalism that rejects Hobsbawm’s skeptical treatment of ideas about common identity, but that, as will be seen, still accepts the modern nation-state as the teleological goal of history. Addressing her *Nationalism: Five Roads to Modernity*, Clark commends Greenfeld for her “reaction against ‘a materialist conception of social reality’ in historical sociology in favour of the view that ‘Identity is perception’....” Still, an argument for the reality of ideas of identity the construct of nationalism is a hinderance rather than a help, as it performs the same argumentative function it did for materialists - that of forcing particular collective identities which necessarily exhibit particular features and manifest themselves in particular forms into the framework of a single social scientific construct. Clark observes that Greenfeld “continues to use a single term, ‘nationalism’, to cover a variety of phenomena, contending that nationalism has ‘a conceptually evasive, Protean nature’. Historians see a series of different phenomena rather than a mysteriously united and Protean one.”

The consequence of Greenfeld’s analytical choice is evident in an implausible treatment of the origins of nationalism in the English political experience and a forced

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96 Clark (2000), 250, n. 4, citing Greenfeld at pp. 13, 496.

97 Ibid.
account of its success. Her definition of the ideology of nationalism depends entirely upon a set of claims about what she calls the “zigzag pattern of semantic change” in the meaning of the term “nation”. In antiquity, the term “natio” was used to refer, in a derogatory way, to groups of non-Romans abiding among Roman citizens. Greenfeld contends that this term (without its derogatory connotation) was picked up - after as many as ten centuries - to describe new communities, those grounded in common opinion or a common pursuit of knowledge, formed by students in medieval universities. The theological scholars who remained at these universities, she continues, were periodically called to travel to Church Councils where they bore the responsibility for making theological and ecclesiological judgments that would affect a much broader community; the term “natio” thus came to refer to these and other representatives of religious or political authority, or to a body of elites. Then, she concludes, “At a certain point in history - to be precise, in early sixteenth-century England - the word ‘nation’ in its conciliar meaning of ‘an elite’ was applied to the population of the country and made synonymous with the word ‘people.’ This semantic transformation signaled the emergence of the first nation in the world, in the sense in which the word is understood today, and launched the era of nationalism.”

Here a terminological accident, and etymological curiosity, is turned into the explanation for the modern world’s most prominent form of collective identity. Despite the

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98 Greenfeld, 5-6.
99 Ibid., emphasis in original.
unsatisfying character of this forced thesis, her treatment of nationalism is carefully researched and painstakingly argued, and it would be unfair to charge her with carelessness in addressing the methodological issues involved in such a study. Instead, it can be concluded that Greenfeld merely repeated the error endemic to liberalism and to social science, that of taking for granted the institutional framework of the modern state. Hobsbawm committed this error by asserting the political form and social scientific construct of the nation-state as the primary ground of material political reality; Greenfeld commits this error by assuming the state, asserting instead her “fundamental premise...that nationalism lies at the basis of this world.”

Greenfeld is troubled by her perception of the pervasiveness of nationalism, arguing that this ideology is “reinvigorated and wreaking havoc....” In her estimation, it is only by a purification of the ideology of nationalism - which she traces through its corruption in the experiences of seventeenth century France, late nineteenth century Germany, and twentieth century Russia - that the dangers of this ideology can be averted; such a purification has occurred in America which has purged English nationalism of its religious particularities and rendered this nationalism into a cosmopolitan ideology suitable for the liberal state.

For liberalism and for social science, then, it can be said that their uncritical acceptance of the state grants the state an effectively unchallenged normative authority. Yet

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100 Ibid., 3.
101 Ibid., vii.
the history of the modern state, barely two centuries old, is the history of a barbarism the likes of which previous generations of men had never known or even found it possible to conceive. Nevertheless, accepting the ideal-type of the nation-state as an article of faith, liberals explain the barbaric history of the modern state wholly in terms of the exclusivity of the nation or virulence of nationalist ideology rather than in terms of the forms and functions of the state itself. Gellner and Hobsbawm responded to the devil of nationalism by insisting - substantively and methodologically - that it was simply an evil spirit, a ghost, a bad dream which could operate only in the minds of those who believed in it. Their modern science compels them to cast the demon out from the body politic; but it does not permit them to recognize that the patient suffered not from possession but from a physical malformation. Greenfeld, understandably fearful of the resurgence of a religiously grounded nationalism in modern politics, nevertheless fails to recognize that she herself has traced the roots of a purified cosmopolitan nationalism to the compact religious consciousness of the Englishman of the sixteenth century, just as she fails to consider whether her purified cosmopolitan nationalism performs the same function of forcing the modern individual - shaped by existence in a pluralistic world - into a compact identity suitable for the unitary authority of the modern state.

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103 Clark (2000) cites Michael Ignatieff who defined patriotism as a “rational attachment” in contrast to narrow “ethnic” nationalism; the former was a “civic nationalism” which “maintains that the nation should be composed of all those - regardless of race, colour, creed, gender, language or ethnicity - who subscribe to the nation’s political creed,” 251, n. 10. Quoted from Ignatieff’s *Blood and Belonging: Journeys Into the New Nationalism* (New York: Farrar, Straus & Giroux, 1993), 5-9.
2.3. Identity Explanations of the English Nation-State and of the British Empire

2.3.1. English Identity and the Formation of the English State

Finally, following Clark, we turn to identity-based explanations of the formation of the English state and of the British Empire. The primary proponent of the argument that English identity was responsible for the formation and relative success of the English state is the historian of medieval England, Patrick Wormald. Stepping outside the modern category of the nation-state, his argument begins with a comparison of the most successful European monarchies and their progenitors as far back as the ninth and tenth centuries. He found, at that point in history, their institutional similarities were “inescapable.” Having discovered this age of institutional equality among medieval European kingdoms, Wormald could then attempt to identify the causes of subsequent developmental differences. Explaining his hypothesis, Wormald notes,

If the kingdom of the English proved uniquely viable, the clue has got to lie where its history contrasts with that of its neighbours.... ‘Politically organized subjection’ can work in a relatively unregimented society - or perhaps any society - only if it commands the assent of most of those who might otherwise successfully resist it. That it can do only by convincing them that their common interests are not ‘illusory’. In the early medieval West, it was truer than ever that a state was an ‘ideological artefact’ or in the end nothing.104

Dealing generically with the development of the state as an “ideological artefact,” Wormald observes that it was not uncommon in the middle ages for “new ethnicities [to develop] by the manufacture of a common history,” and he identifies several such histories as early as the late sixth century. What is more, he notes, “the most successful hegemonies of early medieval Europe began by playing on the common fear of a common enemy - preferably an infidel who thereby posed an even greater threat to the common interests and values of the potentially disaffected than the new hegemony itself.” Reinforcing the identification of enemies as infidels was the identification of the subjects of a kingdom as a people bearing a divine purpose. Indeed, Wormald has identified documents from as early as the seventh century wherein kings authorized military activities by identifying the people groups over whom they claimed power with “God’s original Chosen Race of Israel, itself a tribal and warrior people, and with a very special relationship to the God of Battles.”

If England shared these features with neighboring monarchies, two factors allowed it to develop more rapidly and more robustly than its neighbors. First was the antique identification of the Angles as a people with the institution of the Anglican Church. Other kingdoms did employ the chosen people of Israel as a model, but the Angles benefited from what could be seen as the providential fact of their chosenness as Christ’s representatives among the pagans on the island of Britain. Thus, though Angles were one of several tribes who inhabited Britain, Wormald explains,

105 Ibid., 11-2.
their was the name that captured the attention of the founder of Anglo-Saxon Christianity. Unlike any other known Latin-speaker in the sixth-century Continent, Gregory the Great invariably described the pagans to whom he despatched his mission as ‘Angles’. As a result, those distinguished by Germanic speech and heathen convictions from Britain’s indigenous inhabitants became children of the mother Church of the ‘English’ founded by Gregory’s disciples at Canterbury. Anyone laying claim to an ethnic origin on the far side of the North Sea by that token acquired a common Christian identity; so all were ‘Angelcynn’, ‘of English race’.

In this way, Wormald concludes, crucially, “…a single English kingdom was anticipated by a single English Church”. For a millennium English identity would continue to be inextricably bound up with membership in the Anglican Church.106

The Angles’ sense of chosenness, intensified by Gregory’s identification of them by name as the inheritors of Christ’s gospel, was also supplemented by a powerfully constructed account of their common providential history as a people. The construction of this narrative - introduced in the Ecclesiastical History of the English People - was the work of the “venerable” monk, Bede. The very title of the work suggests the Angles’ chosenness as a people, and Bede reinforces this sense by deepening the medieval English people’s identification with the chosen people of the Old Testament. Wormald explains,

…the Ecclesiastical History begins with a geographical survey of Britain as effectively another land of Milk and Honey. Its opening chapters are thereafter devoted to an account of how the land’s original inhabitants, the Britons, proved unworthy of the Roman and Christian civilizations that were brought to them. Once the Romans had withdrawn, the unbridled wickedness of the Britons had been…chronicled.... [T]hey were eventually abandoned by God, who transferred their heritage to a new favourite.

106 Ibid., 13.
Rome came again to Kent, in the person of Augustine, not Julius Caesar. The English fell heirs to what the Britons had lacked the grace to deserve.

The grace extended to the chosen English people, according to Bede’s narrative, was not without its corresponding responsibilities, however; thus in addition to its role in establishing a self-consciously English people and legitimating the compact monarchical state that represented them, Bede’s history provided that people with an intensity of commitment to their divinely appointed mission not found in neighboring kingdoms. “The concluding notes of Bede’s history are seemingly triumphalistic. But they convey a severe warning...: were the English to follow the Britons down the same sinful path, they would surely meet the same fate. The ‘gens Anglorum’ too was a people of the Covenant. Its destiny was indissolubly bound up with its duty to its Maker.”

As the English kingdom consolidated over the next century until the reign of King Alfred - generally understood as the starting point for the English monarchical state that would endure until the modern era - Bede and his successors continued to extend the providential history of the English people back into the history of God’s chosen people as recorded in scripture, and to interpret their own contemporary history within the framework of that new providential narrative. For example, Alfred issued a law book which began with a translation of an extensive passage of the Mosaic law and continued with an account of how the Mosaic law “had been modified by the Christian Church and trans-

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107 Ibid., 14.

mitted ‘throughout the whole world, also to the Angelcyn’. On the one hand,” Wormald concludes, “this showed Anglo-Saxons how like their own law was to that given by God himself. On the other, it invited them to remodel themselves in Israel’s image. This was to be a kingdom not just of bodies but of souls.”

Thus as early as the eighth century Englishmen were possessed of a durable and compelling historical framework within which to situate their collective identity, and one robust enough to accommodate virtually all historical challenges to that identity. Importantly, this sense of identity and of the divinely appointed mission it authorized tended to be self-reinforcing. From a relatively early stage in English history, roughly the mid-twelfth century, Englishmen understood their mission in what contemporary historians have recognized as “imperialistic” terms. The inevitable military conflicts this expansionist mission authorized were understood within the English scheme of providential history as conflicts between God’s chosen people and some demonized “other”; the results of these conflicts could then be reinterpreted within that same historical framework in such a way that successes demonstrated the English people’s righteousness in pursuit of their divine calling while setbacks were understood as evidence of divine punishment for a failure of commitment to their calling. Finally, Wormald insists this provi-

109 Wormald, 15.


111 Clark (2000), 268-9. This is also a central them in Linda Colley’s Britons: Forging the Nation, 1707-1837 (New Haven: Yale University Press, 1992); this text will be addressed in the next section.
idential account of English history was not simply a bit of propaganda imposed by a po-
litical elite (not, in other words, the kind of patriotic ideology discounted by Clark). In-
stead, it survived the almost total destruction of the English ruling class by the Norman
Conquest, and endured until the sixteenth century when the battle for control over the
meaning of this history became a central front in the English religious wars. “Unless a
sense of English identity had penetrated towards the roots of society,” Wormald con-
cludes, “it is very difficult to understand how it survived at all.”112 In this way, through
the construction of this robust providential account of the ecclesiastical history of the
English people, Bede and his successors “made idea into fact, not *vice versa.*”113

2.3.2. British Empire and Identity

Concurring with Wormald, Clark insists that the emergence of an English national
identity - a widespread sense among the body of English believers of their divine chosen-
ess, authorized and continually reinforced by a providential understanding of English
history - was the chief cause of the formation, durability, and legitimacy of the English
state.114 Responding to treatments of identity in the British imperial context, however,
Clark argues that such treatments overlook the medieval origins of English identity; but
an account of these studies of identity in the British Empire will serve to highlight some
of the limits of Clark’s thesis.

112 Wormald, 18.
113 Ibid., 15.
114 Clark (2000), esp. 265-76.
The most influential treatment of British identity is Linda Colley’s *Britons: Forging the Nation, 1707-1837*. Colley contends that the consolidation and expansion of the British Empire were supported by a widespread British identity that strongly resembles the English identity described by Wormald and Clark: British identity was grounded in the model of the chosen and covenanted nation of Israel, and in a providential historical narrative that juxtaposed the libertarian and parliamentarian character of the recently united (and Protestant) kingdom against the regressive and authoritarian character of the Catholic kingdom of France.\textsuperscript{115} By contrast to Wormald and Clark, however, Colley presents identity as a relatively recent and blatantly coercive concept - as a mechanism by which elites were able to marshal consent for their rule and support for their desired applications of state power by appealing to the duty of Protestant Britons to unite in opposition to Catholic France. Clark vigorously objects to this usage. Colley, he argues, wrote repeatedly of ‘the invention of Britishness’, of Great Britain as ‘an invented nation’, ‘this essentially invented nation’, ‘an invention forged above all by war’. Such an approach [carried] the implication that nationalism is false consciousness, the irrational result of what *Britons* termed ‘a vast superstructure of prejudice’. Such a formulation does not reveal what true consciousness might be…. The trope of false consciousness is particularly unhelpful when it implies a high degree of credulousness on the part of the people and of deceit on the part of undefined elites, as when scenarios of national development embodied in ecclesiastical history are dismissed as ‘pious lies...what [people] were told in church’.\textsuperscript{116}

\textsuperscript{115} Colley, 11-54.

\textsuperscript{116} Clark (2000), 262.
Clark should be commended for taking the religious beliefs and self-identifications of his subjects seriously; for purposes of exploring the history of English and British identity such a commitment is imperative. Nevertheless, by the point in history at which the British Empire appeared, there undoubtedly existed a differentiated political elite possessed of interests distinct from those subject to the institutions they commanded and therefore with an incentive to manipulate existing self- and collective identifications for purposes of securing and extending the bases its own power. In insisting that ideas of collective identity create social reality, then, Clark corrects materialists who ascribe reality only to objective institutions of political or social power; but as we have suggested, he overcorrects, depicting a social reality that can never be thought of apart from the collective consciousness shaped by a common identity. The compact and powerful identity of Englishmen, and its compact and powerful institutional manifestation, were remarkably durable, persisting in spite of the differentiation of social and political institutions within the state, some of which had independent causes, others of which had their cause in the conflict for control of English identity. Yet because Clark does not distinguish between the ideational and institutional realities of the English state his analysis is prone to overstate consensus and to understate the degree to which bearers of power in the objective institutions of the English state sought to manipulate the subjective reality of a broadly shared English identity to achieve their own narrow goals.\footnote{For another critical view of Clark’s thesis, see Joanna Innes, “Jonathan Clark, Social History, and England’s ‘Ancien Regime’,” \textit{Past and Present}, No. 115 (May, 1987), 165-200.} Despite the shortcomings of Clark’s analysis, however, his revisionist account of English identity as
the engine of English state formation stands as the most powerful corrective to traditional social-scientific and historical methodologies which take for granted the institution of the modern state and its necessary legitimation by a nationalist ideology.

3. HUMANIST HISTORIOGRAPHY OF THE ENGLISH NATION: BEYOND A HISTORIOGRAPHY OF IDENTITY

Alongside the social scientific approach to the study of English history exemplified above, there exists as well an extensive body of historical literature on English and British identity characterized by a more traditionally humanistic approach to the writing of history. One prominent feature of this body of literature is the support it provides to the thesis that there existed a durable English identity. The features of this identity - the English sense of divine chosenness, the providential historical framework within which that sense was made meaningful and renewed, and the English people’s impulse to have their compact religious and political identity represented by the undifferentiated institution of what historians have since labeled the “confessional state” - are amply documented at virtually every point in English (and British) history from the sixteenth century forward.\footnote{In addition to the texts specifically addressed in this chapter, see Tony Claydon and Ian McBride, eds., \textit{Protestantism and National Identity: Britain and Ireland, c. 1650-1850} (Cambridge: Cambridge University Press, 1988) and Stewart Mews, ed. \textit{Religion and National Identity: Papers Read at the Nineteenth Summer Meeting and the Twentieth Winter Meeting of the Ecclesiastical History Society} (Oxford: B. Blackwell, 1982).} For present purposes, we will focus on another dimension of this humanistic historical literature - its importance as a response to the decay of the traditional providential framework within which English identity has always been carried. It is a critical thesis of this dissertation that Anglo-American identity is framed and reinforced by a pecu-
liar providential style of thinking and mode of historiography; consequently there can be
no alternative to this form of identity without a new mode of historical thinking. For this
reason, we will direct attention to two of the leading critics of traditional English histori-
ography and of the peculiar historiographical form of English identity, Herbert Butterfield
and John Pocock.

3.1. John Pocock

From his first published book - *The Ancient Constitution and the Feudal Law*\(^\text{119}\) -
John Pocock has been engaged in an effort to explore, define, and correct an English
identity which has, since “time immemorial,” been characterized by the insularity of a
self-reinforcing historical consciousness. In *The Ancient Constitution*, this project took
the form of a critical review of the ahistoricist consciousness of the common law mind. In
later work - particularly *The Machiavellian Moment*\(^\text{120}\) - Pocock deepened his critique of
Anglo-American consciousness, identifying its origins and structure in the peculiar
providential terms described above, and offering - through an examination of the republi-
canism of the Florentine Renaissance - a historical, historiographical, and institutional
alternative to this peculiar Anglo-American consciousness and to its associated liberal
and statist politics. Pocock’s is an unequivocally classical and humanist republicanism;
methodologically and normatively he challenges both the state and a corrupt Christian


\(^{120}\) J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Re-
doctrine of providence, that as we have argued, constituted English national identity. De- 
spite Pocock’s formidable erudition as both historian and political theorist, and notwith- 
standing the brilliant insights his erudition and approach sustain, however, the normative 
claims he places at the heart of his analysis press that analysis beyond the historical con-
cclusions it is able to bear. Specifically, Pocock’s distaste for the peculiar providential 
form of British identity - and for the liberal civil religious identity that animates its 
American offspring - led him to invent the complicated interpretive device of the Ma-
chiavellian Moment that attempted to ground a historical revision of English intellectual 
history and a commitment to a republican institutional alternative in a methodological 
and normative commitment to the radical contingency of human existence that would ul-
timately undermine a republican polity.

3.1.1. Contingency and Historiography: The View from the Empire’s Margin

Few scholars have been as influential as Pocock in revising our understanding of 
early modern Anglo-American political thought; and (including Jonathan Clark, whose 
work we will continue to explore in the next chapter), no scholar has been so influential 
in challenging the standard historical methodologies through which modern Anglo-
Americans have projected our identities as moderns back into the past. Because Pocock’s 
provocative ideological claims and innovative methodology are tightly bound up with 
one another, and with his advocacy of a civic humanist republicanism, however, it has 
been easy for scholars bound up in standard progressive historical methodologies to focus 
their responses to Pocock on his reconstruction of Anglo-American political discourse
while overlooking the methodological and normative presuppositions that framed his claims about ideology. This becomes evident in a response Pocock penned to certain misguided critics of *Machiavellian Moment*. Pocock appears bemused by critics - he singles out the Italian historian Renzo Pecchioli and the American historian John Patrick Diggins - who offer mutually exclusive criticisms of his work; Pecchioli, a Marxist, finds Pocock engaged in a defense of the imperial “ideologia Americana,” while the liberal Diggins denounces Pocock for having imposed upon early American political thought republican ideas irrelevant to America’s Lockeian ideology. By way of explaining the reasons for his critics’ misunderstandings of his work, Pocock made explicit certain premises and motivations, grounded in his idiosyncratic relationship to Anglo-American identity and its peculiar historiography, that had been, at best, only intimated in *Machiavellian Moment* but that are critical to understanding the project Pocock set for himself in that work.

Most critically, Pocock locates the origin of his concern with the *ideologia Americana* and its predecessor, the Whig historiography of English identity, in what appears as resentment of the Anglo-American empire by an individual whose consciousness was shaped by existence at the margins of that empire. Toward the start of his response, Pocock makes clear to his critics, curtly, that “I am neither an American nor a European, but a product of the British antipodes.” Explaining the relevance of this admission, Pocock continues, “It is not reasonable to expect [my critics] to know very much about the cul-

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tures designated by that term, or their modes of historical awareness; but...it should help [their] case to know how I…entered that ambit, and what I brought with me - an Antipo-dean kind of historical consciousness.…”

This peculiar kind of historical consciousness, Pocock stated, set him at odds with the historical consciousness constitutive of the imperial power he apparently resented, and made it possible for him to identify himself as engaged in a struggle against the Anglo-American lineage of imperial and ideological hegemony.

If there is a historical confrontation with which I am ideologically involved, it is less that of America with Europe than that of the British Antipodes with a Britain no longer imperial. The concern with ‘British history’ which Pecchioli has noted in my work springs from the conviction that, as Britain loses the capacity to shape history on a global scale, there is a task for the owl of Minerva to perform; cultures shaped by British history need to understand that history and their place in it and can no longer afford to have it written anglocentrically.

Pocock’s resentment of a distant, and increasingly impotent, imperial power could be communicated in at least two different ways. On the one hand, the imperial critic could couch his criticisms in terms of the institutional relationship between the distant power and the marginal individual; on the other hand, the critic could focus his attention on the ideational relationship between the hegemonic culture of the center and the subordinate culture at the periphery. The former approach is suggestive of Christian and Stoic responses to Rome’s imperial power - responses which employed various tactics for di-

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123 Ibid., 334.
minishing the individual’s experience of oppression by a distant power (if not diminishing that power in any objective or empirical sense). This approach is also suggestive, one might add, of the Whig science of politics - an institutional and historical science of politics as opposed to a simple ideology - developed by Dissenting Protestants for whom the defense of the inviolable individual conscience became an increasingly important concern. Pocock has, by contrast, chosen the latter approach, asserting his antipodean consciousness of contingency as a superior alternative to the providential (or progressive) historical consciousness characteristic of the hegemonic Anglo-American identity and culture.

As Pocock differentiates between Anglo-American and antipodean cultures, he develops a critical portrait of Anglo-American identity that very closely parallels the portrait of a providential collective self-understanding, traced back to a singular authoritative and constitutive moment and framed in a self-reinforcing mode of civil religious historiography that was developed in the first part of this chapter.

A conventional model of American historiography would present it as obedient to two imperatives. The first is the necessity of a foundational myth...; I have indicated that I come from a chain of cultures which for historical reasons do not find such myths necessary. In the United States, whose history is so largely a history of the mutations of Protestantism into civil religion, the myth of foundation further takes the form of a myth of covenant. The nation is held to have made at its beginnings a commitment, in the face of God or history or the opinion of mankind, to the maintenance of certain principles; and it is the historian’s business to ascertain how the commitment was made, what the principles were, and whether the covenant has been upheld or allowed to lapse. There is a solemnity inherent in what such a historian is doing, as an exegete of the American civil religion. Having ascertained the terms of the covenant, he or she must pro-
ceed to recount the history of which the covenant was the beginning and is thereby obliges to write in a choice, or a mixture, of two styles. One is liturgical, the recital of how the covenant was kept; the other, and by far the commoner, is jeremiad, the recital of how it was not kept and of what sufferings have fallen on the nation by reason of its sins and shortcomings.\(^{124}\)

By contrast to a mode of collective historical self-understanding organized under the authority of such a singular founding moment, Pocock contends that the antipodean “experience and awareness of history is governed by one material fact more than any other: ‘the tyranny of distance’…. Distance and dependency combine to mean that attachment to history is known to be real and unbreakable but at the same time contingent.” Antipodeans are connected to their history not by the unquestioned acceptance of some founding myth but “by the memory of a voyage.” Thus Pocock observes,

> New societies often base themselves on myths of foundation and regeneration; but where an American poet can write:

> And Thames and all the rivers of the kings
> Ran into Mississippi and were drowned

a New Zealand poet writes

> Still as the collier steered
> No continent appeared.
> It was something different, something
> Nobody counted on.\(^{125}\)

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\(^{124}\) Ibid., 337.

\(^{125}\) Ibid., 333-4.
3.1.2. Hegemonic Identity and Oppositional Ideology: Constructing the Machiavellian Moment

In this moment of surprising (and perhaps unintended) candor, then, the New Zealander Pocock - who had gone to great lengths in *Machiavellian Moment* to present the re-emergence of republican ideology in the early modern world as a response to certain problems in the Christian consciousness of time - indicates the origins of his own “Machiavellian moment” in a response to the experience of distance or alienation from power. What is more, his response to this moment depends even more heavily upon the historiography of radical contingency he develops and employs than it does upon his claims about the content of the ideology developed by early modern thinkers responding to their Machiavellian moments. Just as the New Zealand poet is interested more in contingency than in mythical continuity, Pocock reports that he, as a New Zealand historian, is interested in the vagaries of “migrations and translations, in the movement of cultures through space and the movement of texts through time.” Explaining the relevance of this interest to his research, Pocock continued, “*The Machiavellian Moment* offered an account of how certain texts, rhetorical styles, and the thought-patterns encoded in them took shape in a Florentine context and were subsequently translated into first an English and then an American context.” In what might be seen as an irony of historical contingency, then, the antipodean historian, whose experience at the margins of empire might otherwise have prompted him to focus on the constructive project of exploring ways of mediating the individual’s relationship to the institutions of power that claimed his allegiance, fo-

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126 Pocock (1987), 335.
cused instead on developing an ideological response designed to dismantle a hegemonic imperial identity.

His own ideological response to the hegemonic Anglo-American identity constituted and reinforced by providential or progressive historical consciousness is illuminated by his account of the Country party’s ideological response to the social, political, and ideological hegemony of the Court party.\textsuperscript{127} The features of this Whig ideology, ostensibly neo-classical in character according to Pocock’s reconstruction, are of secondary importance here.\textsuperscript{128} More critical for present purposes is Pocock’s attempt to link the renaissance of republicanism in the Florentine and Anglo-American worlds - indeed, his attempt (at least implicitly) to link all republicanism - to a “Machiavellian moment”. The term designates, first, the moment in time when Machiavelli introduced his humanist republican political thought. Yet Pocock refers not simply to a moment in historical time; he refers more importantly to a moment in conceptual time, when “certain enduring patterns in the temporal consciousness of medieval and early modern Europeans led to the presentation of the republic, and the citizen’s participation in it, as constituting a problem in historical self-understanding....” The events in historical (or political) time that marked this epoch in conceptual time were - and are - those “in which the republic was [or is] seen as confronting its own temporal finitude, as attempting to remain morally and polit-

\textsuperscript{127} For Pocock’s thesis about the Country party’s ideological opposition to the Court, see Pocock’s “Machiavelli, Harrington and English Political Ideologies in the Eighteenth Century,” \textit{The William and Mary Quarterly} Vol. 22, Issue 4 (Oct., 1965), 549-83.

\textsuperscript{128} In addition to the classical interpretation of Whig political thought, see the Lockean account of Whig political thought in Lee Ward, \textit{The Politics of Liberty in England and Revolutionary America} (Cambridge; Cambridge University Press, 2004).
cally stable in a stream of irrational events conceived as essentially destructive of all systems of secular stability.”¹²⁹ Such events posed - and continue to pose - a problem to those who, in a secularizing age, possessed historical consciousnesses still shaped by “medieval Christian” modes of thinking, particularly the characteristic Anglo-American providential mode of historical self-understanding.

As an explanatory device, Pocock’s connection of republicanism to an emerging consciousness of contingency is inadequate. The most damning challenge to Pocock’s thesis is found in the work of Pocock’s colleague, Quentin Skinner. By contrast to Pocock, who identifies the resurgence of a classical consciousness of time and politics in the Florentine Renaissance, Skinner, in his *The Foundations of Modern Political Thought*, locates the emergence of an early-modern civic consciousness in the late 11th century in Italy. Skinner reports that in the middle of the 12th century, a German historian, Otto of Freising, wrote that in northern Italy,

‘practically the entire land is divided among the cities’ and that ‘scarcely any noble or great man can be found in all the surrounding territory who does not acknowledge the authority of his city.’ The other development he observed...was that the cities had evolved a form of political life entirely at odds with the prevailing assumption that hereditary monarchy constituted the only sound form of government. They had become ‘so desirous of liberty’ that they had turned themselves into independent Republics, each governed ‘by the will of consuls rather than rulers’, whom they ‘changed almost every year’ in order to ensure that their ‘lust for power’ was controlled and the freedom of the people maintained.’¹³₀

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¹²⁹ Pocock (2003), vii-viii.

Though these early Italian republics were short-lived, and republican government did not re-emerge in Italy until the Florentine episode at the heart of Pocock’s work, the recognition that republican political institutions emerged, in the Christian age, in a context outside of the “Machiavellian moment” places a heavy strain on Pocock’s thesis. Pocock spends much effort in the afterword to the 2002 edition of *The Machiavellian Moment* defending himself against Skinner, who, Pocock concedes, “brought to light the existence of a rhetoric of civic virtue, republican citizenship, and good government which had been present since the middle of the twelfth century at least.... Here was a concept of citizenship considered in neither *The Crisis of the Early Italian Renaissance* [a work on the Florentines by Hans Baron that had been highly influential in the development of Pocock’s thesis] nor *The Machiavellian Moment.*”

Pocock attempts to limit the damage caused by Skinner’s thesis; whether the republicanism Skinner identified at such an early date “had fully anticipated the ‘civic humanism’ and republican ‘liberty’ which Hans Baron had seen revealed in fifteenth-century Florence does not concern me here; I mean only to argue that it does not anticipate, and does not reveal in the thirteenth century, what I intend, and find in the thought of Machiavelli, in using the term ‘the Machiavellian moment.’”¹³¹ Still, the fact remains that Skinner has conclusively demonstrated that the emergence or recovery of republican political institutions is not necessarily dependent upon Pocock’s hypothesized crisis of historical consciousness. In addition to Skinner’s identification of alternatives to the re-

publicanism Pocock has linked to the secularizing Machiavellian moment, other scholars have identified republicanism’s re-appearance in explicitly Christian settings in the early modern world.132 Either the history of political thought or discourse must admit of a multiplicity of particular republicanism, or a unitary explanation for the appearance of republican or civic forms of consciousness must be found outside Pocock’s Machiavellian moment.133

The limits of the Machiavellian moment as an explanatory device call attention to the normative and methodological limits of the device. As a normative issue, we have noted how Pocock is engaged in an attempt to dismantle a hegemonic Anglo-American identity and the providential historiographical form that authorizes and reinforces that identity. It is insufficient, for this reason, simply to call into question the efficacy of the Machiavellian moment as a historical concept. Instead, it must further be noted how Pocock - in responding to the troublesome form of English national identity, goes beyond the repudiation of the doctrine of providence in the name of the virtuous citizen’s effort to tame contingency, resurrecting the classical critique of Christianity as antithetical to civic virtue; the device of the Machiavellian moment comprises this pair of polarities - of con-


133 This argument is advanced, in a slightly different form, by another of Pocock’s most perceptive critics, J.H. Hexter, in his review of Machiavellian Moment, published in History and Theory Vol. 16, Issue 3 (Oct., 1977), 306-337.
tingency against providentialism and of civic humanism against Christianity. Thus, in posit ing the renaissance of republicanism in some Machiavellian moment in conceptual time - a moment representative of the generically human problem experienced by a consci ousness facing the realization of contingency - Pocock suggests that civic humanist republicanism is the ideological and institutional response to which this secularizing consciousness is drawn. Here it becomes apparent: the device of the Machiavellian moment places its entire weight on the historical thesis of secularization.

Whether or not it is possible to sustain the thesis of the secularization of political thought, two observations about Pocock’s use of this thesis are necessary. First, the thesis of secularization is drawn from the standard progressive historiographies by which modern scholars have projected their own identities onto the past - historiographical models against which Pocock’s novel methodology was a response. In Pocock’s historiography of contingency, the ongoing process of secularization is the one factor he refuses to rec ognize as contingent. Related to this is an observation about Pocock’s treatment of the relationship of secularization to republican political theory. Noting his debt to the republicanism developed by Hannah Arendt, Pocock explains that, following her, he has “told part of the story of the revival in the early modern West of the ancient ideal of homo politicus (the zoon politikon of Aristotle), who affirms his being and his virtue by the medium of political action, whose closest kinsman is homo rhetor and whose antithesis is the

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134 In Chapter 4 (Section 1.2) we will detail Jonathan Clark’s criticism that secularization theses are teleological; this challenges Pocock’s methodological commitment to contingency in historical interpretation.
homo credens of Christian faith.”¹³⁵ Pocock’s challenge to the imperial Anglo-American identity - most particularly to America’s liberal civil religion - leads him to read into Arendt’s republican alternative the supposed antithesis of homo credens and homo rhetor which does not appear. Indeed, in a statement that directly counters Pocock’s account of the relationship between secularization and republicanism in some hypothesized Machiavellian moment, Arendt writes that “secularization as a tangible historical event means no more than separation of Church and State, of religion and politics, and this, from a religious viewpoint, implies a return to the early Christian attitude of ‘Render unto Caesar the things that are Caesar’s and unto God the things that are God’s’ rather than a loss of faith and transcendence….”¹³⁶

3.1.3. The Augustinian Moment: Christianity and Republicanism at the Margins of Empire

Arendt’s recognition of the verticality of a human consciousness shaped by awareness of transcendence makes possible - and necessary - further challenge to the thesis of a relationship between secularization and republicanism in Pocock’s Machiavellian moment. This moment, we must recall, is a moment in historical consciousness. It is a moment, Pocock contends, constituted by a break in the progress of a linear providential history, and it is a moment in which individuals possessed of that historical consciousness - individuals whose identities have been shaped by the authoritative and formative mythi-

¹³⁵ Pocock (2003), 550.

cal moment constitutive of the people to whom they belong - are forced to confront the events which had constituted that mythical history in a more critical way. To the extent that groups have not recoiled from this forced confrontation by lamenting the people’s apostasy from a mythical past, this problem has been addressed, from one perspective, by the critical historiography of Marxism which re-visions history as a contest between a dominating class and a subordinate class who, having come to consciousness of their history of oppression, can equip themselves to assert their will as a class upon history. From another perspective, liberal historiography emerges to apologize and to express shame for the religious mythology of its past, constructing for itself a mythical future, secular and rationalist in character. In either case, consciousness, understood in historical terms, and in terms of groups national or international in scope, is necessarily flat, bearing none of the depth or amplitude implied in the recognition of transcendence. The only structure of such a consciousness is provided by the trajectory of the people’s future history; the only authority applicable to individuals marked by this group consciousness is the authority of history’s telos. In addition to the explanatory difficulties Pocock’s political theory and historical methodology encounters in attempting to link the Machiavellian moment of consciousness with the renaissance of modern republicanism - indeed, even prior to these explanatory difficulties - there exist problems with Pocock’s theoretical and methodo-

137 As we have noted, Pocock, in situating his own response to this problem between Marxist and liberal alternatives, suggests, by contrast, a historiography of contingency and a republican political theory grounded on the model of the individual citizen, the zoon politikon; “I see this historiography,” he explains, “as containing…a concept of liberty as rooted in the autonomy of the person, where it encounters the historical problems that arise as the interactions between persons in society, economy, and culture grow more complex….?” Pocock (2003), Afterword, 561.
logical approach. These problems are all derivative of Pocock’s attempt, in effect, to reverse (or at least to reverse the effects of) the Christian consciousness of time. The first of these difficulties is that this task is not possible to accomplish because, fundamentally, the Christian contribution to consciousness cannot be properly understood within the linear dimension of time. Instead, as Arendt’s comment about secularization hints, the Christian (and Hellenic) contribution to human consciousness was in the discovery of the individual soul which possesses an amplitude that transcends the mere material existence contained within the linear dimension of time.

St. Augustine, wrestling with the meaning of the individual consciousness or soul in his *Confessions*, went so far as to argue that the Hellenic and Christian recognition of the soul made the language of time, at least in one sense, obsolete. By contrast to traditional measures of time - the physical movement of heavenly bodies, or the objective division of the present from the past and the future - Augustine concludes that time exists within and is constituted by human consciousness. “It is in my own mind, then, that I measure time. I must not allow my mind to insist that time is something objective.”\(^{138}\) Augustine concedes that “no body moves except in time,”\(^{139}\) but he confesses to the eternal God who abides outside the movement of time that not simply his physical body but also his soul are torn by the passage of time. “...I am divided between time gone by and time to come, and its course is a mystery to me. My thoughts, the intimate life of my soul,


\(^{139}\) Ibid., Book XI, Ch. 24, 272.
are torn this way and that in the havoc of change.” And while Augustine recognizes that his physical body cannot escape from the ravages of time, he professes to God his hope that his soul can be “purified and melted by the fire of your love and fused into one with you.”  

Failing to address the Augustinian understanding of a soul or consciousness which, granted the ability to participate in eternal being, becomes constitutive of a kind of time that exists separate from the linear dimension of time that regulates the material world, Pocock misrepresents Augustine’s doctrine of providence. Instead, Pocock understands the Augustinian doctrine of providence as identifying meaning in secular history exclusively in light of the salvation of the individual soul which, as Pocock would have it, occurs at the linear end of secular history. Such an understanding cannot coexist with the Augustinian understanding of man’s co-existence in the times constituted by the decay of the body and the immortalization of the soul; Pocock takes Augustine’s understanding of history to imply, simply, an unbridgeable chasm between the sacred history which alone bears the meaning of existence and the secular history within which Christian men were forced to live with the “problem of… an unrevealed eschatology.”  

Pocock’s misunderstanding of Augustine flows, at least in part, from his recognition of the repeated outbursts of apocalyptic and millenarian speculation that have characterized political discourse and action in the Christian age. It is undeniably the case that Christians,  

140 Ibid., Book XI, Ch. 19, 279.  
141 Pocock (2003), 36.
and others shaped by consciousness of an eschatological end to history, have sought to
invest secular history with meaning derived from one or another conception of history’s
eschatological telos, and Pocock has written provocatively about the resurgence of apoca-
lyptic and millenarian thinking in the early modern world, and into the secular manifesta-
tion of such thinking in doctrines of historical progress.

Still, none of this justifies Pocock in assuming that Augustine shared in this con-
ception of history, or that this conception of history reflects sound Christian doctrine. Po-
cock’s misconception of Augustine’s thinking on history is evident in Pocock’s decision
to frame a discussion of Augustine’s view of history within a discussion about the Chris-
tian problem of abiding under an unrevealed eschatology by tracing this problem to the
early church fathers. “The patristic intellect,” as he explains it,

came very often to see the individual life as involved in two separately
visible time sequences…. This raised the problem of the eschatological
present, of the religious life which was to be led in the interval of expect-
ing the fulfillment of the program of redemption; and once it was accepted
that this present might cover many lifetimes and generations, the interval
was necessarily filled by the other time-sequence visible to human percep-
tions. This was what the patristic vocabulary termed the *saeculum* and the
modern intellect prefers to call history; human time organized around hap-
penings in the social world, which the Greco-Roman mind saw over-
whelmingly as political and military, and the mind of late antiquity, not
surprisingly, largely in terms of the rise of fall of empires. The question
must now arise of how, or whether, these two independently perceived se-
quences (or histories “sacred” and “secular”) might be related to each
other.142

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142 Pocock (2002), 32.
The accuracy of Pocock’s portrait of the patristic understanding of time is beside the point; the point is that he does not demonstrate but simply assumes that Augustine shared this understanding. This is because Pocock’s portrait of the “patristic intellect” and, ultimately, his treatment of Augustine, are wholly derivative of those offered by R.A. Markus’s *Saeculum: History and Society in the Theology of St. Augustine*. Indeed, Pocock does not cite St. Augustine’s writings directly in this chapter, nor does any of St. Augustine’s writings appear in Pocock’s bibliography.

For his part, Markus’s interpretation of Augustine’s view of history has been rightly criticized for precisely the feature that Pocock derived from it - it posited too sharp a distinction in Augustine’s work between *civitas terrena*, the earthly city and province of secular history, and *civitas dei*, the city of God whose promised existence was constitutive of sacred history. Rather than enforcing a rigid division between two cities which existed in separate dimensions of time, however, Augustine sought properly to order the relationships of the cities of man and of God which coexisted in the secular time constituted by the constant changing of the material world, and in the sacred time constituted by the transformation of the individual soul through participation in the transcendence of the unchanging divine being. Pocock is correct in recognizing (as cited above) the issue of “how, or whether, these two independently perceived sequences (or histories “sacred” and “secular”) might be related to each other”; but because of his insistence that

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143 See Pocock (2002), 32, n. 2.

these sequences need not be related to one another, and because of his derivative understand-
ing of Augustine’s thought, he fails to understand how the Augustinian doctrine of
providence performed this function.

It was through the doctrine of providence that Augustine attempted to reconcile
the Christian conception of sacred history - which Augustine understood to be constituted
by the individual soul’s participation in divine being - with the pagan conception of his-
tory - which, as Pocock describes, was understood to be constituted by the acts of king-
doms and empires in the world of power. Briefly, Augustine attempted this reconciliation
by translating the history constituted by the individual soul’s participation in divine being
into a political idiom, relating the acts of kingdoms or empires in the world of power to
the development in the city of man of the individual soul made meaningful by its citizen-
ship in the city of God. If Plato’s contribution to the history of human consciousness was,
as Eric Voegelin has stated, to identify the soul as “the sensorium of transcendence,” and
Jesus’s contribution was to promise to “the least of them” at the margins of Rome’s impe-
rial power the dignity of full membership in a coming Kingdom of God, it was
Augustine’s contribution to identify the implications of the soul’s discovery to a meaning-
ful understanding of events in the world of power.145

Here it is necessary to correct Pocock’s too-narrow (and, indeed, misplaced) focus
on the exclusively linear language of time and to add to the discussion of Augustine’s
doctrine of providence the institutional and theoretical context from which Augustine di-

verged in articulating the theology of history embedded in his narrative of *The City of God*. In this light, it is instructive to note that Augustine offered his reflections on providence as a response to a kind of Machiavellian moment - a point at which Romans (Christian and pagan) were forced to confront the “temporal finitude” of the city they had thought to be eternal. Following the rise of Rome’s first Christian emperor, Constantine, Christians in Rome - Augustine included - began to attach prophetic significance to the empire’s Christianization. Thus Augustine, in 404, could write with almost frenetic anticipation of the coming of salvation to the world through the Christianized imperial city:

Lately, kings are coming to Rome. A great thing, brother, in what manner it was fulfilled. When it was spoken, when it was written, nothing of these things was. It is extraordinary! Pay attention and see; rejoice! May they be curious who do not want to give attention to it; for these things we want them to be curious…. Let them discover that so many things which they see of late were predicted beforehand…. Every age [of individual] has been called to salvation. Every age has already come - every dignity, every level of wealth and human capacity. Soon let them all be inside. Presently a few remain outside and still argue; let them wake up at some time or another to the rumbling of the world: the whole world clamors!146

Such confidence in the imminent fulfillment of promises of salvation could scarcely withstand the psychological shock of Rome’s fall, nor could Christian thinkers’ standard linear conception of the progressive unfolding of salvation through the imperial city withstand that brute fact. Thus Augustine found it necessary to take upon himself “the task of defending the glorious City of God against those who prefer their own gods to the Foun-

der of that City.” And rather than treating the City of God, as did patristic progressives, as the telos toward which the city of man would develop in secular time, or by contrast, as Pocock (following Markus) understood it, as a city which existed outside of secular time but which forced men to live under the burden of an unrevealed eschatological present, Augustine professed, “I treat of it both as it exists in this world of time, a stranger among the ungodly, living by faith, and as it stands in the security of its everlasting seat.”

What is more, as Augustine develops this conception of providence in the *City of God*, it becomes clear that God’s providential guidance of history operates not at the level of kingdoms or empires, but as a way of reconciling the lives of individual saints subject to the trials and tribulations of existence in the fallen city of man with the promise of a peaceful existence in the eternal city of God. Indeed, in the first five books of City of God, in which Augustine treats most explicitly issues relating to God’s providential role in overseeing the history of Rome, he immediately follows his initial response to pagan claims of Christianity’s culpability in Rome’s fall with an attempt to identify the meaning for individual saints of their personal suffering in history. The meaning of suffering, however difficult it may be to discern for those living through suffering, is the purification of the individual soul. God, the scriptures promise,

> ‘will repay every man according to his actions.’ Yet the patience of God still invites the wicked to penitence, just as God’s chastisement trains the good in patient endurance. God’s mercy embraces the good for their cher-ishing, just as his severity chastens the wicked for their punishment. God, in his providence, decided to prepare future blessings for the righteous,

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which the unrighteous will not enjoy, and sorrows for the ungodly, with which the good will not be tormented. But he has willed that these temporal goods and temporal evils should befall good and bad alike, so that the good things should not be too eagerly coveted, when it is seen that the wicked also enjoy them, and that the evils should not be discreditably shunned, when it is apparent that the good are often afflicted with them.\textsuperscript{148}

Defending the necessity of the purifying effect on the individual soul of suffering,

Augustine continues in Book II with an argument that the corrupting effect of luxury and its corresponding cultivation of the vice of pride were, in fact, the causes of Rome’s downfall. Though Christianity taught the individual virtues of chastity and humility necessary for the maintenance of a republic, Augustine argued that pagan religion celebrated immoderation and pride; and while the Christian God was working to humble and purify the souls of the individual saints who honored Him, the pagan gods modeled prideful and licentious behaviors which had inflated Rome’s appetites to unsustainable proportions.

For this reason, it cannot be said that an Augustinian conception of politics is incompatible with republicanism. Augustine is explicit in his argument that Christianity is not only compatible with, but tends to perfect republicanism. With respect to their affection for their earthly city, Christians, says Augustine, equal or surpass the level of affection shown the city by pagans. Thus, in responding to a pagan critic, Augustine could write

\begin{quote}
We would thus like to have such a citizen as you for that higher country in whose holy love, according to our little measure, we struggle and toil among those for whom we care, helping them to reach that country. Were you a citizen there, you would think that there is no boundary or limit to
\end{quote}

\textsuperscript{148} St. Augustine, \textit{City of God}, Book I, Ch. 8, 13.
What is more, Christians are able to care for their earthly city in a way more conducive to its health in the world of power than are their pagan fellow citizens. Referring his pagan correspondent to Cicero’s *Republic*, “from whence you drank in that disposition of a most devoted citizen,” Augustine asks him to reflect, “and notice how much frugality and continence are praised there, and also fidelity to the marriage bond, and chaste, honorable, and upright morals. When a city abounds in such things,” - such things as reflect humility and moderation rather than pride and the multiplication of desires to dissolution - “it must truly be said to bloom.” These traits so critical to Ciceronian republicanism, Augustine concludes, are taught in Christian churches; by contrast, even “the most decadent human beings are made worse by imitating the [pagan] gods….“150 Finally, an appropriately Augustinian doctrine of providence makes possible what Pocock’s historiography of radical contingency denies: It makes possible the attribution of meaning to otherwise inexplicable events - which becomes even more critically important as the progress of social individuation makes individuals increasingly isolated and weak - while denying the isolated

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150 Ibid, 203-5. We may also reflect here upon Tocqueville’s treatment of the relationship between the private mores of the American family and the health of the American republic.
and weak individual’s tendency to seek reconciliation with a “People” under an idolized state power.

3.2. Herbert Butterfield

A more sensitive response to the peculiar historiography that has sustained the providential identity of Anglo-Americans was advanced by Herbert Butterfield, in his classic The Englishman and His History.\footnote{Herbert Butterfield, The Englishman and His History (Hamden, CT: Archon Books, 1970 [1944]).} Butterfield contends that this historical framework - which had transformed over the centuries into the Whig interpretation of history - “had long been a barrier to historical understanding....”\footnote{Ibid., Preface (1970), i.} Historians unconsciously shaped by the Whig historical consciousness and by the pride of the Englishman may have deluded themselves into thinking that “our history is the impartial narrative,” but Butterfield found a deeper institutional factor supporting England’s peculiar historiography and historiographical identity. “We teach and write the kind of history which is appropriate to our organization, congenial to the intellectual climate of our part of the world. We can scarcely help it if this kind of history is at the same time the one most adapted to the preservation of the existing regime.”\footnote{Ibid., 1.} In this way Butterfield confirms the argument advanced by Wormald and Clark, and made at least implicitly by Pocock - that English identity and English state power were related to one another through English historiography.
What is more, Butterfield extends this argument, contending that English state power, once established, acted back upon English identity through historiography as a way of reforming English identity to suit state purposes. Indeed, the apology for power becomes central, in his estimation, to English historiography as it emerged in a recognizably modern form. Butterfield traces the broad course of this historiography back to the point where it transitions from the recollections of the medieval chroniclers into an independent form of authority that could easily be employed in service of *raisons d’Etat*; history became “the study of causes, the source of parallelisms and lessons, and the vehicle of propaganda” - the source of scientific or explanatory authority, moral or ethical authority, and, ultimately political power. In addition to this substantive change in the dominant mode of historical writing, Butterfield notes a new purpose guiding the writers of this history - partisanship in political and religious conflict. “One of [historians’] primary motives in the 16th century,” he observes, “was the desire to support the cause of the Lancastrians and to glorify the victory of the house of Tudor. Another passion which was the motor of much historical activity was the enthusiasm for the cause of the Reformation in England.”

The new role of historiography in defense of power effectively ensured that the Tory history that developed in support of the house of Tudor - and of divine right monarchy and the doctrine of non-resistance more broadly - would later be challenged by a history constructed from the Whig worldview which justified Parliamentary sovereignty and resistance to tyrants, and which ultimately infused the Englishman

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154 Ibid., 16-7.
with an unreflective confidence in his nation’s unique role in the irresistible march of liberty against tyranny in history.

By no means did Butterfield take this recognition of the state’s domestication of historiography to the post-modern conclusion that the power of the state or of historiography more narrowly were necessarily coercive. Instead, he also acknowledged certain salutary effects of the peculiar “Whig form of co-operation with providence”. Though the Englishman had an unshakeable confidence that liberty was the goal of history, liberty’s uneven progress had given to the English “a tempered faith in the course of history” and “a sense of the limited degree to which the ills of the world can be quickly remedied by politics.”\(^{155}\) This mingling of providence with prudence distinguished England from its European neighbors, protecting it from the more radical and doctrinaire interpretations of history which authorized the bloody revolution in France and the rise of totalitarianism in Germany. Chastened by the virtue of prudence, the English doctrine of providence was likewise tempered, suggested Butterfield, by silent suspicion that providence was guided at times by the capricious goddess *Fortuna* rather than by the will of a God to whom men ascribed their own linear rationality. “Nothing is clearer than the fact that the course of history itself, like an over-ruling Providence, overrides men’s plans, takes our purposes out of our hands, and turns these things to ends not realized. When we have made the map of our anticipations and set out all the railway lines for the future, the affair will take

\(^{155}\) Ibid., 96-7.
an uncharted course as though History herself had stood up and said that she had a right
to take a hand in the story.\textsuperscript{156}

Though he thought it necessary to accept that the political world is ruled at times
by capricious \textit{Fortuna} and not by the rational and cognizable will of God, Butterfield
nevertheless insisted upon the sovereignty of the Christian God over the moral world,
precisely because only the sovereign God is capable of resisting the state’s claims to sov-
ereign power and to the total allegiance of those over whom it claims power. Thus, in ad-
dition to denying the linear providential narrative and mode of thinking through which
Englishmen had traditionally found their identity, Butterfield also denies the implicit as-
sumption of all civil religious or nationalist histories - that moral history can be written
from the perspective of the people’s realization of their collective existence through the
institution of the nation-state. He makes the point powerfully in an extended passage
worth citation:

One of the incidental advantages of the Christian religion has lain in the
fact that it does at least prevent men from making gods out of things of the
world, either through fervour or through absence of mind. When men
parted first from their Christianity and then from their deism, the deifica-
tion of the state was bound to be achieved in a comparatively short space
of time; for no system can pretend to face all weathers when it has been
reduced to naked individualism and the mere assertion of individual rights.
Men make gods now, not out of wood and stone... but out of their abstract
nouns, which are the most treacherous and explosive things in the world.
When human beings lost the unique place which in Christianity they had
held amongst all created things, and became no longer the end and pur-
pose of the created universe, but a mere part of nature, the highest of the
animals - a more intricate organization of matter than the beasts of the

\textsuperscript{156} Ibid., 103.
field, but part and parcel of the same system - then, fallen as they were from the dignity of eternal souls, it was easy to think of them as not (from a terrestrial point of view) ends in themselves, but as means to an end; each of them not a whole, but a part of some higher system, some super-person, whether the Volk or the New Order or the deified State. Once that super-personality has been brought into existence, then the Rubicon has been crossed; for nothing - nothing at least in the universe of modern rationalism - can prevent the Leviathan from growing until it has swallowed every right of the individual. The Christian religion itself can be parodied and instead of reconciling our wills to the will of God we are told that we can only find salvation by making the will of the state our own.\(^{157}\)

Having upended the providential interpretation and logic of history within which Englishmen had found their identity, Butterfield now suggests a new role for the historian who had once served continually to reinvigorate the relationship between the chosen people and their representative state. No longer the keeper of the civil religion’s providential narrative, Butterfield’s historian focuses, instead, on explaining - and judging - the relationship of institutions of state power to the individual. Man, as Butterfield suggests in the cited passage, is made in such a way as to worship something higher than himself, and to seek fulfillment or completion through participation in something larger than himself. What is more, the formation of the modern state capable of organizing such massive groups of individuals made it possible for those individuals to transfer to this new unit of power their most profound hopes and to grant to this unit of power their highest allegiance. Thus, “To this deified state all men must surrender in fact, saying solemnly: ‘We are but broken lights of thee’.” It is because of this human trait that Butterfield’s historian

\(^{157}\) Ibid., 128-9.
must deny the state’s ambition to clothe itself in holy garments; yet it is also because of this human trait that the historian’s role is not enough - sound Christian doctrine is necessary to prevent men “broken” by the tragedies of life in the modern world from seeking salvation in an idolized state. Butterfield’s historian, far from abandoning the doctrine of providence that had been corrupted by civil religious nationalism, has rather purified the doctrine to its Augustinian formulation in which a God whose existence transcends the world of power recognizes the dignity of each individual’s existence regardless of the degradations imposed upon individuals within (or by) the city of man.158

158 One recent historical work which comes close to rejecting a nationalist model of historiography for a more properly Augustinian model - but which, ultimately, flinches from the implications of this move, is Harry S. Stout, *Upon the Altar of the Nation: A Moral History of the American Civil War* (New York: Viking Penguin, 2006)
Chapter 4: Identity and Ideology in English State Formation

1. STATE FORMATION AND THE HISTORIOGRAPHY OF ENGLISH SOCIETY

1.1. Introduction

The previous chapter addressed three related themes. The first theme was that national identity is inextricably bound up with a certain form of providential historiography. The second theme was that the consolidation of an English national identity that resulted from this form of providential historiography served as the engine of the formation of the English state. The third theme was that providential and teleological forms of historiography serve to reinforce the national identities they project back into the past, just as they serve to reinforce and the form of the unitary state within which a singular national identity finds itself at home. It is only through an alternative form of historiography that the triad of national identity, civil religion, and the unitary state might be replaced - in a dawning age characterized by the plurality of identities, authorities (religious and otherwise), and institutions of social organization - by the triad of civic identity, civic association, and the republic.

In treating these themes we addressed the historical projects of Herbert Butterfield and John Pocock, both of whom challenged the traditional historiography of English identity, but in ways that were not ultimately capable of sustaining what we have identified as a civic alternative to national identity. Butterfield, though he offered a form of English national identity chastened by the unpredictability of history, nonetheless con-
structured an account of history in which men were gathered under the unitary form of the modern state. And while Pocock advocated a republican institutional alternative to the state, his intense resentment of English national identity and the providential form within which it was communicated led him to embrace a classical (and anti-Christian) conception of republicanism that fails to address serious challenges advanced by critics of classical republicanism. That Butterfield and Clark inadequately addressed the institutional issues which reinforced the problems of England’s peculiar providential historiography is at least partly attributable to the fact that the theme of identity was not sufficiently clear in their respective analyses. It has been the work of a younger generation of historian than John Pocock to treat explicitly the issue of national identity, and to address the relationships among national identity, social organization and civil religious authority, and the state. The most fully developed treatment of these themes is found in the work of historian Jonathan Clark. Clark’s work bridges both the sociological literature on English state formation and the humanist historical literature on English identity (with which the previous chapter began), and it represents a third alternative to the standard English narrative and form of historiography that Butterfield and Pocock opposed.

In addition to his more explicit treatment of the historiographical origins and form of England’s national identity, Clark’s response to standard English historiography is distinct from the responses of his predecessors in that it offers a more explicit treatment of

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The relationship between ideas of national identity and the institutional forms of the state that emerge to represent that identity. In the previous chapter, we touched on Clark’s objections to materialist treatments of identity which present national identity as meaningless when it is not preceded by and represented through the emergence of modern state institutions. This was the origin of his objection to the thesis, presented most forcefully by Linda Colley, that British nationalism was cultivated consciously and cynically by representatives of British imperial power in the seventeenth and eighteenth centuries as a way of securing the allegiance of Britons for projects that advanced the formation of the British Empire and, consequently, the interests of an emergent British ruling class. By contrast to this thesis, Clark objected that the origins of the national identity Colley described lay far deeper in history than she indicated. Even more critically, however, Clark contended that these ideas of English national identity, communicated through the providential historiography of a divinely chosen people, were themselves constitutive of English social reality: not only was the formation of the English state bound up in the consolidation of English identity, the English state, in Clark’s telling, did not - and can not - exist apart from English identity. Thus, Clark’s work, in addition to its function as a response to standard teleological narratives and methodologies which unknowingly project contemporary identities into the past, serves also as a response to post-modern criticisms of national identity as inherently coercive, and, indeed, as a response to the very real and

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tangible dissolution of English identity and of the modern English state as they have been
known.

Challenging the thesis that national identity is inherently coercive, Clark attempts
to reconstruct the society that existed during England’s “long eighteenth century” - 1688-
1832 - in which national identity, civil religious authority, and state power constituted a
hegemonic (if not wholly uncontested) social reality, each effectively indistinguishable
from one another. Substantively, Clark carries out these tasks by offering the most fully
developed account of English society that had formed by the cusp of the modern era. But
Clark’s methodological commitment to treating English society as a singular, undifferen-
tiated entity does not permit him adequately to address the implications of the emergence
of the state as an objective social reality - as a collection of institutions existing inde-
pendent from and increasingly at odds with the individuals over whom they exercised
power and from whom they commanded allegiance. Nor does his methodological com-
mitment to finding the substance of that unified English social reality in the collective
consciousness of English identity allow him to draw important distinctions between the
explicitly historical and religious ideas that constituted English identity and the more ab-
stract and theoretical ideas that had begun to emerge to explain and to control increas-
ingly independent and autonomous institutions of state power. Instead, his mode of histo-
riography seems designed to hold on to a fading form of national identity, and to a famil-
iar institutional form.¹⁶¹

¹⁶¹ See also Roger Scruton, England: An Elegy (London: Continuum, 2006).
Still, Clark’s depiction of the early modern English state as an undifferentiated social unity is worth unfolding, in part on its merits as the most comprehensive treatment of the English identity state, in part because of the important methodological issues it raises regarding the discerning of boundaries between identity and institutions - between subjective and objective social realities. On the one hand, his depiction of the formation of English identity as an undifferentiated and indissoluble social unity resonates with Tocqueville’s predictions about the desire of men in the democratic age to be dissolved into an undifferentiated social unity represented by a unitary state. On the other hand, his portrait of this ostensibly unified social reality in which institutions and identity exist as one raises the question of whether Clark - content to defend a vanishing English identity and its decadent institutional form - overstates the unity of the eighteenth century English identity state. Thus this chapter closes with two sections that attempt to demonstrate how claimants to the power of the early modern English state adapted traditional symbols of national identity and a more abstract modern language of politics to consolidate their control over this state power.


The central features of Clark’s revisionist account of English society during its “long eighteenth century” between 1688 and 1832 are its comprehensive and static character. Both features of this portrait are by design, the former trait necessary to defend Clark’s radical revision of inherited interpretations, the latter in response to the teleologi-

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162 *Democracy in America*, 2.4.2-4.
cal conception of history underlying those standard accounts. Thus, opposing his portrayal of eighteenth century England to traditional teleological - i.e. Whig, liberal, or Marxist - accounts of English history, each of which presumes that England’s long eighteenth-century must necessarily be understood, from the perspective of “secular modernity”, as a period of transformation from an earlier time of “theist pre-modernity,” Clark insists that this “social formation… demands examination on its own terms.” He refuses to search for the cultural or intellectual dichotomies that pointed to the coming of a modern world, or for the moments of social or political transformation at which that modern world began. Instead, he emphasizes “the importance of contingency” - the proposition that the world we presently inhabit is not the necessary consequence of the world that came before - and he focuses on the recovery of the “continuities” which gave that lost world its unity. Thus, in his extensive review of the political, philosophical, and theological sources of intellectual discourse in England’s long eighteenth century, Clark “found both the defenders and the assailants of that social order to be in substantial agreement about its nature, and it is their perceptions, however unfamiliar, that I have tried to recover.” In addition to detailing intellectual continuities, Clark asserts a cultural continuity between and among what might otherwise be treated as distinct and (at least relatively) independent parts of that society - the historical and religious ideas constitutive of English identity, the institutions of the established Church of England and of

163 Clark (2000), 14-5.
164 Ibid., ix-x.
the English state, the various groups of elites who bore cultural and political power
within English society, and the theologically and theoretically grounded legitimations of
English political institutions.

Because of the stubbornness of teleological explanations of this period, reinforced
by traditional interpretive categories imposed upon the sources by advocates of these
teleological explanation, Clark seeks a new method to describe what he sees as the uni-
tary character of English society during the long eighteenth century. For this reason,
Clark appropriates the term “ancien regime” from the historiography of the French
Revolution. For present purposes, it is enough to note Clark’s explanation that the term
“means merely ‘former’ or ‘previous’, not ‘ancient’”; the term “initially identified
France’s pre-revolutionary regime as different from the revolutionary one, but not as a
regime whose age made it obsolete.” In this way Clark’s backward looking conserva-
tism appears as analogous to that of the French aristocrats to whom Tocqueville ad-
dressed himself in writing Democracy in America. This terminological choice is also re-
vealing in that it unconsciously calls to mind Tocqueville’s treatment of the French ancien
regime (detailed in Chapter 2) as the root of the corrupt institutional form toward which
the democratic world will tend.

Clark explains that the coherence of the English ancien regime was found “in the
interlocking relations between the monarchy, the patrician elite, and the Church: a nexus

165 There is, of course, no small incongruity between Clark’s stated goal of historicizing his ac-
count of English society and his use of a concept drawn from the French experience (and such a
loaded concept at that).

166 Ibid., 19.
explaining itself in allegiance not nationalism, the confessional state not pluralism or secular democracy....”

Institutionally, then, this integral society was contained within the structures of what scholars have come to know as the “confessional state”; methodologically, Clark insists that this institutional framework must be understood as the manifestation of ideas or beliefs so pervasive as to be all but incontestable. Thus, according to Clark, at the level of the individual member of the ecclesiastical polity, “Religious affiliation was commonly assumed to be natural, not voluntary”; no place existed for the individual conscience which Dissenting Protestants throughout England’s North American colonies held to be sacred and inviolable. Even an Anglican of evangelical leanings like William Wilberforce could assert that “if a man was ‘born in a Christian country, of course he is a Christian; his father was a member of the church of England, so is he’.”

At the level of the ecclesiastical polity as a whole, the principle underlying the confessional state - accepted as “a truism among lawyers as well as divines” - was that “The Civil and Ecclesiastical State are the Two Parts and Divisions, that Both United make up One entire compounded Constitution, and Body Politick, sharing the same Fate and Circ-

167 Ibid., 20

168 Clark explains, by contrast to the modern treatment of religion as “a specialised activity within the realm of private opinion,” that a new focus on the structure of the confessional state emphasizes how “Eighteenth-century Englishmen spoke instead of ‘uniformity’, offset indeed by ‘toleration’, but not to the point of unseating the ‘establishment’ of the Church or the royal ‘supremacy’ in its government. It was a truism among lawyers as well as divines to say that ‘The Civil and Ecclesiastical State are the Two Parts and Divisions, that Both United make up one entire compounded Constitution, and Body Politick, sharing the same Fate and Circumstances, Twisted and Interwoven into the Being and Principles of each Other.’” Ibid., 28-9. For a mild corrective to Clark’s account of England as a confessional state that challenges the boldness of Clark’s portrait, see Jeremy Black, “Confessional State or Elect Nation? Religion and Identity in Eighteenth-century England,” in Claydon and McBride, 53-74.

169 Clark (2000), 26
cumstances, Twisted and Interwoven into the very Being and Principles of each Other.” Clark depicts an undifferentiated English society that admitted of no distinctions between church and state, nor between membership in the body of Christ visible in the Anglican Church and membership in the English people.

In defending his account of England as a confessional state, Clark offers a vigorous challenge to the thesis - shared by proponents of the various teleological accounts of Anglo-American history - that English society during the long eighteenth century was undergoing a process of secularization. Summarizing recent historical work, Clark observes that it is no longer presumed that “the Church had acquired a secular outlook, … reducing religion to everyday decency”; the Anglican Church was still deeply committed to the mission entrusted to it, and was understood - and understood itself - to play an integral role in sustaining and perpetuating the English order. He presses this observation even further, arguing that there was little secularization in English society more broadly. Instead, in the England of the long eighteenth century, “Christianity was characterised by a drive to engage with and work through the material realm in a way which implied no essential difference of kind between the two.” Further, Clark finds,

The antithesis between science and religion which was proclaimed in the twentieth century was almost unknown to that earlier age. Few natural scientists then were atheists: many, like Newton and Priestley, were marked instead by their original, or heterodox, views of God.... In England… natural science was not an engine that drove back ‘traditional’ beliefs, that ‘de-

sacralised’ or ‘disenchanted’ the world, or that even defined a distinction between an ‘old’ world and a ‘new.’\textsuperscript{171}

Contrary to teleological explanations of English history which sought to locate the origins of the secular England of the twentieth century in the eighteenth century, the England Clark reconstructs was a pervasively Christian society.

Nevertheless, the persistence of Protestant Christianity and of the dense and interlocking network of institutions that constituted England as a confessional state by no means implies, according to Clark, a consensual acceptance of the particular forms or principles under which the civil and ecclesiastical states were related to one another, or under which they are organized separately. Critically, Clark points to the quarrels of Dissenting Protestants - who ultimately play such a substantial role in the British Colonies’ separation from Britain, with hegemonic Anglicanism as evidence of the manner in which Englishmen accepted the model of the confessional state in principle while disputing its leadership, doctrine, and institutional features. Indeed, it was precisely because of the persistence of religiously grounded modes of political thinking and of the ecclesiastical character of the English polity that the institutional arrangement of the confessional state was challenged. For this reason, Clark describes “the Anglican-aristocratic ascendancy...in terms of hegemony rather than consensus.”\textsuperscript{172}

\textsuperscript{171} Ibid., 28-9.
\textsuperscript{172} Ibid., 24-5.
The challenges within this hegemonic structure were largely contained within the structures of denominational debates, scarcely extending to the theoretical discourses of law and religion through which this hegemony was legitimated. The discourses of law and religion were, in Clark’s telling, indistinguishable from one another in eighteenth century practice. “[T]he two areas were not as separate as they later became. Common lawyers until Blackstone and after appealed for the foundation of positive law to natural law, a law which was natural because it had been built into the fabric of the universe by God at Creation. Churchmen appealed to revelation, that is, to revealed law, that declaration of God’s purposes which supplemented the ‘argument from design’ manifest in nature. Natural law and revealed law were not far apart.”

This ideational framework, Clark concludes, found its roots in England’s antique national identity. England’s “collective consciousness,” finally, can be traced back to the Anglo-Saxon period, though the structure and the content of that identity were continually developing. By [the long eighteenth century], the matrix of collective consciousness was provided...by the two bodies of ideas which are stressed here: a shared libertarian history, within a polity defined and given coherence by law (the king’s law) and a shared sense of Providential destiny and ontological identity preserved and articulated by the English Church since before the Reformation (of which the monarch, again, was ‘supreme governor’).

From the ancient framework of providential history within which the Anglo-Saxons were chosen to represent the body of Christ in the Church of England and to bring the powers

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173 Ibid., 31.
174 Ibid., 39.
of the outside world under the subjection of the authority of Christ, there had developed, in Clark’s telling, a dense network of social institutions committed to the carrying out of the ancient calling that constituted the English people.

1.3. The Formation of the English State and the Differentiation of English Society

In his claim about the contingency of history - the proposition that the world we presently inhabit is not the necessary consequence of the world that came before - Clark finds justification for crafting a comprehensive and static portrait of an eighteenth century England that appears utterly foreign from the perspective of “secular modernity” shared by the various teleological accounts of that history. As we indicated in the previous section, Clark advances his criticism of these teleological histories by advancing a vigorous argument for the interpenetration of religion with science and law during this period. Still, it is possible to respond to Clark, from the perspective of secular modernity, that while the world he has described may indeed have existed, it has no claims upon the present other than the claims of nostalgia for a social order that has all but completely dissolved.

More importantly, it is possible to respond to Clark from the grounds of his own methodology, which is compromised by his conservative nostalgia for the stability of a hierarchically ordered social world. The proposition Clark asserts in challenging teleological accounts of history - that the world we presently inhabit is not the necessary consequence of the world that came before - is not necessarily incompatible with the thesis he develops about the relationship between the formation of English national identity and
the formation of the English state. But in emphasizing the static character of the English identity state during England’s long eighteenth century, Clark focuses upon the contingency of English history - its utter foreignness from secular modernity - at the expense of the lessons that can be drawn from consideration of the ongoing processes of identity and state formation. To make this point differently, Clark uses the tools of historical sociology not to transcend the limits of those teleological forms of history which project a conception of national identity into the past, but to reinforce the claims of a decaying identity upon the present. Employing historical sociology to establish this claim about the persistence of a medieval unity of identity and institutions into the modern age rather than to explore the differentiation of identities, institutions, and authorities in the modern age, he emphasizes the persistence from medieval England of a collective national identity into the early modern era when he could have emphasized the proliferation of distinct individual interests and identities (both religious and secular). Further, he emphasizes the persistent interpenetration of religion with the discourses of law and science, when he could have recognized the emergence of law and science as distinct domains that possess a dignity of their own by virtue of their relation to man’s lot on earth - if not on the transcendent dimension of human consciousness. Finally, Clark emphasized the persistence of a peculiar kind of state - England’s confessional state - when he could have emphasized the necessity for a new form of political and social organization that could accommodate the sociological conditions characteristic of the emergent modern world.
In speaking of the compact network of institutions that had developed to represent the English nation, Clark necessarily raises the issue of state formation, yet his project of reconstructing a static portrait England’s ancien regime makes it impossible for him to keep the dynamic process of state formation in view. Clark appears inclined by a backward-looking and aristocratic conservative temperament to defend a vanishing English identity and its representative state form, rather than to develop his thesis about the relationship between national identity and the unitary “identity state” in such a way as to respond to current conditions in which states are both impossible to form where they do not exist and scarcely possible to maintain where they do exist. Still, Clark has given us the most thoughtful account of the relationship between the formation of national identity and the formation of the state, so it is necessary to correct Clark’s corrective of teleological histories.

1.3.1. Bureaucratization and the Administration of the English Identity-State

One of the sources of strain on the traditional form of English identity was the differentiation of the social and political institutions through which that identity had been expressed. Though the Englishman’s compact providential form of consciousness, sense of chosenness, and militaristic evangelicalism had clearly persisted to the period Clark describes, England as early as the sixteenth century had developed far from the warrior tribe organized under the pattern of the chosen people of Israel for the purpose of carrying out their divine calling. Clark contends for the existence, through England’s long eighteenth century, of a complex but still undifferentiated identity state; but by that point,
as we will see, the self-reinforcing processes of political consolidation and social individuation had left the English people socially differentiated and the English state institutionally consolidated.

The eminent English historian Sir Geoffrey Elton has concluded from half a century of study that, while “[t]he decisive maker of the English people [i.e. nation] was the Venerable Bede,” it was not “until the early tenth century, when indeed all the strands finally coalesced into the emergence of an English nation [i.e. state].” To this point, Elton’s thesis is entirely compatible with Clark’s thesis (presented in Chapter Three and derived from the work of the historian of medieval England, Patrick Wormald) about the origins of the medieval English state in the providentially grounded identity of the English ecclesiastical polity. But, when addressing early modern England, Elton turns Clark’s ancien regime thesis on its head. “In the end,” Elton concludes, “England and the English were put together by agencies from above: by a central political authority (kingship) and a unifying ideological structure (the Christian Church).”

Elton’s account of the formation of the medieval English state begins with the very same threat of warfare that had prompted the consolidation of an English national identity through Bede’s historiographical act of creation. Internal conflicts among Anglo-Saxon tribes were superseded by increasingly frequent raids by Danish tribes in the late ninth century; it was in response to these raids - and, as was argued in Chapter Three, in conjunction with Bede’s consolidation of an English national identity - that a singular

English monarchy emerged. In response to this threat, an English territory once organized under the rule of effectively independent chieftains was re-organized under the rule of warriors and magistrates directly responsible to the king. The new English monarchy focused on the development of an extensive network of defensive structures and of a navy, persistently asserting and ultimately winning the power to impose regular taxes directly upon subjects. In this way, Elton concludes, the monarchy prior to the Norman conquest “had achieved an authority that enshrined the rule of a realm, and the days of a purely personal overlordship were gone.”\textsuperscript{176}

Monarchical power in England was further consolidated by William after his conquest in 1066, both through his development of existing English royal institutions and through his imposition of non-English institutions.\textsuperscript{177} From the latter standpoint, William’s conquest was enforced by an almost complete transformation of the English military class. Estates and shires once controlled by Englishmen were brought under the control of nobles from Normandy, Brittany, and Flanders; even Anglican clerics were replaced by Roman Catholic bishops who took over episcopal lands. These changes were part of William’s effort to defend himself against aristocratic rivals by abolishing alodial tenures (i.e. ownership of lands independently of the royal authority). At the same time, these changes permitted William to impose order upon the populace by creating a


\textsuperscript{177} Elton, 29-68.
knightly class who were granted control over their estates in exchange for their promises to support and uphold royal power.\textsuperscript{178}

In addition to these impositions of foreign power into the military class that administered England, there emerged a network of bureaucratic institutions responsible for managing the increasingly complex affairs characteristic of early modern English society. The monarchy had long enjoyed the power to issue writs, but the increasing frequency and detail of these writs forced the development of institutions to administer them - institutions to which could be delegated royal authority itself. Thus in the two centuries following William’s conquest were born the Exchequer, the Common Law courts of Common Pleas and King’s Bench, the Court of Chancery, the royal Council and Household, even Parliament, each of which, Elton explains, “depended on their power to issue writs which commanded obedience and initiated action.”\textsuperscript{179} Further, each of these bureaucratic institutions developed its own system of written records and administrative procedures which served to rationalize administrative tasks; William’s \textit{Domesday Book}, for instance, was employed for the purpose of maximizing tax revenues by way of a proper accounting of land ownership.\textsuperscript{180} In these developments it becomes possible to discern a response to the differentiation and growth within English society of a commercial class possessing its own interests independent of (and potentially opposed to) the interests of those holding positions of power in the realm.

\textsuperscript{178} Sayer, 1393-4.
\textsuperscript{179} Elton, 48.
\textsuperscript{180} Sayer, 1395.
1.3.2. Representation and the Differentiation of English Society

By the fourteenth century, the centralized royal government, whose power was imposed by bureaucratic councils, again faced difficulties in administering the affairs of a growing and increasingly complex society. The crown sought a means by which leading men from the shires could be employed to enforce royal commands amongst the populace; conversely, the populace found in this relationship the opportunity to communicate their own concerns to the crown. From one perspective, the development of the representative body of Parliament indicates the differentiation of individuals within the realm possessing distinct interests capable of representation. Nevertheless, English national identity was powerful enough to absorb Parliament into the unitary institutional form through which English identity had been represented. Thus, Elton cites approvingly the conclusion that “representation was an extension of, not an antithesis to, royal and conciliar government.”\(^{181}\) Likewise, the historian of English state formation Derek Sayer concludes, “it was held that Parliament represents ‘the body of the realm’ and that its enactments were consequently binding upon all. The issue here is not whether or to what extent representation was democratic. In any modern sense it manifestly was not.”\(^{182}\) Finally, Edmund Morgan tells of how the medieval English belief that Englishmen were represented by a king authorized by God and sharing in divine attributes gave way to the modern belief that these divine attributes belonged to the English people themselves and


\(^{182}\) Sayer, 1397.
that this people was properly represented through the institution of a sovereign
Parliament.\textsuperscript{183}

It should be clear that the emergence of a Parliament capable of representing the
diverse interests of an increasingly complex and differentiated society tended instead to
concentrate the power available to a unitary English People. The Tudor era saw the insti-
tutional developments most significant to the problem of the differentiation of an English
state independent of the English people, or of an objective social reality of English power
as distinguished from the subjective social reality of English identity; Elton explains the
appearance of

machinery of government whose principle was bureaucratic organization
in the place of the personal control of the king, and national management
rather than management of the king’s estate. The reformed state was based
on the rejection of the medieval conception of the kingdom as the king’s
estate, his private concern, properly administered by his private organiza-
tion; it conceived its task to be national, its support and scope to be nation-
wide, and its administrative needs, therefore, divorced from the king’s
household.... The Tudor state was a national monarchy to a degree new in
England, and while the apparent emphasis lay on the monarchy the real
stress was already on its national character.\textsuperscript{184}

Sayer goes further, arguing that, rather than permitting individuals to speak on behalf of
their own interests and identities, the emergence of a recognizably modern Parliamentary

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state served instead to define the terms under which individual identities could exist. Explaining the transformation of the Tudor Era,

through routines of state, a national community is being defined, membership in which socially identifies individuals as subjects... Most people remain ‘virtually represented.’ But it is in the time and space of the nation, nevertheless, that their social identities are increasingly delineated. The imagined community thus constructed forcibly displaces other loci of identity and foci of loyalty, becoming the social terrain...within which later political struggles are fought out.  

To be sure, Parliament itself appeared as a location within which Crown and barons conducted their ongoing struggles; still, from the perspective of the individual subject, “freed,” as Sayer explains, “from the bonds of family, clan, or estate and endowed with private rights and public representation,” the promise of private rights and public representation would not be fully realized. From the perspective of those who enjoyed positions of influence in the state, these liberated individuals who appeared as the source of great power also proved, at the margins, to represent a great burden. One obvious burden the liberated individual placed upon the state was that individual’s demand of private rights - his desire to be left alone by a state which, basing its power on the existence of a comprehensive - because national - and an irresistible - because religiously authoritative - identity, became increasingly skilled in financing and sustaining a commitment to foreign wars. Finally, though the state appears as a location within which individuals possessed

185 Ibid., 1397-8.
186 Ibid., 1398-9.
of distinct interests could engage in contest over those interests, the state also increas-
ingly found itself responsible for the care of individuals liberated from feudal society but
not integrated into the more modern socio-political order. The “‘masterless man,’ alien
from the feudal world, vagabond and criminal...” highlights a new relationship between
state and individual, just as much as the emergence of the autonomous individual, digni-
fied by his possession of rights - even natural rights - that he enjoys at the pleasure of the
state. 188

2. THE STRUGGLE FOR ENGLISH IDENTITY AND THE CONSOLIDATION OF STATE POWER

Just as the institutional unity of medieval England had begun to dissolve prior to
the appearance of the English society Clark attempts to describe, so had the ideational
unity of the chosen English nation began to fall into dispute. As was previously noted,
Clark goes to impressive lengths to detail the ways in which debate over the meaning of
English identity was conducted within the languages of law and religion, but his account
is not without flaws. Because of his insistence on presenting the hegemonic, if not con-
sensual, English identity, communicated through an undifferentiated language of law and
religion, he fails to account for the manner in which a differentiated class of political
elites had begun to manipulate this legal and religious discourse and thus the meaning of
English identity; likewise, (as we will demonstrate later in this chapter) he fails ade-

188 Michael Walzer, Revolution of the Saints: A Study in the Origins of Radical Politics (Cam-
bridge: Harvard University Press, 1982), 199. See also Peter Laslett, The World We Have Lost,
(New York: Charles Scribner’s Sons, 1965) 32-3), and A.L. Beier, Masterless Men: The Vagrancy
quately to address the increasing use of abstract ideological concepts that could (and did) exist apart from the language through which the compact medieval English social reality had been communicated. Clark overstates this hegemony of identity by developing his portrait of the English ancien regime from the period after the Protestant revolution in 1688-9; he omits consideration of the period of struggle for control of English identity - its symbols of authority and its institutions of power - that emerged following the Henrican Reformation. In this way, he avoids complicated questions about the dissolution of the medieval English social unity and the emergence of a form of national consciousness that may be better thought of as an imagined community.

The Henrican Reformation was neither solely constitutional (dealing with institutions) nor theological (dealing with England’s providential national identity); instead (and in keeping with Clark’s thesis), it was both. It is best thought of, in the language of ecclesiastical polity, as a re-formation of the English nation-state. Nevertheless, in the aftermath of the institutional changes the Henrican Reformation wrought upon the English conceptions of authority and identity, it became, ultimately, impossible to view England as an undifferentiated social unity. One student of the Henrican Reformation observes that it “constituted a ‘crisis of obedience’,,” explaining, “The transfer of the ecclesiastical loyalty of the English people from pope to king was a constitutional revolution of the first order....”189 It is possible to understand the implications of the Reformation as extending even more deeply than the constitutional level, requiring a transformation within the pe-

culiar providential identity that constituted the English people and that had been repre-
sented institutionally through their specially anointed congregation within the universal
Church. The Reformation of England as an ecclesiastical polity demanded not only the
reformation of the political institutions to which the people owed allegiance but also the
reformation of the authority under which the people were gathered, and the reformation
of the providential form within which that identity was communicated.

2.1. The Henrican Reformation: Justification by Faith, through Obedience

One leading figure of the English Reformation was Henry VIII’s minister, Oliver
Cromwell. One of the critical moves Cromwell made in his effort to reform the English
state was to subordinate to the state the traditional Anglican doctrine of spiritual author-
ity. Traditional medieval teaching on obedience had stressed the Fourth Commandment’s
emphasis on obedience to paternal authority, and extended this command analogically to
impose the duty of obedience to “spiritual” parents - as Rex explains, “your ghostly fa-
ther - or parish priest - and your spiritual mother, the church.”190 The implications of this
obedience to spiritual authority were great, as medieval theologians exalted Christ’s obe-
dience to the authority of the Father as the highest example of Christian charity; what is
more, they connected the work of obedience to justification. This medieval theology of
obedience to the spiritual authority of the Roman Church was deeply rooted in England
even into the early years of the Reformation. Henry VIII had been honored by Pope Leo
X as a “Defender of the Faith” for his support of papal authority, and he expelled several

190 Ibid., 868.
Protestants, most notably William Tyndale, for the challenge they presented to the regnant political theology of obedience characteristic of medieval Catholicism. Martin Luther, and Tyndale following him, denied the efficacy of any such work as obedience for salvation; justification, they argued, comes by faith alone, and obedience is simply the outward manifestation of a soul in possession of grace. In contrast to the charge by the Catholic Henry VIII and by Thomas More that Luther’s doctrine “causeth insurrection and teacheth people to disobey their heads and governors,” Tyndale insisted “it is the bloody doctrine of the pope that causeth disobedience, rebellion, and insurrection” while “the peaceable doctrine of Christ…teacheth to obey.”

None questioned the social formation constituted by national identity organized in the form of a civil religious congregation and represented by the power of a unitary monarchy; instead, Protestants, resisting the spiritual authority claimed by an institutional Church they viewed as corrupt sought to locate authority in an alternate institutional structure. Thus Tyndale, seeking to challenge the authority of a Catholic church establishment, saw fit to downplay the duty of obedience to clerical authority grounded in an analogical interpretation of the Fourth Commandment while emphasizing the duty of obedience to the (paternal) authority of magistrates imposed by that commandment.

With the need to justify Henry’s claims to unrivaled authority, Cromwell embraced Tyndale’s doctrine of obedience to magistrates. Indeed, Rex observes that Crom-
well’s “enthusiastic support” of English Lutheran work on this topic prompted English Catholic theologians to take up the subject as well. As this new doctrine of obedience was built up from its theological foundations to its political implications, several features become clear. First is that obedience to the king was increasingly asserted to be necessary for the maintenance of the commonwealth. Conversely, disobedience was tantamount to treason, and claims of papal authority were increasingly identified as idolatrous, with the pope condemned “as a tyrant, a usurper, and an instigator of sedition,” and ultimately labeled as “Antichrist.” Next, obedience to the monarchy was held not merely to be conducive to the health of the commonwealth, but indeed to be constitutive of the commonwealth; one theologian of obedience asserted, “men in the civil community are conjoined in a unity of order because they all owe obedience to the king.” In other words, contrary to Clark’s thesis, power was held to precede and to constitute identity.

Finally, the political and spiritual existence of this community depended upon the extra-political authority of “the word of God”. Rex distinguishes two distinct meanings for this terminological “innovation”: first, the term “word of God” could be used to refer to divine law; second, it could be used to refer to the scriptures themselves. In both senses, however, the term served to support the doctrine of obedience to monarchy, with knowledge of the scriptures necessary to avoid the idolatrous doctrines of the Roman Catholic Church and to reveal the content of the divine law that should rightly govern the

193 Ibid., 882.
194 Ibid.
195 Ibid., 882.
commonwealth represented by the Anglican Church under the headship of the English monarchy. The idea of the “word of God” in both of these senses remains a powerful support to the idea of national identity among many Americans; other Americans ground their conception of our national identity upon another authoritative word.

2.2. The Henrican Reformation: The Apocalyptic Dimension of English Politics

In addition to transforming the traditional medieval theology of obedience in such a way as to legitimate the unquestionable authority of the Henrican monarchy, Cromwell sought also to transform the historical narrative through which the identity of the people to be organized under that authority had been maintained. Not only did Cromwell’s agents succeed in transforming the content of this narrative identity, they effectively changed the form of this identity as well, giving this providential identity an eschatological dimension. As part of his effort to transform the theology of obedience, Cromwell enlisted the vehement anti-Catholic writer, John Bale, to write a series of morality plays emphasizing the new theology of obedience. In the judgment of a leading historian of the English Reformation, William Haller, Bale had great success in “turning national legends to the use of propaganda in the national cause.”196 Bale was thus encouraged to continue his literary challenge against the vestiges of Catholicism within the Anglican Church. In particular, he launched a reconstruction of English history that would transform the traditional historical narrative by which Bede had identified Englishmen as members of a spe-

cially chosen congregation within the universal Church. Bale denied that the Church of England was founded by the papal mission of Augustine of Canterbury; he contended instead that the Church of England was an apostolic church, established by Joseph of Arimathea (whom the gospels credit with burying the body of Jesus) some five centuries prior to Augustine’s mission. What is more, Bale reinterpreted Augustine’s mission as the first of many papal attempts to corrupt the pristine Church of England. Pope Gregory, Bale charged, sent “a Romyshe monke called Augustyne, not of the order of Christ as was Peter… there to sprede the Romyshe faythe and relygon [though] Christes faythe was there longe afore.”

Having insinuated that the divinely appointed mission of God’s chosen Englishmen had been corrupted by Catholic idolaters, Bale was able to connect that alleged corruption from antiquity with contemporary events. He recalled the Lollard movement (of the late fourteenth and early fifteenth centuries) which ended in a brutal repression by the English state. Because this repressive treatment of a dissenting religious sect occurred prior to the Henrican Reformation of the Anglican Church, Bale was able to present this episode (with remarkable success) as a mass martyrdom of innocent Protestants at the hands of a brutal Catholic regime. Thus when Protestants were repressed during the reign of Henry’s Catholic successor Queen Mary, Bale’s protege, John Foxe, was able to extend the history of Protestant martyrdom into the past, and to find at the culmination of that history the Protestant regime of Queen Elizabeth. “[T]he purpose of [Foxe’s] Acts and

Monuments,” one recent observer explains, “was to demonstrate to the English readers that theirs was a chosen nation that had received the pure faith during the time of the apostles, that had struggled to preserve it undefiled against Rome and the papacy, and that finally had initiated the Protestant Reformation.” Thus, with the return of a Protestant, Elizabeth, to the headship of the English ecclesiastical polity, Foxe could confidently proclaim, “...I am sure, that God, yet once again is come on visitation to this church of England, yea, and that more lovingly and beneficially then ever he did before. For in this visitation he hath redressed many abuses, and cleansed his church of much ungodliness and superstition, and made it a glorious church.”

Protestant revisions of the historical narrative that constituted English identity have been credited with introducing into the English tradition a “revolutionary” theory of history that marked a radical departure from the orthodox Christian narrative articulated in its classic form by St. Augustine. Zakai argues, “Protestant historiography returned eschatology, the apocalypse, and the millennium to time and history. Considered within the context of the pre-Reformation Christian philosophy of history, it imbued secular history (what Augustine referred to as the saeculum) with divine significance, thereby negating the dualistic view of history such as was adhered to by Augustine.” Thus, he concludes, the identity of God’s chosen Englishmen could now take on a millenarian dimen-

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198 Ibid., 310.
199 Foxe’s Acts and Monuments, quoted in Ibid., 311.
200 Ibid., 306. Again, a modern interpreter of Augustine fails to acknowledge in Augustine’s thought the interpenetration of the City of God in the city of man, reading into Augustine’s work a liberal dualism which implies the thesis of secularization.
sion. Such a conclusion overstates somewhat the significance of nationalist Protestant
historiography, for as was argued in the previous chapter, the English mission of evangel-
izing a pagan world had long been imbued with divine significance. Nationalist Protes-
tant historiography did, however, have the effect of imbuing England’s domestic politics -
the process of English state formation - with apocalyptic significance. The domain of
warfare within which the English nation had been able to reinforce its identity as a cho-
sen people was no longer limited to the relations of the English state with foreign powers.
Instead, the episodes of warfare through which God’s chosen Englishmen could reinforce
- both in success and defeat - their self-evident chosenness could now be understood to
include politics internal to the English state.

3. IDEOLOGY AND THE CONSOLIDATION OF STATE POWER

With English identity having taken on even greater intensity following the imposi-
tion of a nationalist Protestant political theology and historiography designed to authorize
the reformed English state, it becomes possible for a scholar like Clark to attend to the
particular features of that identity and to the institutional form through which that identity
was represented. Such a singular focus on this particular form of English society, as has
been noted, draws attention away from the broader process of state formation in early
modern England. What is more, English identity, as Clark presents it, existed as a subjec-
tive reality - no less real for its subjective existence - that was realized institutionally
through the social unity he described as England’s “ancien regime”. He does not deny
that this subjective reality failed to sustain consensus, contending instead that it main-
tained hegemony for a surprising length of time. What Clark does deny (or what his methodology cannot admit) is that this hegemonic regime - its institutional components, to be specific - ever attained objective social reality; Clark cannot treat institutions as existing apart from, and as acting back upon, the individuals subject to their power. State formation is a prominent theme in his work, to be sure, but neither the English state nor the British Empire ever achieves an independent role in his analysis; neither ever appears as an institution of power, operating under its own internal logic of consolidation and expansion, and acting in ways experienced as oppressive by those subject to its power.

Instead, Clark prefers to portray the English state as an undifferentiated social unity constituted by a shared body of ideas about English law and religion that ultimately came to be expressed in the English doctrine of sovereignty. Clark treats this as an organic development of English identity - sovereignty, in his estimation, was a development out of the common law, and the development of the common law doctrine of sovereignty was the means through which the process of state formation operated. Such a thesis may appear satisfactory if it is only employed to explain one moment in the life of the English state, one stage in the process of that state’s formation, but it is unsatisfactory in dealing with the Henrican re-formation of the English state along lines of an “Impire” in the sixteenth century and with the formation and rupture of the British Empire in the eighteenth century. More importantly, in focusing on sovereignty as a language of identity rather than on empire as a language of power, Clark overlooks the way in which a modern lan-
guage of politics had begun to emerge for use in legitimating the power of the emerging modern state.

3.1. Sovereignty: A Language of Identity

The ideological concepts of sovereignty and empire have competed with one another for dominance in scholarship on early modern English political thought. For Clark, as for other leading scholars of eighteenth century Anglo-American political discourse, the concept of sovereignty was “the single most important abstraction of politics in the entire [American] Revolutionary era”. This conclusion is unsurprising; the ostensibly legal language of sovereignty is the language of the ostensibly secular modern state. In Clark’s analysis, however, the concept of sovereignty takes its meaning from the context of denominational debate contained within the discourse of law and religion peculiar to England’s confessional state. Clark explains, “The issues of parliamentary representation and the role of subordinate legislatures which united, or divided, England’s Atlantic empire become fully intelligible only in their European dynastic and religious setting. That setting illuminates also the theoretical pathways along which early modern England devised... a characteristic doctrine of sovereignty: unitary, absolutist and claiming a divine mandate.” Still, the concept of “sovereignty” exercises such a powerful hold on the modern mind shaped by the fundamental political reality of the state that even Clark, with his admirable effort to expunge anachronism from the writing of history, departs from his

201 Ibid., 6; quoting Wood, 344-54; Clark also cites Bailyn, 198-229.
202 Ibid., 75.
methodology in treating the development of the doctrine of sovereignty and its relationship to English state formation.

Clark develops his argument in a chapter entitled “The conflict between laws: sovereignty and state formation in the United Kingdom and the United States”. From the outset he is ambiguous in his argument about the priority of the developing doctrine of sovereignty with respect to the process of state formation, beginning with the observation, “The characteristic English doctrine of sovereignty emerged within the process of state formation,” then almost immediately reversing himself: “The doctrine of sovereignty worked out and applied in early-modern England proved uniquely powerful as an instrument of state formation....” This ambiguity may be said to disappear when we take into consideration Clark’s treatment of England as an identity-state; but this treatment, as we have argued, begs the question of when, if ever, it becomes possible - even necessary - to understand power as existing prior to and independent of identity. Clark unwittingly raises this question when he observes that sovereignty “associated England’s imperial career both within the British Isles and overseas with the moral imperatives and chiliastic destiny of England’s Church.” Still, he does not develop the concept of empire as an independent concept, legitimating the consolidation and expansion of power in the emerging English state, and he scarcely treats the institutional features of the emerging British Empire in his account of English state formation. Clark is content to define “em-

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203 Clark (1994), Chapter 1, 46-140.
204 Ibid., 62-3.
pire” in a footnote as “a collection of kingdoms or principalities under a single mon-
arch”205 - a definition that fails to place empire within the process of state formation. Fur-
ther, in addressing the historical progress by which the kingdoms of Wales, Scotland, and
Ireland were incorporated - under pressure of the Protestant “sense of manifest destiny” -
into the English kingdom, Clark fails to consider the way in which the Henrican Refor-
mation of the early sixteenth century invested this sense of English destiny into the Hen-
rican Empire.

3.2. Empire: Toward a Language of Power

While Clark’s treatment of sovereignty evidences a departure from his own meth-
odology, his insistence on giving priority to the concept of sovereignty over the concept
of empire evidences another shortcoming of that methodology. If sovereignty was the
most important political abstraction in eighteenth century Anglo-American discourse, it
owed its importance to the unfolding of the implications of the concept of “imperium”
and to progressive realization of England’s imperial ambitions. Indeed, the concept of
imperium, with its implications for issues of spiritual authority and of territorial expan-
sion, has roots deep in the English experience. This development of the concept of impe-
rium from its Roman origins through the formation and dissolution of the British Empire
(which began with the rebellion of its American colonies) is addressed by historians
Richard Koebner and David Armitage.

205 Ibid., 79, n. 120.
Armitage finds “the inseparability of - and, in many ways, the identity between - state-formation and empire-building in the early modern period.”\textsuperscript{206} Armitage agrees with Clark that the problems of empire formation lay in “the problematics of composite monarchy,” but he observes that this problem on the island of Britain had its origins as far back as the Middle Ages, during which period an aggressively evangelical English people consolidated the English kingdom by force.\textsuperscript{207} Armitage explains, “At first, a commission to evangelise pagan populations had legitimated English expansion; subsequently, a cultural mission to civilise the barbarian maintained the momentum of conquest; later still, an ideology of domination and an historical mythology together encouraged further English migration and the resettlement of native peoples on the conquered lands.” This “first British empire,” as Armitage names it, reached its peak around the close of the thirteenth century, though even it was preceded by the Imperium Anglorum ruled by the Anglo-Saxon kings who referred to themselves by the term “imperator”.\textsuperscript{208} Koebner likewise finds the concept of empire deep in England’s history, having been employed in writings of clerics of the Anglo-Saxon Church before the sixth century. Significantly, he concludes that the concept of empire “is most conspicuous in Bede...”\textsuperscript{209}


\textsuperscript{207} Clark (1994), 26.

\textsuperscript{208} Armitage (2000), 27-8.

If the concept of empire had proved to be readily adaptable to the missionary spirit of an English people called to transcend tribal loyalties for the purpose of enlarging the reach of an authority they had come to hold in common, Armitage points toward two difficulties in presuming a necessary and continuing relationship between imperialism and the English sense of chosenness. First, in challenging recent literature explaining British imperialism as a consequence of the evangelistic spirit of Protestantism, Armitage observes the failure of Protestantism to act as “the solvent of difference within the Three Kingdoms, and hence the solution to the problem of diversity within the empire of Great Britain.” Recapitulating the contentious relations among the Three Kingdoms from the Reformation through the nineteenth century, he concedes that “Protestantism was the only thread joining these three mutually constitutive processes from state-formation to empire-building”; still he seeks to demonstrate “just how small a part Protestant conceptions of the millennium, of the church and of salvation played in the development of Anglo-British conceptions of empire,” and just how far Protestantism was from being “the well-spring of imperial identity some later historians have discerned.”210 It is by his conflation of Protestantism with the providentially formed identity characteristic of members of the English confessional state, then, that the difficulty becomes clear. Descriptively, Protestantism (as Clark has helpfully reminded us) cannot productively be treated as an indissoluble unity; methodologically, Protestant ecclesiological battles (again, as Clark has demonstrated) must be understood as the effort to control the author-

ity conferred through English identity, which, as has been argued, depended upon a particular providential structure.

Nevertheless, Armitage raises a necessary objection to the simplistic identification of Protestantism as the cause of British imperialism. In particular he demonstrates that two of the leading English theorists of colonization, Richard Hakluyt and Samuel Purchas, only secondarily relied upon Protestant concepts of millennialism or ecclesiology in advocating English expansion.211 Further, in challenging the thesis of British imperialism as simply a manifestation of evangelical Protestantism, Armitage insists upon the importance of secular considerations in the development of the British Empire. Briefly, England’s isolated island existence compelled it to develop naval skills which translated into military and commercial power but raised difficult questions about the extent and appropriate use of that power; these effectively indistinguishable problems stimulated interest in a recently recovered classical language useful for facilitating debate and sustaining judgments about the possibilities and dangers of political expansion just as they forced the development of the new intellectual discipline of political economy useful for facilitating debate about economic expansion. The language of empire was not solely or even predominantly religious, Armitage concludes; rather, “Empire was always a language of power.”212

211 Ibid., 61-99.
212 Ibid., 29.
4. CONCLUSION

Clark’s thesis as we have argued, advances the most compelling account of the relationship between the formation of English national identity and the consolidation of the English state. And, while one cannot dispute the persistence, England’s peculiar form of national identity into the 20th Century, one can dispute whether the narrative of national identity ought to be accepted as the controlling or normative of Anglo-American history. As we have indicated in this chapter, a focus on the narrative of English national identity obscures other critical developments in English society, including the differentiation of social and religious identities and authorities, and the consolidation of state power, the appearance of new languages - theological, historiographical, and ideological, designed to legitimate state power. In the chapters that follow, it will be argued that the controlling narrative of Anglo-American history ought to focus on the relationship between the continuing progress of the English state - and empire - and the continuing multiplication and diversification of identities within the growing Anglo-American polity.
Chapter 5: Center against Periphery: 
The Polarization of English Identity in the British Empire

1. INTRODUCTION

The dissolution of British national identity (as described in previous chapters), along with an increasing emphasis on cultural history by British and American historians, have combined to encourage revisions to scholarship on the causes and implications of American independence. Challenging dominant ideological approaches to the origins of the American Revolution, more recent scholarship has located the origins of the colonies’ separation from Britain in the polarization of British identity. While these various movements from ideology to identity have opened up new insights into the causes and implications of American independence which promise to synthesize religious and constitutional dimensions of colonial discourse excluded from ideological interpretations, it is also the case that these histories of identity have, in effect, projected pre-existing conceptions of American national identity into the past and reinforced traditional interpretive categories that lay implicit in the triad of national identity/civil religious authority/the unitary state.

Jonathan Clark advances the most radical revision of scholarship on the colonial movement for independence. Drawing from his treatment of English identity as an indivisible unity of institutions and ideas communicated in the legal/religious language of sovereignty, Clark finds the causes of the separation of Britain’s American colonies in the polarization of this language of sovereignty. Though the language of sovereignty was undeniably prominent in Anglo-American discourse during the eighteenth century, we will
see that Clark’s definition of the term leads him to recapitulate centuries-old lamentations about the decay of the British Empire offered by those who hoped to defend that centralized and hierarchical ancien regime against the threats of local autonomy and religious dissent at the Empire’s margins. Among American scholars, John Murrin and Timothy Breen have been most influential in refocusing debate about the American Revolution in terms of identity. Yet again, as will become clear, their respective approaches both implicitly accept the ideological assumptions native to the categories of national identity and transcendent authority which sustain and are sustained by the modern institution of the state. Thus both of their approaches, despite the use of the analytical category of identity, end in a recapitulation of the standard republican and liberal ideological interpretations of American political thought.

2. **ENGLISH NATIONAL IDENTITY, CLARK’S “ANCIEN REGIME,” AND AMERICAN REVOLUTIONARY HISTORIOGRAPHY**

As we have demonstrated in previous chapters, the heart of Jonathan Clark’s revision of Anglo-American history during its “long eighteenth century” is his reconstruction of its “ancien regime” - a compact and indivisible social unity in which the providential national identity of God’s chosen Englishmen was communicated through the legal and institutional forms of a sovereign King-in-Parliament authorized by the established Church of England. In Chapter 4 we criticized Clark’s method of treating England as an undifferentiated ideological and institutional unity, arguing that the Henrican Reformation was contemporaneous with institutional and ideological differentiations which made im-
possible the perpetuation or re-creation of such a social unity; in Chapter 6 we will contend that this institutional differentiation is the critical feature in any treatment of the role of identity in the American Founding era that is to challenge the otherwise uncritically accepted triad of national identity/civil religious authority/unitary state power. In the present section, however, we will attempt to demonstrate how Clark’s “ancien regime” thesis - while it exposes certain uncritically accepted assumptions of ideological scholarship - serves, ultimately, to reinforce criticisms of the American experiment advanced by the most reactionary and conservative defenders of Britain’s centralized and hierarchical empire.

2.1. Clark’s Critique of Ideological Scholarship

In approaching late eighteenth century Anglo-American discourse through the idiom of identity, Clark is able to cut through the assumptions implicitly accepted in republican scholarship on ideology and in liberal responses to this scholarship. A narrow consensus has emerged between republican and liberal scholars on the influence of a radical Whig ideology in encouraging the movement for colonial independence; Clark contends, against this consensus, that Whig arguments cannot properly be understood as part of any teleological narrative, whether said narrative is understood in terms of liberalism or radicalism, classical humanism or republicanism. Most important to Clark’s criticism

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213 Liberal scholars, conceding the importance of the republican rediscovery of Whig sources in America’s revolutionary discourse, have begun to assert the liberal character of these Whig arguments. In addition to Michael Zuckert’s *Natural Rights and the New Republicanism*, and Lee Ward’s *The Politics of Liberty in England and Revolutionary America*, see Annie Mitchell, “A Liberal Republican ‘Cato’,” *American Journal of Political Science* Vol. 48, No. 3 (Jul., 2004), 588-603.
is the recognition that these teleological narratives of the development of modern political ideologies in seventeenth- and eighteenth-century Anglo-American discourse are united by the common assumption that the emergence of ideological discourse required or gave evidence of a process of secularization. Clark, arguing from the perspective of his legal and religious conception of English national identity turns this thesis on its head, locating the unifying characteristic of Whig thought not in the progress from a religious to a non-religious mode of political discourse, but in the persistence of the language and categories of argument about the form of England’s ecclesiastical polity within which English identity had always been constituted. Rejecting the seminal contribution to this narrative which placed English Whigs at the heart of a hypothesized emergence of “radicalism,” Clark insists: “Caroline Robbins’s ‘Commonwealthmen’ are not to be understood as standing within a single tradition of thought, given different expression by three clearly-related generations of authors; [instead] their common feature lay in their theories of religion, even in their theology....”

In addition to denying the premise shared by republican and liberal scholars that America’s revolutionary generation was motivated by a secularized Whig ideology

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214 Clark (1994), 21. It should be observed that John Trenchard and Thomas Gordon, who combined to pen *Cato’s Letters* - generally held to be the Whig text most influential upon American revolutionary discourse, also published *The Independent Whig* (Hartford: William S. Marsh, 1816), which carried the provocative subtitle “or, a Defence of Primitive Christianity, and of our Ecclesiastical Establishment against the Exorbitant Claims and Encroachments of Fanatical and Disaffected Clergymen”. Incidentally, there appears not to have been a full reprinting of *The Independent Whig* in the United States since this 1816 edition; David L. Jacobson edited a volume including selections from that text and *Cato’s Letters* in 1965 under the title *The English Libertarian Heritage from the Writings of John Trenchard and Thomas Gordon in the Independent Whig and Cato’s Letters* (Indianapolis: Bobbs-Merrill, 1965). This should serve as a clear indication of contemporary scholars’ lack of interest in the ecclesiastical context of arguments more comfortably treated in terms of “radicalism,” “libertarianism,” or “republicanism.”
(whether of a classical or Lockean character), Clark goes on to claim that Whig arguments were not prominent enough to constitute a distinct thread within American revolutionary discourse. Offering a serious reproach to Bernard Bailyn, who claimed to find a pamphlet literature in which the writings of the Whig theorists brought “disparate strands of thought together, ...dominated the colonists’ miscellaneous learning and shaped it into a coherent whole…,” Clark observes the “almost complete absence of reprints of the Commonwealthmen in America.” He charges in response that the unifying power of a Whig or republican ideology in the colonies “has only been asserted, not demonstrated…. ” Many of the themes emphasized by the ‘Commonwealthmen’ and by advocates of the Whig thesis - claims of slavery, tyranny, arbitrary power, and the like - did, in fact, reappear in colonial discourse, but Clark indicates these claims are more properly understood within the context of the language of English identity, which became increasingly polarized as a result of dissent from Anglican orthodoxy, than as an ideological template imported into colonial discourse from Old Whig texts. Clark offers a similar challenge to the liberal thesis, noting that the Lockean influence on early American political discourse has also been asserted, rather than demonstrated, in American scholarship. Locke was not published in the colonies until 1743, when a spat between Congregationalists and Separatists at Yale prompted the printing of his *Letter Concerning Toleration*. His *Second Treatise on Government* was not published in the colonies until

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215 Bailyn (1967), 34.

1773 (and, indeed, was not reprinted by an American press until 1937). To the degree that Locke’s influence was felt, Clark indicates, it was as part of Protestant dissent against the hegemony of the Anglican establishment. Clark’s conclusion stands: “American historians had been debating whether the ideology of the Founding is essentially to be understood as Lockeian liberalism or as republicanism. In the new setting of British scholarship, we can see that this is a *question mal posee*, and that the answer is ‘neither’.”

### 2.2. The Ancien Regime and the Colonial War for Independence

Eschewing the thesis that the colonists joined with one another in opposition to the British Empire under the authority of a revolutionary ideology, however defined, Clark draws from his broader thesis about English identity the premise that English colonists were united with one another and with their British brethren by the legal and religious language through which the English identity-state had long been constituted. Sum-

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218 Clark’s argument here points toward the need to understand Whig political thought from within the perspective of an institutional account of state formation, but his methodology - which focuses exclusively upon the theological language of sovereignty - prohibits this. We indicated above, n. 254, Trenchard and Gordon’s emphasis upon issues of ecclesiastical polity in *The Independent Whig*; it should also be noted that a critical theme in *Cato's Letters* is provided by the growing danger of corruption in a and differentiating British Empire.

219 Clark (1997), 804.
marizing the implications of his thesis for the study of the American Revolution, Clark observes:

The American Revolution was mainly ‘about’ law: that is, the legal aspect of political authority, taxation and trade was at the centre of political controversy and determined the timing of the outbreak of armed resistance. But it was ‘about’ religion too, not only because religion created intellectual and social preconditions of resistance, but also because religion shaped the way in which British and colonial legal thinking developed and came to define certain practical problems as non-negotiable....

He develops this thesis through four broad arguments. Each serves to advance the conversation about the process by which English identity was severed when the thirteen English colonies came to demand their independence from the British Empire. Nevertheless because Clark assumes that English identity even in the colonies could be expressed only in terms compatible with the triad of English national identity/established Anglican Church (or Anglican hegemony)/sovereign power of King-in-Parliament, his arguments also serve to obscure critical elements of the divergence of English identity in the colonial decision to declare independence from the British Empire.

2.2.1. The Concept of Sovereignty and England’s Ancien Regime

Because of Clark’s singular focus upon English identity as an undifferentiated unity of law and religion, the legal and religious concept of sovereignty is at the center of his account of the polarization of English identity on the two sides of the Atlantic. Addressing the language through which the trans-Atlantic dispute about political authority

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was conducted, Clark contends that both its legal and religious dimensions were incorporated into a broad contest about the meaning and implications of the abstract concept of sovereignty. This debate occurred against the backdrop of the compact form of English identity described previously, realized institutionally through what Clark describes as the “personal, indefeasible relation between subject and sovereign, expressed simultaneously in terms of God-given natural law and of the patriarchal relations of parent and child.” Within this compact form were compressed legal and spiritual authority, legitimately borne in the person of the sovereign to whom the subject was obligated to grant allegiance. This form of England’s identity-state had been reinforced by the common law in Calvin’s Case (1608) which held that “where there is but one souereigne, all his subiects borne in all his dominions bee borne ad fidem regis; and are bound to him by one bond of faith and allegiance...”. Still, the grounds of this sovereign authority were never precisely clear. For some English clergymen, the sovereign power of the crown was derived directly from God; for others, including Hooker, the power of the crown was clothed in divine sovereignty whether that power was received immediately from God or obtained mediately through the political choices of men and exercised through the institution of the King-in-Parliament. The sovereign authority of the crown was not, until the positivism of Jeremy Bentham, grounded on the possession of mere political power; only “treasonable papists... maintaineth, that kings have their authority by the positiue lawe of na-

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221 Ibid., 1-6; 46-140.
tions, and haue no more power, than the people hath, of whome they take their temporall jurisdiction....”

Thus, while Parliament’s assertion of itself in 1688 as a constituent of the sovereign power ruling England, possessing the authority to bestow the power of the Crown, foreclosed arguments of divine right as a practical matter, it did not disrupt the broader legal and religious conception of sovereignty within which Englishmen conceptualized authority. Blackstone defended the sovereignty of the King-in-Parliament; and though Clark acknowledges criticisms that Blackstone advanced apparently positivist arguments about the authority of statutory law, he concludes that Blackstone’s conception of statutory law was ultimately grounded in the premise that “the Anglican sovereign, as head of the Church, represented and articulated law-as-revelation.” In emphasizing the authority of statutory law, Blackstone’s central concerns, in Clark’s analysis, were the threat to the Anglican social unity posed by Dissent and the need to consolidate power over the emergent British Empire’s dominions. For this reason the doctrine of sovereignty was doubly troubling to the Dissenters of the English colonies. Thus Clark indicates that both dimensions of the concept of sovereignty - claims about its legitimate basis and about the institutional form through which it was legitimately exercised - were central to colonial discourse on the subject.

222 Ibid., 49-51.
223 Ibid., 84.
2.2.2. God as Sovereign - A Fundamental Law Critique

It is critical to note, however, that Clark, in writing from the perspective of the unified social reality of English national identity (organized by the established or hegemonic Anglican Church and represented institutionally through the King-in-Parliament), utterly overlooks the problem of harmonizing the ideational reality of a singular English national identity with the institutional reality of differentiation within the British Empire. Clark’s account of the polarization of English identity takes as its point of departure the British concern of maintaining a social unity established at the center, rather than the modern problem of accommodating the need for unity with the multiplicity and diversity of institutions, interests, and identities found within modern society. Attending to arguments about the legitimate basis of sovereignty, Clark demonstrates how colonial Dissenters, heirs to Calvinist and Huguenot theories of resistance to arbitrary power, resisted the aggressive English doctrine of sovereignty with the premise that there exists a “fundamental law” of divine origin that simultaneously authorizes and limits political power.224 This term “fundamental law” was employed inconsistently, Clark observes; “...sometimes it meant the whole common law, sometimes specific provisions; sometimes it was synonymous with natural law, sometimes with the ancient constitution.” Nevertheless, in response to specific and disputed claims of power, the concept of fundamental law became increasingly important in colonial discourse. The ambiguity of the concept

remained - “the terms natural law, moral law, fundamental law and divine law were often virtually synonymous, and were invoked together for rhetorical force rather than for precision of argument...”\textsuperscript{225} - but it permitted the heirs of Protestant doctrines of resistance to authority to insist upon the sovereignty of God, first as a limit to British claims of sovereignty, and then as a way of authorizing colonial claims to popular sovereignty. Thus a Dissenting minister from England could say in support of the colonial cause,

\begin{quote}
Perhaps you will say, The SUPREME POWER in every government, must be lodged somewhere, and this power must be OMNIPOTENT and UNCONTROLLABLE. I allow it. But the glory of the British constitution is, that the PEOPLE have never parted with this power, but have most religiously kept it in their own hands. You will tell me, probably, that they do part with it, when they elect representatives, and that the supreme power in Great Britain, most unquestionably resides in King, Lords, and Commons. I answer, such a portion of it only as is within the limits of the fundamental laws and constitution of the kingdom.\textsuperscript{226}
\end{quote}

The Protestant concept of fundamental law also provided fertile ground within which the concept of natural law that had recently gained currency in Europe could flourish. Perhaps it is more accurate to say that the application of the concept of fundamental law encouraged a lack of precision in the use and in later interpretations of the concept of natural law. Indeed, Clark is guilty of a lack of precision in treating the concepts of fundamental and natural law. While such arguments appeared earliest and most prominently among New England Congregationalists, in the mouths of colonial lawyers and constitut-

\textsuperscript{225} Clark (1994), 112-3.

\textsuperscript{226} Ibid., 115; quoting Caleb Evans, \textit{A Reply to the Rev. Mr. Fletcher’s Vindication of Mr. Wesley’s Calm Address to Our American Colonies} (Bristol, 1776), 71.
tional theorists the concept of natural law drew at least as much from the burgeoning field of international law as it did from the the explicitly Protestant concept of fundamental law.\textsuperscript{227} Still, tracing the unfolding of colonial natural law arguments from the perspective of the broader debate about sovereignty, Clark uses sources penned by dissenting clergy to sustain his conclusion that “the shared [English] legal tradition was sharply polarised into an antithesis between a common law and a natural law understanding of sovereignty...”\textsuperscript{228} From his study of these dissenting sermons and tracts, Clark concludes that this legal and religious language of sovereignty which constituted English identity split along the line that separated Dissenting denominations from Anglican hegemony.

\textbf{2.2.3. The Anglican Church - The Carrier of Sovereign Authority}

Anglicanism - as the vehicle of the English people’s divine mission - had been, in Clark’s account, the engine of English state-formation, but following the Glorious Revolution the hegemonic authority of the Anglican church-state faced increasing challenges.\textsuperscript{229} The Church was required to make certain accommodations to Dissenters, and the monarchy was constrained by the imposition of the Bill of Rights. These threats to the Anglican order notwithstanding, Clark observes, “Of the components of late-Stuart

\textsuperscript{227} David Armitage, \textit{The Declaration of Independence: A Global History} (Cambridge: Harvard University Press, 2007), 63-9. We will address this in greater detail in Chapter 6. It must be noted, however, that the strongest arguments for a natural rights or natural law interpretation of colonial revolutionary discourse depend most heavily upon sources from New England clergymen. Again, see Dworetz (1990) and Huyler (1995).

\textsuperscript{228} Clark (1994), 105.

\textsuperscript{229} This is also the central thesis of Carl Bridenbaugh’s \textit{Mitre and Sceptre: Transatlantic Faiths, Ideas, Personalities, and Politics, 1689-1775} (Oxford: Oxford University Press, 1967).
kingship - divine, hereditary, indefeasible right - most strands of political discourse sought to argue that 1688 had modified only ‘indefeasible’. Into the early nineteenth century, the Church of England therefore continued to insist that the state in general and sometimes that the existing form of government in particular had received divine sanction.”

Thus Anglicans sought - both within England and in its colonial dominions - to defend the socio-political order they thought depended upon the Anglican establishment. Clark cites an Anglican priest (James Maury - with whom Thomas Jefferson lived and studied from ages 14-16) whose concerns about the bounds of the toleration owed to dissenters to established or civil religious authority resonate with those expressed by contemporary liberals (as discussed in Chapter 1):

I trust I am far from the inhuman & uncharitable Spirit of Persecution. No Man either professes or thinks himself a warmer Advocate for Liberty of Conscience, that natural Right of Mankind. But when Men under Pretence of asserting & exercising this Right, sow the Seeds of Discord & Confusion: when they so industriously propagate heterodox opinions in a Manner, inconsistent with & repugnant to, the formal Sanctions of Government & Law; none, surely, not their most zealous adherents, nor even themselves, can justly complain, should they be laid under just & equitable Restraints. Such, as dissent from the established Church, & are indulged by the Government publicly to teach those of their own Communion under certain wise & moderate Restrictions, would, one would think, if influenced either by Modesty or Prudence be cautious of transgressing the Bounds, markt out to them by such wholesome & tolerating Laws; which, as they, on one Hand grant them all reasonable Indulgences, in Condescension to their scrupulous Consciences, so, on the other, must be thought just in wisely providing for the Peace, Unity & Order of the national Church, for the Security of which they have been chiefly calculated.231

230 Clark (1994), 156.

231 Ibid., 163; quoting James Maury to [? William Dawson], Fredericsville, 6 Oct. 1755.
The converse, for Clark, of this expression by a representative of established or civil religious authority was to be found in the increasing alliance of those groups which had splintered off into denominational factions. By the middle of the eighteenth century, dissenters had begun to transcend bitter denominational differences with respect to doctrines of ecclesiastical organization and to unite in defense of the natural right of religious liberty. Their relative numerical strength in the colonies combined with the Anglican establishment’s project (through the Society for the Propagation of the Gospel) to solidify its hegemony in the relatively under-developed margins of the British Empire to stir up, in the colonies, age old fears about religious persecution.\(^{232}\) Religious persecution had been persistent in the history of the English identity state, and differences about the proper form and dogma of the Anglican Church within which God’s chosen Englishmen understood themselves to be gathered had boiled up into rebellions that disrupted the English social unity several times during the long eighteenth century.\(^{233}\) Thus Clark concludes there existed a predisposition to rebellion in the simmering conflict for control of the institutions of England’s confessional state. This conflict extends back to the Marian persecutions that prompted English Protestants to develop justifications for resistance to monarchy, to identify arbitrary and tyrannical monarchical authority with the existence of ecclesiastical hierarchy (or “Popery”), and to project their history as God’s chosen people (or as a remnant in God’s apostate people) into a mission with millennial implications.\(^{234}\)

\(^{232}\) Bridenbaugh (1967).

\(^{233}\) Clark (1994), 218-95.

\(^{234}\) Haller (1963), esp. Chapters 1 and 2.
2.2.4. Dissent - Denominationalism and the Rebellion against Sovereignty

With these predispositions to rebellion latent in the history and structure of English identity, Clark concludes that the American “Revolution” must be thought of not as a revolution in the modern sense of the term, but as merely another episode of Dissent-driven rebellion. The defender of England’s ancien regime astutely recognizes that modern ideological scholarship critical of aristocratic and religious hierarchy grants a privileged place to the concept of revolution; it is the act by which a People comes to define itself as a Nation sharing a common identity based in class or ideology and to capture for itself by force the state through which this identity can be represented.235 Explaining the categories employed by scholars writing from the perspective of the liberal nation-state, Clark argues,

‘Revolution’ has been turned from an explanation into a thing to be explained, and ‘rebellion’ reduced to a pejorative and diminutive term. Consequently, revolutions are conventionally explained by reference to a timeless model of what revolutions are or should be; rebellions are dismissed as minor challenges to governments, unsuccessful because not equipped with the appropriate ideological charge.236

Against the perspective of recent American scholarship on the American Revolution,

Clark disputes republican claims about the paranoid character of the colonial mind, conceding a long tradition of apparently “paranoid” rhetoric in the English tradition but explaining, “...what were most at issue on both sides of the Atlantic were not the ailments


236 Clark (1994), 218.
conceptualised by twentieth-century psychoanalysis, but the categories, commitments and stresses of early-modern religion.”  

In this way, Clark explains the American Revolution as a civil war in which the rebel party was mobilized by theological presuppositions and by the intensification of denominational divisions - particularly the split between “orthodox” Anglicanism and “heterodox” Dissent. “[T]he American Revolution displays, on a vast canvas, all these ancient British and ecclesiastical conflicts played out to a conclusion: militant imperial Anglicanism versus sectarianism and ethnic diversity; heterodoxy and what we know as the international Enlightenment versus dour, tradition-conscious orthodoxy, both Anglican and Calvinist; religious exclusiveness versus demands for toleration and the separation of Church and State; the right of rebellion versus the duty of allegiance....”

Englishmen in the colonies had recognized, by 1776, the existence of an “American cause” that was “an evangelical one, revivalistic with elements of millennialism, voluntarist in its bearing on social institutions, making explicit play with the role of divine Providence and the predestined glory of a liberated America....” Nor was this providential understanding of the American cause simply a minor strand within an emerging form of politi-


238 Clark (1994), 305.

239 Ibid., 336-7.
cal consciousness; Clark cites John Adams reflecting, shortly after the final surrender of British troops at Yorktown, that

the great designs of Providence must be accomplished. Great indeed! The progress of society will be accelerated by centuries by this Revolution. The Emperor of Germany is adopting, as fast as he can, American ideas of toleration and religious liberty, and it will become the fashionable system of all Europe very soon. Light spreads from the dayspring in the west, and may it shine more and more until the perfect day.

From the perspective of the decaying ancien regime, Clark responds ruefully; “Others interpreted the shared transatlantic inheritance differently, and deplored its division.” Obliquely expressing his own sentiments through those offered by a British official in the colonies who had been “moved to despair by the zeal of republican preachers,” Clark condemns the colonists’ rebellion, reciting a quotation from Lucretius: “Such conduct in such persons affords too much Room for the Taunts of Infidels: Tantum Religio potuit suadere malorum” - “Such are the crimes to which religion leads.”

2.3. The Partial View from England’s Ancien Regime

In ascribing the Revolution (or “rebellion”) to religious enthusiasm, and in finding this religious enthusiasm authorized by the language of “the Laws of Nature and of Nature’s God,” Clark repeats one of the oldest charges made by defenders of the British Empire against its colonial critics. In this repetition it is possible to see how his commitment to England’s ancien regime effectively directed him to an interpretation of the

240 Ibid., 391; quoting from letter to Abigail Adams, December 18, 1781.
241 Ibid., 391; quoted from Lucretius, De Rerum Natura, Book I.
American Revolution that denied its essential modernity - as understood from the perspective of a Tocqueville - and condemned it from the perspective of a leading member of the new intellectual class of apologists for state power. The charge Clark repeats was made most forcefully by Jeremy Bentham, in his “Short Review of the Declaration”.

First and foremost, Bentham - defending the rational and unitary construct of sovereignty - defined the colonists’ attempt at rebellion as grounded in the religious claims of dissenters, and who rejected their invocation of a divine or natural law out of hand, as pure subjectivism that was at odds with any stable or functioning form of government. “If to what they now demand they were entitled by any law of God, they had only to produce that law, all controversy was at an end. Instead of this, what do they produce? What they call self-evident truths.” Disputing Americans’ self-evident claims to rights of life, liberty, and the pursuit of happiness, Bentham insisted “nothing which can be called Government ever was, or ever could be, in any instance, exercised, but at the expense of one or other of those rights…. [C]onsequently, in as many instance [sic] as Government is ever exercised, some one or other of these rights, pretended to be unalienable, is actually alienated.” Indeed, Bentham suggested that the principles of the American Declaration of Independence were effectively antinomian. In their novel principles of government, Americans “have outdone the utmost extravagance of all former fanatics. The German Anabaptists indeed went so far as to speak of the right of enjoying life as a right unalienable.”

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242 This piece is reprinted in Armitage (2007), 173-86.
But this first generation of Protestant antinomians “went no farther” than insisting upon an unalienable right to life; Bentham continues,

> it was reserved for an American Congress, to add to the number of unalienable rights, that of enjoying liberty, and pursuing happiness;-- that is, -- if they mean anything, -- pursuing it wherever a man thinks he can see it, and by whatever means he thinks he can attain it:-- That is, that all penal laws -- those made by their selves among others -- which affect life or liberty, are contrary to the law of God, and the unalienable rights of mankind:-- That is, that thieves are not to be restrained from theft, murderers from murder, rebels from rebellion.

Here then they have put the axe to the root of all Government…

Like Clark, Bentham, operating from the perspective of the unitary and hierarchical conception of English social reality manifest conceptually and institutionally through the notion of sovereignty and the power of the sovereign state, could not conceive of a government organized upon the principle of consent and deriving its legitimacy by earning the affections of its citizens. Instead, in characteristically English fashion, both rely upon custom and precedent to authorize the power of a state whose claims to sovereignty and to dominion over colonial holdings were, in fact, rather recent inventions. Clark defines sovereignty as a “common-law” doctrine, having emerged organically out of a peculiarly English experience, thus obscuring its origins in the modern discourse of statecraft. Bentham contends, by contrast to colonial denials of Parliamentary powers in the Declaration, “The powers then, of which the several articles now before us complain, are supported by usage; were conceived to be supported then, just after the [Glorious] Revolu-

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tion…; and were they to be supported only upon this foot of usage, still that usage being coeval with the Colonies, their tacit consent and approbation, though all the successive periods in which that usage has prevailed, would be implied…” Indeed, Bentham is so impervious to colonial claims as to have found evidence for the colonists’ explicit consent to sovereign powers exercised by King-in-Parliament even in colonial assemblies’ challenges to those powers. “In praying for the non-exercise of these powers, in particular instances, [colonial assemblies] acknowledged their legality; the right in general was recognized; the exercise of it, in particular instances, was prayed to be suspended on the sole ground of inexpedience.” What is more, to the extent that colonists took any action beyond petitioning to oppose the exercise of these powers, the King was justified in removing them from his protection. A subject is only “aggrieved, when, paying due obedience to the established Laws of his country, he is not protected in his established rights. From the moment he withholds obedience, he forfeits his right to protection. Nor can the means, employed to bring him back to obedience, however severe, be called grievances…” Instead, Bentham labeled such means as “self-defense” - as attempts to guarantee to “loyal subjects… the peace of the King, against the outrages of Rebels, who had broken the peace of the King.”

Though Clark can only lament the success of the colonial rebellion and the demise of England’s ancien regime, Bentham closed his piece with a forceful reproach to

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244 Ibid., 184.
those who dared challenge the irresistible power of the British sovereign and the undifferentiated unity of the people organized under that power:

The mouth of faction, we may reasonably presume, will be closed; ...the nation will unite as one man, and teach this rebellious people, that it is one thing for them to say, the connection, which bound them to us, is dissolved, another to dissolve it; that to accomplish their independence is not quite so easy as to declare it: that there is no peace with them, but with the peace of the King: no war with them, but that war, which offended justice wages against criminals. - We too, I hope, shall acquiesce in the necessity of submitting to whatever burdens, of making whatever efforts may be necessary, to bring this ungrateful and rebellious people back to that allegiance they have long had it in contemplation to renounce, and have now at last so daringly renounced.245

In advocating the forcible closure of the “mouth of faction” and the coercion of allegiance to the British sovereign, Bentham, like Clark, demonstrates his conception of the British Empire as a social unity into which had been compressed the institutions and individuals comprising a hemispheric commercial and military power. Demonstrating no appreciation for the sociological solution to the problem of faction that Madison would adapt from the work of David Hume,246 Bentham advocated closing “the mouth of faction” by force. Allegiance was not something to be earned by the government which sought to demonstrate the legitimacy of its rule; instead, Bentham expected subjects to demonstrate their allegiance to the King, even when they disputed the exercise of his

245 Ibid., 186.

government’s power. Finally, despite his vigorous opposition to faction, Bentham did not claim a foundation for the sovereign power of the King-in-Parliament in anything more solid than the positive existence of that particular government as reinforced by the tacit consent of custom.

Though the atheist Bentham departed from the traditional language of law and religion through which Englishmen had understood and authorized the sovereign power of the English church-state, Clark finds no substantial practical difference between Bentham’s conception of sovereignty and that which he had identified in his own analysis of the political discourse of the Anglican church-state. Clark concludes that as a practical matter, sovereignty was held both by the positivist Bentham and by defenders of the Anglican hegemony to be indivisible and absolute. On these grounds, Clark is justified in concluding about the dispute between Crown and colonies, “Absolute sovereigns do not commonly relinquish their sovereignty, and in 1776 that absolute sovereign, the King-in-Parliament, went to war because it could not envisage a federal redefinition of its structure as anything other than the successful rebellion of part of its possessions.” From within the perspective of English identity, represented by the sovereign power of King-in-Parliament, “rebellion and war (an ‘appeal to heaven’) rather than the negotiation of federal structures seemed the only alternative to monarchical allegiance.”

Clark’s analysis is astute so far as it goes, but his conclusion is incomplete because he himself never departs from the perspective of English identity. Indeed, because Clark’s treatment of Eng-

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lish identity exists wholly within this shared but contested language of sovereignty - be-
cause his treatment of the polarization of English identity is told from the perspective of
the sovereign - he is utterly unable to appreciate the experience of alienation from power
experienced by Englishmen who resided at the margin of a growing empire. Likewise, he
is unable to appreciate the way in which these colonial Englishmen departed from the
narrow language of law and religion expressed in the debate about the nature and location
of sovereignty in their response to Parliament’s claims of sovereignty.

Referring to the categories employed in this dissertation, it can be said that Clark,
in treating the language of sovereignty as the matrix of English identity and state-
formation, collapses distinct issues of identity and power into the problem of authority in
his treatment of the controversy between Englishmen in the colonies and those at the em-
pire’s center. In this way, his treatment of the colonies’ separation from the English em-
pire fails to distinguish (as we attempted to do in Chapters Three and Four) between ex-
plicitly denominational issues and issues more properly thought of in terms of the prob-
lems of England’s peculiar historiographical form of identity. Likewise, because of his
nostalgia for a hegemonic English world now past, he seems constitutionally incapable of
accepting the criticisms of the British Empire advanced by the colonists who resided at its
margins; he largely overlooks colonial formulations of a federal form of imperial consti-
tution, focusing on the inflammatory influence of the discourse of religious denomina-
tions - as these denominations had become realigned and polarized by the civil religious
languages of Anglican orthodoxy of Dissent. Having collapsed distinct issues of identity
and power into the category of authority - understood in an explicitly civil religious idiom - Clark is unable to see in the political thought of the American Founding era the faint outlines of an alternative to the substance, and more importantly the form, of English national identity/hegemonic Anglicanism/English imperialism.

3. American Historiography and the Colonial Movement for Independence

Where the British historian Jonathan Clark insists upon placing England’s “ancien regime” at the center of his revision of the story of the colonial movement for independence, modern American liberal historiography was, following Louis Hartz, grounded on the proposition that there never existed in America an ancien regime against which a liberal or democratic revolution was necessary. This Tocquevillian premise did not serve, for the most prominent proponents of this liberal interpretation, as the premise of a Tocquevillian argument that emphasized federal and republican America’s institutional exceptionalism as compared against the unitary and hierarchical state forms of the Old World. Instead, most liberal scholars lamented that the absence of an ancien regime in America precluded the development of a properly liberal ideology - that is, of an ideology supportive of the form of unitary state characteristic of the European powers.248 Nor did republican and neo-liberal revisions to this liberal historiography emphasize America’s institutional exceptionalism, focusing instead on refuting liberal claims of America’s foundational absence of ideology.

248 “[N]ow appoint a king to lead us, such as all the other nations have.” I Samuel 8:5.
Recent American accounts of the American Founding era which focus on identity rather than on ideology begin at a place in between Clark’s claim that English social reality in the form of English national identity had been effectively recreated in the British colonies and Hartz’s claim that the colonies were characterized by the utter absence of an ancien regime. Central to this most recent generation of American historiography is the thesis that colonial life was characterized by the process of Anglicization - the process (uneven, to be sure) by which English cultural institutions were imported into the English colonies. While this Anglicization thesis could be employed as a way of arguing (in a Tocquevillian sense) for the incompatibility of England’s hierarchical cultural institutions with the peculiar social conditions of the New World, and while it could be employed to demonstrate a growing rift between those at the center of the Empire and those at its margins about the proper institutional form of the British Empire in the years during which that Empire consolidated, it serves in the hands of American scholars of identity in the Founding era to reinforce the ideological categories inevitably bound up in a defense of the modern state.

3.1. Liberalism, Republicanism, and Ideology

Despite the centrality of ideology not simply to early American intellectual history, but to the mission of early American intellectual historians to define the ideology that they believe authorizes the American state, ideology has an awkward place in the historiography of the American founding. Indeed, the concept of ideology in its contemporary usages had effectively no place in the historiography of the American founding until
Progressive scholars took up the task of advocating a European-style nation-state organized to serve a people thought to possess an undifferentiated economic interest.\textsuperscript{249} Even then, however, Americans as a people remained effectively unmoved by the ideological discourse of America’s intellectual class, a point this intellectual class recognized in the wake of the condensed period of state formation that occurred between the start of the New Deal and the close of the Second World War. Some acknowledged this absence of ideology as the mark of American exceptionalism; by contrast to the European nations that had been consumed from within by the poison of ideological radicalism, Daniel Boorstin recognized in the absence of ideology the “genius” of American politics.\textsuperscript{250} Still, the war left America with a powerful state apparatus and military that placed on the nation’s shoulders the responsibility for defending a world otherwise utterly unprepared for defending itself against the imperial communist ideology of the Soviet Union and its client states.

It was this situation to which Louis Hartz responded in what emerged as the seminal text in modern liberal scholarship on American political thought, \textit{The Liberal Tradition in America}.\textsuperscript{251} Hartz lamented the utter absence of any ideological awareness among


\textsuperscript{251} Louis Hartz, \textit{The Liberal Tradition in America} (New York: Harcourt, Brace, 1991 [1955]).
Americans who, having been born as a people in a social environment wholly absent of feudal institutions, could only act in accordance with individual self-interest; Hartz referred to this as Americans’ unconscious and “irrational Lockeanism,” employing Locke’s name not because of the influence of his ideas but only because his argument for grounding political power on property rather than on feudal or monarchical hierarchies fitted him to serve as a symbolic spokesman for a people who had never known inherited social inequalities. Still, Hartz argued, Americans unaware of their fundamental difference from the nation-states of Europe, and unaware of the ideological language through which the peoples of Europe had attempted to overcome the social inequalities that had been reinforced in the formation of their modern state institutions, could not effectively bear the burden of leadership that their own newly formed state power demanded of them. In this way Hartz, having followed Tocqueville in finding America exceptional in its foundational lack of social inequalities, departed from Tocqueville in calling for Americans to learn from a European world of nation-states that, without the intervention of American people untouched by the radicalism characteristic of ideological thinking, would have collapsed into itself.

In calling Americans marked by the absence of European-style ideology to develop an ideological consciousness, Hartz established himself as the godfather of modern liberal scholarship on American political thought. Despite his central place in the historiography of the American founding era, however, his successors - both liberals and their

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252 Hartz (1955), Chapter 1, Section 2, esp. p. 11.
republican critics - resist his central thesis. Liberal scholars, seeking a response to
“America’s constitutional fetishism” that had its root in “the national acceptance of the
Lockian creed,” sought to ground the origins of that irrational Lockean creed in a more
progressive and expansive conception of that creed consistent with modern and rationalist
theories of natural right. Their republican critics found a much richer ideological terrain
in the late eighteenth century, and disputed any singular Lockean influence on the revolu-
tionary American mind. Neither ideological approach seems satisfactory, however, in ex-
plaining the repeated petitions and attempts at reconciliation made by colonists.

Had the colonists in America been animated by a novel and revolutionary ideol-
ogy of natural right, it seems puzzling that the First and Second Continental Congresses
would have engaged in such feverish efforts to reconcile the colonies to the crown, even
after the onset of military conflict in April 1775. It seems even more puzzling that such
efforts would have been couched not in terms amenable to the modern philosophy of
natural right but in archaic terms that assumed a feudal relationship between the monarch
and those in his charge who owed him allegiance in exchange for his protection. Thus, for
instance, in the Olive Branch Petition dated July 8, 1775, the delegates of the Continental
Congress offered a final plea for a reconciliation of the colonies with the British Empire
through the person of the king:

Attached to your Majesty’s person, family, and Government, with all de-
votion that principle and affection can inspire; connected with Great Brit-
in by the strongest ties that can unite societies, and deploring every event
that tends in any degree to weaken them, we solemnly assure your Maj-
esty, that we not only most ardently desire the former harmony between
her and these Colonies may be restored, but that a concord may be estab-
lished between them upon so firm a basis as to perpetuate its blessings, uninterrupted by any future dissensions, to succeeding generations in both countries, and to transmit your Majesty’s name to posterity, adorned with that signal and lasting glory that has attended the memory of those illustrious personages, whose virtues and abilities have extricated states from dangerous convulsions, and by securing the happiness to others, have erected the most noble and durable monuments to their own fame.253

Such a plea for the perpetuation of the relationship of the colonies to Great Britain through the person of a hereditary monarch cannot coexist with any philosophy of natural right capable of legitimating the construction of a new political regime by revolutionary means.

For their part, republican interpretations of the American Founding era offer implausibly complex responses to the straightforward historical question posed by Willi Paul Adams - How did republicanism appear so rapidly? Why, in the months immediately preceding the formal American declaration of resistance to British authority, did the term “republicanism” become transformed from an epithet or a condemnation of a highly unstable political regime to a normative ideal held up for emulation in the new American regime? Adams explains that “Only in 1776 did republic, republican, and republicanism change from defamatory clichés used to stigmatize critics of the existing order to terms with affirmative connotations, stimulating a feeling of identification with the existing political system.... Before this date, they had almost exclusively been used as smear words by loyalist writers and only cautiously and defensively by pamphleteers for the colonists’

253 Continental Congress, “The humble petition of the twelve united colonies, by their delegates in Congress, to the King,” Early American Imprints, Series I, #42961, 1775, 6-7.
cause.”

To explain this ideological discontinuity, leading advocates of the republican thesis have resorted to elaborate interpretive devices that transform the meaning of ideology. In arguing, by contrast, that these terms began to stimulate among English colonists an “identification with the existing political system” - that is, the system of government by legislative assembly that had been consolidating at the colonial or provincial level - Adams permits us to use Occam’s razor on republican ideological interpretations which, like Pocock’s, locate a deep commitment to classical civic humanism in the complicated explanatory device of the “Machiavellian moment,” or, like Bailyn’s and Wood’s, insist upon the ignition of a combustible mental state. He explains the importance of the republican vocabulary not by searching out some previously unnoticed lineage or by develop-

254 W. Paul Adams, “Republicanism in Political Rhetoric before 1776,” Political Science Quarterly, Vol. 85, No. 3 (Sep., 1970), 397-421, esp. 397-8. Adams fixes this transformation specifically - on January 9, 1776, with the publication of Thomas Paine’s Common Sense. Still, Adams’ own qualification - that revolutionary pamphleteers had been “cautiously and defensively” using republican themes and arguments prior to this - indicates that the influence of Paine was not in introducing republicanism as an ideology or mode of political thought but in providing a fixed point around which colonial opponents of British authority could gather. Though the modern mind is tempted to focus on Paine’s liberal and universalist claims to the effect that “[t]he cause of America is in a great measure the cause of all mankind” (68) or on his republican claims to the effect that “the component parts of the English constitution [are] the base remains of two ancient tyrannies [i.e. monarchy and aristocracy], compounded with some new Republican materials,” (72) we ought instead to focus on the way he promotes, for the first time, a conception of the American colonies not as united through their shared relation with the British monarchy but in their common opposition to this oppressor. “In short,” Paine concludes, “Independance [sic] is the only Bond that tye and keep us together.” (119) All quotations from Paine are from The Writings of Thomas Paine, Vol. 1 of 4, ed. M.D. Conway (New York: G.P. Putnam’s Sons, 1894), 67-120. See also Cecelia M. Kenyon,”Republicanism and Radicalism in the American Revolution: An Old-Fashioned Interpretation,” in The William and Mary Quarterly, 3rd. Ser., Vol, 19, No. 2, (Apr., 1962), 153-82: “The Americans were not republicans in either a formal or an ideological sense before 1776. Within a few months, they were, and have remained so ever since.” (166); and George M. Dutcher, “The Rise of Republican Government in the United States,” Political Science Quarterly, Vol. 55, No. 2 (Jun., 1940),199-216;”Obviously, then, many of the roots of republican government grew in the soil of colonial political practice. Yet, one would have been very rash, in 1775, to have spoken of the colonial governments as republican. Similarly no one at that date would have described the British government as republican, though it revealed some traits of republicanism.” (202).
ing a complicated definition of ideology, but by arguing that it gave evidence of a transfer of the affections American colonists had held both for the Englishmen with whom they had shared a common identity and for the British monarchy to which they had granted their allegiance. Ideological explanations impose a category of analysis upon the political discourse of the Revolutionary era which is ill-suited for accommodating the salient features of that discourse.

3.2. Liberalism, Republicanism, and Identity

A recognition of the colonists’ decision for independence as a transfer of their affections from the English people and Crown to their newly identified and declared republics serves to remind us that John Adams located the causes of the Revolution “in the minds and hearts of the people.” Yet as we have observed, much scholarship on the intellectual character of the American Founding focuses on the former - the principles or ideology of the Revolution; this ideological focus has come at the expense of a focus on the profound shift in affections, and indeed of identity, that lay behind such a monumental cultural transformation. Coincident with a long stalemate between liberal and republican accounts of America’s revolutionary ideology,²⁵⁵ however, American cultural historians have directed considerable attention to the creation of a shared American identity among the disparate regional, religious, ethnic, and economic groups of individuals who populated the thirteen colonies in America. Although much of this scholarship is narrowly cul-

tural, some have employed this scholarship and the concept of identity itself to shed new light upon the political thought of the American revolutionary and founding generations. Nevertheless, while such a focus on the emergence of an American identity separate and distinct from colonists’ former identifications as Englishmen and as subjects of the British crown promises to shift attention from the traditional interpretive categories set by liberal and republican paradigms, this new line of inquiry has, in practice, been divided into those well-worn channels.

3.2.1. Identity and Republicanism - John Murrin

John Murrin is one leading advocate of the republican interpretation of the American Founding era who addresses this period using the category of identity, but he ultimately employs this category to reinforce standard ideological assumptions. Attentive to the colonists’ problem of building a new cultural world in a barren land, Murrin’s central focus is the process of “Anglicization,” or the importation of institutions of English cultural authority. Though this term seems to imply a specific set of institutions or cultural patterns being imported, and a growing uniformity in cultural institutions, Murrin demonstrates how Anglicization in practice led to diversity in the importation of cultural institu-


tions and therefore a growing disparity among conceptions of the authority of English institutions. The acts of colonization by which Englishmen sought to export their cultural institutions were initiated by diverse groups of Englishmen; this, combined with varying patterns of settlement and geographic conditions led to diverse - and diverging - cultural patterns across the colonies. This diversity at the margins was met by a desire for institutional consolidation and ideological unity at the center. Thus the great diversity that resulted in the colonies from the process of Anglicization could only be overcome through the institutional link of the British Empire and, increasingly through the mid-eighteenth century, through an resurgent British national identity. These links did not, ultimately, bring the imperial margins closer to its center; Murrin notes that the conscious attempt by the managers of the British Empire to impose upon the colonies a program of Anglicization “polarized the needs of the whole and the rights of the parts. [The Imperial center] was never able to put them together again.”

Though Murrin’s definition of Anglicization is imprecise and raises critical questions it does not answer about the institutions of cultural authority exported in that process, and about the dynamics of that process, his argument is normative rather than explanatory. He employs the concept of Anglicization as a way of exaggerating the disconnectedness of Englishmen in their respective colonies at the cusp of the Revolution. Residents of the colonies, having rejected the British Empire’s claims to their allegiance, and having renounced their relationship to the English people, had nothing to bind them, he

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258 Ibid., 340.
claims; it was urgent for them “to discover whether they could create enough sense of common identity to provide for the needs of the whole.”

Murrin draws upon a traditional concern of republican interpreters of the American Founding, arguing that this first generation of Americans had no choice but to bind themselves to one another through the (short-lived) ties of civic virtue.

Murrin’s argument that civic virtue provided the banner under which disparate groups of colonists could forge a common identity is ultimately circular, however, for the idea of civic virtue depends on the prior recognition of a civitas - a republic or a people - to whom the citizen’s sacrifice is due. Murrin, by contrast, presents virtue as an ideological abstraction rather than as a concept incarnate in a historically existing body politic, and as the product of an effectively utilitarian calculation rather than as a deeper feature of a common identity that pre-existed the colonial controversy with the British Empire.

He explains, “...all patriots understood that, unless they could unite and fight together effectively, they would lose the war. Their early answer to this dilemma was virtue. Americans had it; the British had lost it. Virtue, or patriotism, would inspire the settlers to sacri-

259 Ibid.

260 Ibid., 342. From one perspective it appears that Murrin has posed this problem too starkly. Jack P. Greene (“Search for Identity: An Interpretation of the Meaning of Selected Patterns of Social Response in Eighteenth-Century America,” in Imperatives, Behaviors, and Identities: Essays in Early American Cultural History (Charlottesville: University Press of Virginia, 1992), 143-73) identifies a number of shared cultural patterns that served to unify individuals across colonial boundaries. Perhaps more importantly, a number of historians have argued that religious movements - the first and second Great Awakenings - facilitated cohesiveness throughout the colonies and later the young nation. (See Alan Heimert, Religion and the American Mind (Cambridge: Harvard University Press, 1966) and D.G. Mathews, “The Second Great Awakening as an Organizing Process, 1780-1830: An Hypothesis,” American Quarterly, Vol. 21 No. 1 (Spring, 1969), 23-43.) It is here that the civil religious structure of English identity was reactivated.
fice their private interests, even their lives, for the general welfare.” Murrin, operating under the standard republican assumption of an irreconcilable opposition between civic virtue and self-interest, is driven by nostalgia, hearkening back to an idealized moment in time when Americans were united by a single communitarian form of consciousness. Further, in this nostalgia for America’s revolutionary past prior to self-interest, Murrin demonstrates the republican affinity for the Progressive school’s critique of the American Constitution. He laments that the virtue which, for a time, kept Americans bound as a People capable of achieving the revolutionary transformation of social institutions was replaced as the central constituent of American national identity by a common idolization of the American Constitution with its liberal “acceptance of pluralism, frank pursuit of self-interest, and legitimation of competing factions.” It was because of this Constitution, Murrin concludes, that “[t]he United States became more liberal than any other society in the world, but it did so, on the whole, without a sustaining liberal ideology.” In Murrin’s use, the thesis of Anglicization and the interpretive category of identity, both influenced by the latest in British historical scholarship of the eighteenth century Anglo-American schism, result in recapitulations of Hartz’s condemnation of a non-ideological and self-interested American people, and of the Progressive condemnation of a non-egalitarian American constitution.


262 Murrin (1987), 347.

3.2.2. Identity and Liberalism - T.H. Breen

Among defenders of a liberal understanding of the American Revolutionary era, T.H. Breen offers the most compelling account of the Revolution in terms of identity. Like Murrin, however, Breen employs the category of identity in service of an ideological thesis he takes for granted; Breen’s treatment of the liberal character of American identity in the revolutionary years ultimately reveals as much about liberalism’s claims on modern American national identity as it does about the identity of Englishmen in Britain’s American colonies or about the role of identity in the English colonists’ decision for independence. To his credit, in grounding his definition of this early form of American identity in Britons’ common experience of life in an emerging commercial society, Breen makes an important contribution to liberal interpretations of the American revolutionary era, offering an alternative to republican arguments about the origins and character of civic virtue and a rehabilitation of the category of interest - which liberal (and republican) scholars have generally treated with disdain. In spite of these contributions, however, Breen ultimately explains the Revolution not in terms of the concept of identity he has defined, but in the ideological and institutional terms characteristic of the modern liberal identity.

3.2.2.1. Commerce and Identity

Breen is by no means the first scholar to have attempted to ground an interpretation of America’s formative years in an account of the emergence of modern commercial life, but his account situates this interpretation within the recent turn in Anglo-American scholarship to cultural history. Thus Breen takes Murrin’s focus on the process of Anglicization as his point of departure; likewise, he employs Murrin’s Anglicization thesis - which permits identity to be treated in materialist terms rather than in the deeper ideational and institutional terms described in previous chapters - in such a way as to accentuate the cultural differences the colonies had to overcome. For Breen, however, the process of Anglicization appears almost exclusively as a phenomenon played out within the emerging sphere of commercial life in eighteenth-century Britain. In Breen’s definition of the process of Anglicization, he found the critical characteristic of the expansion of British institutions of political power or cultural authority not in ideology, naval power, or religious hierarchy, but in the increasingly prominent activities of production and (more importantly to Breen) consumption; the British Empire was “an empire of goods.” Within this empire, Britain’s American colonies - even towns within these colonies - were characterized by stark differences in material culture, and they were not well connected with one another. The expansion of trade characteristic of the British empire of goods, however, permitted disparate and disconnected colonies to find in the importation of luxury

items from the imperial center “the source of a new vocabulary, the spark of a new kind of social discourse… a common framework of experience. Consumption drew the colonists together even when they themselves were unaware of what was happening…. British manufacturers were standardizing the material culture of the American colonies.”

Anglicization - in this sense of standardizing material culture in the British Empire - led, in the colonies, to a sense of pride in their membership in the world’s most dynamic commercial power and its freest polity. Still, the process of Anglicization had another profound, but ultimately contrary, effect upon the imperial center. The rejuvenated sense of national identity within Britain that had begun to touch the colonies, couched in a patriotic pride at Britain’s growing affluence and influence, developed differently at the imperial center than it did at the colonial margins. Where Britons in the colonies understood themselves as constituent parts of an increasingly prosperous and powerful empire, their countrymen in England understood themselves as the possessors of power and wealth provided by their colonial dominions. Breen, citing Linda Colley’s thesis, concludes that Britons at the imperial center “defined colonial Americans as ‘other,’ as not fully English, or as persons beyond the effective boundaries of the new national imagination,” and that those at the colonial margins began to recognize that they “were not really

Thus, although all Britons had begun to understand themselves in terms at least partly established by the existence of a British “empire of goods,” the different groups of Britons shared no consensus as to their respective positions within this new community.

This dispute about membership in this emergent British Empire of commerce, Breen contends, was contained within the language of commerce. Parliament’s attempts to collect taxes and duties from colonists on their purchases of luxury items served, in Breen’s thesis, to politicize British luxury goods. After Parliament’s introduction of taxes and duties on colonial consumption of these goods, manufactured items suddenly took on a radical, new symbolic function. In this particular colonial setting the very commodities that were everywhere beginning to transform social relations provided a language for revolution. People living in scattered parts of America began to communicate their political grievances through common imports. A shared framework of consumer experience not only allowed them to reach out to distant strangers, but to perceive, however dimly, the existence of an “imagined community”....

It is possible to find in Breen’s argument valuable corrections to traditional liberal interpretations of the origins of American political thought. For one, he goes outside the traditional liberal category of ideology to address the importance of the institutions of an emergent civil society in making possible the English colonists’ successful renunciation


of British claims to rule. Liberal scholars before Breen had identified the importance of associations of merchants and craftsmen, who sustained boycotts of British goods and non-importation agreements, in organizing resistance to Parliament’s attempts to lay taxes and duties, but such scholars generally emphasized the base influence of self-interest in such associations. Breen, by contrast, emphasizes the novelty of such associations which owed their authority to the voluntary membership of individuals in these “newly formed liberal communities” constituted by non-importation agreements and boycotts.

Leaving aside Breen’s anachronistic characterization of these voluntary associations as “liberal,” it is important to acknowledge that these associations “represented initial, often tentative steps toward a radical reconstitution of civil society. For in point of fact, Americans of the time were experimenting with new forms of community, founded not on traditional religious affiliations but on shared commercial interests.” As we will see shortly, however, Breen jumps from this important recognition of the institutional secularization sustained by the development of modern commerce to the standard liberal conclusion of ideological secularization.

In focusing on the role of shared interests in providing the authority under which groups within civil society could organize for common purposes, Breen performs another

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271 Ibid., 487.
important task in correcting standard liberal accounts of American political thought - he rehabilitates the concept of self-interest as a causal and normative factor in the American founding. Indeed, the premise that interest played any substantial role in encouraging the colonists’ decision to separate from the British Empire is scarcely present in ideological accounts of the era, and when this premise is present it is almost uniformly treated as a sin from which the current generation of Americans must be redeemed.\textsuperscript{272} Breen departs from this interpretation by arguing that the emergence of commercial life sustained a sphere within which individuals could craft their own distinct identities - and in this way made possible a kind of individual human dignity previously unavailable. “For many consumers,” Breen contends, “particularly for women - the exercise of choice in the marketplace may have been a liberating experience, for with choice went a measure of economic power…. We have come to think of consumerism as a negative term, but for the colonists of the mid-eighteenth century, shopping must have heightened their sense of self-importance. It was an arena in which they could ask questions, express individuality, and make demands.”\textsuperscript{273}


\textsuperscript{273} Breen (1986), 489. Here Breen touches upon a theme that will be highlighted in a later treatment of Madison’s Tenth Federalist essay - the role of economic activity in cultivating the sort of distinctly articulated individuals without whom Madison thought a functioning republican regime was impossible. Breen, focusing strictly on consumption, overlooks production as an even more critical mode of activity through which men and women present themselves to the world as distinct selves bearing individual interests capable of - indeed, demanding - representation through a legislature designed to balance a multiplicity and diversity of interests. The alternative to the individual self as characterized by concrete, specific, and individual interests, of course is the mass man who is prone to seek refuge from a pluralistic world in a collective identity manufactured for him. See, for instance, Michael Oakeshott, “The Masses in Representative Democracy,” in \textit{Rationalism in Politics and Other Essays} (Indianapolis: Liberty Fund, 1991), 363-83.
In emphasizing the emergence of a commercial sphere within which individuals could develop their own identities as differentiated from a controlling collective identity, and of a public sphere within which individuals could organize voluntarily in defense of their own interests, Breen makes a critical contribution to America’s body of liberal self-interpretation. By contrast to republican arguments that found in the residue of a classical and aristocratic past an ideology of self-sacrificial virtue with which to combat democratic America’s unreflective vice of self-interest, Breen locates the very origin of America’s revolutionary virtue in the dignity granted to individuals who could possess and defend their own interests in a democratic marketplace. Still, while Breen challenges republican arguments by rehabilitating the role of interest as a constituent of a common colonial identity and as a factor in the colonists’ decision to declare independence, he only challenges the superficial features of republican arguments, retaining their underlying categories.

In the progression Breen describes, the common experience of English colonists in the marketplace of British goods permitted these otherwise disconnected colonists to understand themselves as united in response to Parliament’s claims to powers of taxation over colonial trade; to unite in non-ideological responses to Parliament’s claims (including boycotts and non-importation agreements); and, ultimately, to enforce their voluntary agreements using a common liberal language of virtue to bind them with one another in opposition to British threats. Breen adds an important dimension to our understanding of the meaning of virtue in Revolutionary era discourse by outlining the concept of “mar-
ket” virtue by which Englishmen in the American colonies sustained their commitments to do without the luxury items available in the marketplace of British goods. Situating his argument alongside (though not necessarily in opposition to) arguments advanced by J.G.A. Pocock, who treats the language of virtue as part of an aristocratic and classically humanist resistance against the rise of capitalism, and by Edmund Morgan, who understands the concept of virtue as facilitating the Puritan transition to capitalist modernity, Breen defines market virtue, in a “rather straightforward sense,” as a concept which “linked everyday experience and behavior with a broadly shared sense of the common good.”

Aristocratic and religious languages of virtue had their place, but Breen’s concept of market virtue appears as a new form of social authority which men and women voluntarily accepted as binding on their actions as members of an emergent civil society. In the liberal language of Kant, Breen’s concept of market virtue can be seen as a means by which individuals could discover and exercise their autonomy; in the liberal language of Tocqueville, Breen’s concept of market virtue resonates with the Tocquevillian concept of self-interest well-understood.

The sense of self embedded in the emergence of self-interest in a commercial empire translated more or less directly from the individual’s experience to the experience of the new communities of interest organized in boycotts and non-importation agreements, and in broader movements to resistance. Indeed, each of these challenges to Britain’s empire of goods implies the recognition on the part of colonists that their collective interests

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274 Breen (1993) 495.
were not being accorded equal status to the interests of Englishmen at the center of the Empire. For Breen, recognition of this polarization between two groups of Britons is critical to understanding the strident and indignant tone that republican historians have adduced as evidence of the colonists’ paranoid frame of mind. Breen does not deny the republican judgment of the importance of this tone to any explanation of the separation of the colonies from the Empire - though he does accept the republican premise that institutional arguments were effectively irrelevant; “...if one attempts to explain the coming of revolution as a lawyer-like analysis of taxation without representation or as an enlightened constitutional debate over parliamentary sovereignty, one will almost certainly fail to comprehend the shrill, even paranoid, tone of public discourse in the colonies.”

Nevertheless, he qualifies the republican interpretation of this heated colonial rhetoric as having emerged out of a peculiar mental state shaped by Whig ideology, more plausibly attributing this rhetoric to a sense of humiliation and indignation among colonists who, having understood themselves as English freemen, refused to accept a second-class or subservient status to Englishmen at the imperial center, and who refused to accept subjection to the arbitrary and uncontrollable power of the sovereign King-in-Parliament. John Adams stated the issue bluntly: “We won’t be their Negroes.”

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275 Breen (1997), 34.
277 Ibid., 29; cited from Boston Gazette, Oct 14., 1765 (with Adams writing as Humphry Plough-jogger).
3.2.2.2. Liberalism and Identity: The Distorted View from the State

Explaining in this way the polarization of British identity between Britons at the imperial center and those at its margins, Breen has identified an explanation for the separation of English colonists from the British Empire that does not depend upon republicans’ claims to have found a revolutionary ideology in the form of a paranoid mental state. What is more, in describing the colonists’ separation from the British Empire in terms of a polarization of British identity, Breen does not have to resort to the authority of a philosophy of natural rights for an explanation. Indeed, he goes so far as to indicate that the colonists’ refusal to accept subjection to arbitrary and uncontrollable power cannot be understood fully in traditional republican or liberal terms, identifying instead a “move from ‘subjecthood’ to ‘citizenship’” - a move that, critically, implies a new relationship to power - as explaining the profound transformation of identity among English colonists during the Revolutionary era.\(^{278}\) Despite this promising move, Breen immediately moves from the colonists’ insistence in their status as citizens rather than as British subjects to an attempt to locate a revolutionary liberal ideology in colonial discourse; he explains, “If assertion of English national superiority forced colonists to imagine themselves as a separate people, it also profoundly affected the substance of American political ideology. During the 1760s the colonists took up the language of natural rights liberalism with unprecedented fervor.”\(^{279}\)


\(^{279}\) Breen (1997), 34.
Clearly the language of natural rights was prominent in the discourse of the Revolutionary era. Still, on Breen’s own showing an ideology of natural rights is not necessary to explain the colonists’ decision to separate. Having already dismissed the colonists’ constitutional and legal arguments about their status in the Empire as passé, however, Breen is unable to recognize the ways in which the concepts of natural rights and equality fit within the colonists’ lengthy attempt to reconcile their understanding of themselves as possessing all the traditional and historical rights and privileges Englishmen had been accustomed to enjoy with the emerging institutional structure of the British Empire. These institutional arguments were, in the most urgent and profound sense, arguments about British identity. Still, Breen is too profoundly committed to the liberal ideological project to recognize the importance of these institutional arguments to the colonists’ attempts to defend their existing understanding of the meaning of their identity as Englishmen, or to recognize how the concepts of natural rights and equality fit within this constitutional discourse. Indeed, Breen’s commitment to the liberal ideological project leads him into questionable interpretive moves otherwise inexplicable.

One telling misstep is Breen’s entirely circumstantial attempt to rehabilitate the status of John Locke as central to colonial discourse after even liberal scholars have conceded that his work was only belatedly introduced to the colonies.\(^\text{280}\) Without considering the possibility that colonists found Locke useful in sustaining preexisting legal and con-

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stitutional arguments about their equal status within the British Empire, Breen simply assumes that the colonists’ arguments were shaped by a Lockean ideology. Still, the best he can say in defense of this claim is that “[d]uring the 1760s and 1770s, colonial writers repeatedly invoked the authority of John Locke” - which is quite different from arguing for the radical character of Lockean thought and demonstrating how that radicalism was adopted into colonial discourse. What is more, he assumes that Locke’s ideology was “genuinely radical”\(^\text{281}\) - notwithstanding the decidedly illiberal and aristocratic Fundamental Constitution of Carolina.\(^\text{282}\) Indeed, Breen echoes other defenders of the neo-liberal thesis in stating confidently, “even when the name of the great philosopher did not appear, his ideas still powerfully informed popular public consciousness.”\(^\text{283}\) The critical presupposition of Breen’s dogmatically liberal interpretation is his anachronistic and wholly unsustainable observation that the concept of human - not simply natural - rights “came to dominate colonial political writings after 1763.”\(^\text{284}\)

\(^{281}\) Breen (1997), 37.


\(^{283}\) Breen (1997), 37. Puzzlingly, he cites as authority for this claim the legal historian John Phillip Reid, who has been among the most vehement critics of a natural right interpretation of the Declaration of Independence. Breen refers to Reid’s Constitutional History of the American Revolution: The Authority of Rights (Madison: University of Wisconsin Press, 1988), p. 90-3, in which Reid explicitly rejects the importance of natural rights ideas in sections titled “The Irrelevancy of Natural Rights” and “The Mythology of Natural Rights.” Reid observes (p. 91), “It is possible to find in political pamphlets and anonymous newspaper articles claims made to rights on the authority of nature alone. They are not found in official colonial petitions, resolutions, or declarations. Rather, just as claims to natural law are stated in the alternative to claims to constitutional and charter law, so claims to natural rights stated alternative authority…. At every important occasion when the American whig leadership gathered to claim rights and state grievances, nature was rejected as the sole authority of rights.”

\(^{284}\) Ibid., 36.
Just as Breen’s argument for the Lockean character of the colonists’ thought was strained, so is his argument for its secular character. To the extent that he does specifically cite invocations of what could be seen as universalist claims to the liberal principles of equality and natural rights, these are explicitly theological in nature. Some of the claims he cites come from the mouths of the radical New England clergy. Others, as, for instance, from a Boston Town Meeting in November 1772, lay claim to “the Rights of the Colonists, and of this Province in particular, as Men, as Christians, and as Subjects” and proclaim that “All Persons born in the British American Colonies, are by the Laws of God and Nature… entitled, to all the natural, essential, inherent, and inseparable Rights, Liberties and Privileges of Subjects born in Great-Britain, or within the Realm.” Directly, and with no pause or sense of incongruity, Breen states, “Whatever else this document may contain, its character does not seem particularly religious…” It can only be concluded that Breen is so blinded by his commitment to a modern ideological liberalism characterized by universal and secular claims to equality and human rights that he is incapable of reading the terms “rights” or “equality” without reflexively and anachronistically importing his modern liberal ideology into the past.

Breen’s provocative thesis which seeks to explain the critical transformation of the English colonists’ identity in terms of subjecthood and citizenship must be understood against the background of Breen’s blinding attachment to liberal ideology; it is only in this way that his peculiar inversion of the meanings of these terms subjecthood and citi-

285 Ibid., 38.
citizenship makes sense. He frames his definition of this transition in an attempt to rehabilitate the reputation of one of the most radical - and therefore, in Breen’s estimation, most quintessentially liberal - American patriots, James Otis. Breen takes as his point of departure in this project the issue of Otis’s diminished reputation among the pantheon of America’s Founders. Though Otis’s slide into mental instability resulted in an early end to his contributions to the American cause, Breen notes that such a central figure as John Adams had credited Otis with staging “the first act of opposition” to the British Empire in his 1761 argument before the Massachusetts Superior Court about the illegality of British Writs of Assistance, and Breen plausibly argues that Otis deserves to be recognized as an “original” contributor to colonial arguments about the developing British constitution.286 Otis’s relative obscurity among theorists of the American Revolutionary era arises, Breen contends, because he “made a contribution to liberal political theory within a framework that the Revolution itself thoroughly discredited.”287

Just as Breen’s treatment of Locke as a source of radical liberal ideology in the Revolutionary era reveals more about his own ideological commitments, his treatment of the lost promise of James Otis’s radical liberalism reveals his commitment to the institutional form of the state. Breen finds Otis’s contribution to Lockean liberalism in his insistence upon the universal availability and radically egalitarian applicability of natural rights to all humans, and he contends that this contribution makes sense only under the

287 Ibid., 381.
assumption of their “common ‘subjecthood’ that gave the colonists, blacks as well as whites, equal standing within an empire ruled by a constitutional monarch.” Though Breen concedes the theological premises of Otis’s radical argument for human equality under the common power of an irresistible sovereign, he cannot permit Otis’s argument to be categorized as theological in nature. “[T]raditional religious rhetoric should not cause us to lose sight of Otis’s larger, more radical agenda,” Breen cautions, lest we become confused by our own common sense. Thus, rather than accepting Otis’s own claims for the divine origin of his commitment to universal human equality, Breen informs his reader that it is sufficient to accept that “the assumption of universal human equality - the defining element of modern liberalism - was the very foundation of [Otis’s] political thought.” What is more, Breen’s untenable conclusion again reveals more about the nature of his own irrational commitment to the radical ideology of modern liberalism than it does about the sources under discussion. His insistence that Otis’s “liberal” commitment to the radical equality of all men depended upon the irresistible sovereignty of the British monarch calls to mind Tocqueville’s observation that the idea of human equality was introduced into the world by Jesus Christ as individuals struggled against their subjecthood to the Empire of Rome. Likewise, Breen’s implicit support of the irresistible sovereign power that can guarantee equality to all men calls to mind not a Lockean

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288 Ibid., 398.
289 Ibid., 385-6.
290 Tocqueville, *Democracy in America*, 2.1.3, 413.
government of limited powers but the Hobbesian sovereign under whose fearsome power all men can find equality.

The alternative to the radical equality Breen’s Otis sought to defend under the common subjecthood of all humans under the sovereign British monarch was the profoundly inegalitarian institution of citizenship won by propertied white men in the American Revolution. Breen laments that “the post-Revolutionary shift to republican citizenship betrayed the egalitarian possibilities of colonial subjecthood.” In this, Breen offers a peculiar inversion of standard republican arguments, which celebrate a moment of heroic civic virtue that inevitably exhausted itself into an effectively Hartzian liberalism of unreflective self-interest. Breen provocatively and trenchantly observes, by contrast, how the emergence of a nationalist identity (in the context of young and incompletely formed republican institutions, it should be noted) extinguished the possibility that there could have emerged a sovereign power above an exclusive national identity to hold all men and women equally in awe and to grant them equal rights and protections. The problem from Breen’s perspective is that following the Revolution, republican ideology persisted and “became the handmaiden of nationalism.” The (at least implicitly aristocratic) republican language of citizenship, Breen quite properly contends, was employed as a way of excluding blacks and women from enjoying the status of citizens - as a way of defining political identity in narrower cultural terms. Breen cites the Revolutionary era

291 Breen (1998), 400.
292 Ibid.
historian David Ramsay as exemplifying this illiberal language of citizenship; Ramsay stated that the term “citizen” means “a member of this new nation.” Citizenship also implied equality, however, and on this count African slaves were patently unequal. Under the terms of this stilted syllogism, Ramsay concluded, “Negroes are inhabitants, but not citizens.”

Breen’s inversion of the republican thesis is as provocative as his embrace of equality under subjecthood is problematic. It should be noted in closing, however, that his thesis of a transformation from subjecthood to a truncated conception of citizenship - by which he reads his own liberal ideology back into the political thought of James Otis - could be stood on its head and made central to an interpretation of American political thought that escapes the modern ideological categories of republicanism and liberalism, and that begins with the more fundamental and more urgent category of identity. Indeed, it is possible to see in the transition from subjecthood to citizenship a transformation in the relation of the individual to modern institutions of power. In the former case, the individual subject derives a political identity wholly and exclusively from the sovereign power - the state - to whom that individual is obligated to grant allegiance; in the latter case, each individual citizen subject to rule is, in principle, an equal sharer in the bearing of rule.

293 Ibid., 401-2.
This, finally, is the argument made by James Otis but unfortunately obscured by Breen’s ideological deformation. Otis, in his seminal tract “The Rights of the British Colonies Asserted and Proved,” accepted without challenge the necessity of “a Sovereign, absolute, and uncontrollable, earthly power… over every society” but disputed that this sovereign power within the British Empire should be located in Parliament, placing it instead in the people. Further, he accepted without challenge the ultimately divine origin of government but repudiated the despotic implications of arguments which grounded monarchy on divine right and sustained the “idolatry… that could induce one to think that a single mortal should be able to hold so great a power.”

Thus, though Otis spoke as a loyal subject of the British Empire, observing that “the finest writers of the most polite nations on the continent of Europe, are enraptured with the beauties of the civil constitution of Great-Britain; and envy her, no less for the freedom of her sons, than for her immense wealth and military glory,” Breen overlooks the fact that Otis was writing in criticism of the emerging British imperial constitution which threatened to place English colonists in a position of servitude. “[S]lavery is so vile and miserable an estate of man,” Otis thundered, “and so directly opposite to the generous temper and courage of our na-

295 The entire passage is worth reproducing: It is the greatest “idolatry, begotten by flattery, on the body of pride”, that could induce one to think that a single mortal should be able to hold so great a power, if ever so well inclined. Hence the origin of deifying princes: It was from the trick of gulling the vulgar into a belief that their tyrants were omniscient, and that it was therefore right, that they should be considered as omnipotent. Hence the Dii majorum et minorum gentium; the great, the monarchical, the little Provincial subordinate and subaltern gods, demigods, and semidemi-gods, ancient and modern. Thus deities of all kinds were multiplied and increased in abundance; for every devil incarnate, who could enslave a people, acquired a title to divinity; and thus the "rabble of the skies" was made up of locusts and caterpillars; lions, tygers and harpies; and other devourers translated from plaguing the earth!” James Otis, “The Rights of the British Colonies Asserted and Proved,” in Bernard Bailyn, ed., Pamphlets of the Revolution, Vol. 1 (Cambridge: Harvard University Press, 1965), 419-82, at 425.
tion, that ‘tis hard to be conceived that an Englishman, much less a gentleman, should plead for it.” Far from a celebration of the British Empire based on its ability to guarantee the radical equality Otis found in natural law, Otis was engaged in a radical criticism of that Empire that placed men in a subservient position.

What is more, Otis challenged this imperial power using terms wholly compatible with the criticism of the triad of national identity, civil religious authority, and state power presented herein. Rejecting the grounds upon which the people of England had come to satisfy themselves with their “immense wealth and military glory,” Otis notes, “Kingcraft and Priestcraft have fell out so often, that 'tis a wonder this grand and ancient alliance is not broken off forever. Happy for mankind will it be, when such a separation shall take place.”

In the place of the self-satisfied nationalism of Englishmen organized under a union of Kingcraft and Priestcraft, Otis concludes by reflecting on the institutional challenges of organizing a people characterized by the equality granted to all men as children of God. Mindful of the “inconveniences, not to say impossibility, attending the consultations and operations of a large body of people” in whom legitimate sovereignty resides, Otis concludes that it is “necessary to transfer the power of the whole to a few: This necessity gave rise to deputation, proxy or a right of representation.” The issue of representation as it appeared in the discourse of the American founding era must be seen as an effort to move away from the triad of national identity, civil religious

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296 Ibid.

297 Ibid., 427.
authority, and the unitary power of the sovereign modern state. Breen, because he cannot escape the categories native to the modern democratic mind, cannot see in Otis’s treatment of representation a repudiation of those categories as they had emerged in the British Empire.
Chapter 6: The Crisis of Identity in the American Revolution

1. INTRODUCTION

The ambiguity at the heart of the colonists’ defense of their rights - attempting to defend their rights as colonists and subjects of the expanding and diversifying British Empire by claiming the historical identity of the English people - was indicative of the problem faced by the unitary and expansionist English identity as it sought to establish its institutions of cultural authority and political power over a growing empire. Was it possible to sustain a singular national identity in the context of a highly differentiated - and continually differentiating - institutional environment? We have argued that it was, in fact, impossible to sustain this singular identity; at the same time, we have argued that the critical feature of American history, continually reinforced by our mode of historiography, has been the profound persistence of this singular identity at the expense of the novel institutional science of politics developed by America’s founding generation as a response to the increasingly differentiated social environment characteristic of the modern world. The focus of this chapter, then, is to demonstrate how both efforts - the effort to sustain a singular national identity of the same form as English identity and the effort to articulate an institutional response to the differentiated social environment of the British Empire - coexisted during the prelude to the American decision to declare independence, and how they are both visible within the Declaration of Independence.
2. THE DIVERGENCE OF ENGLAND’S HISTORICAL IDENTITY

As was indicated in the previous chapter, scholars of English identity have explained the colonial decision to declare independence from the British Empire in terms of a polarization of English identity. Though this polarization is only part of the story - a part of the story told from within the categories of national identity/civil religious authority/state power - it is of undeniable importance. Still, because it has been told from the perspective of categories native to the modern state rather than from the more general categories of identity/authority/power, this story of the polarization of English identity has been told in ways that implicitly reinforce existing conceptions of identity rather than in a way that illuminates the futility of sustaining a providential national identity in an age characterized by the differentiation of interests and institutions.

2.1. The Promise of Power and the Providential Future of America

Focused solely on the ideological or ideational character of the Anglo-American crisis of identity, the leading advocates for an explanation of the American Revolution on grounds of the polarization of identity, Timothy Breen and Jonathan Clark, fail to give proper place to the institutional dimension of this crisis. The most immediate and urgent issue in the political discourse of the American Founding era - from the constitutional crisis of the 1760s through the Revolution in the 1770s and to the debates about the ratification of the Constitution in the late 1780s - was power - its legitimate origins and scope, and the dangers posed by power uncontrolled. The failure, then, of recent scholars of identity to treat identity in terms compatible with this pervasive concern about power is
emblematic of the broader failure of modern scholarship to take seriously the paradoxical coexistence of terror and awe displayed by colonial Whigs when they spoke of power. In treatments of the polarization of English identity, the theme of power is all but ignored; Breen attends solely to the natural rights ideology that he would have authorize the state he takes for granted, and Clark focuses on the legal-religious language of sovereignty which presumes the singular, indivisible, and irresistible institution of power that found its ideal type in the English identity state. Further, in the scholarship that explicitly addresses Whig discourse on power, this discourse is treated only insofar as it provides evidence of a paranoid mental state; no attention is paid to the explanatory importance of colonists’ hope for harnessing power to their own purposes, or to the enduring normative importance of the Whig analysis of power.298

Though contemporary scholarship has not taken seriously the colonists’ terrified awe of power, John Adams gave this sentiment a central place in a most revealing defense of the colonists’ liberties against the claims of the British Empire, his “Dissertation on the Canon and the Feudal Law.”299 Here Adams offered an axiom about human psychology derived from the Whigs’ historical analysis of the experience of power that might serve as a starting point for a Whig interpretation of the American Revolution:

… the same principle in human nature, — that aspiring, noble principle founded in benevolence, and cherished by knowledge; I mean the love of power, which has been so often the cause of slavery, — has, whenever

298 Recognition of the central importance of the concept of power in revolutionary political discourse was Bailyn’s greatest contribution in The Ideological Origins of the American Revolution.

freedom has existed, been the cause of freedom. If it is this principle that has always prompted the princes and nobles of the earth, by every species of fraud and violence to shake off all the limitations of their power, it is the same that has always stimulated the common people to aspire at independence, and to endeavor at confining the power of the great within the limits of equity and reason.300

Adams’ invocation of this Whig axiom about power serves to correct Breen’s liberal account of the polarization of identity which attempts to read back into the Revolution the abstract ideology of natural rights, and to correct Clark’s reactionary conservative account of the polarization of identity which attempts to blame the dissolution of the proud British Empire upon the religious zeal of Dissent. By contrast to these accounts of the polarization of identity which bury the issue of power under the categories of ideology or identity, however, Adams gives an account of the polarization of identity between an oppressive ruling class and an oppressed subject class in which the response of the oppressed depends solely upon the love of power. Further, by contrast to accounts which implicitly posit one form of identity as normative and another as disruptive, Adams recognizes the love of power as a constant in human experience, and he suggests that this love of power - which has the most salutary effect in encouraging the oppressed to rise up against their oppressors - can easily become corrupted even among those who had once nobly fought for freedom. If there can truly be said to be an animating principle of the American Founding, it is this principle about the dual character of power - that it is capable both of liberating those who strive for it and corrupting those who possess it.

300 Ibid., 21.
Having demonstrated in the previous chapter the colonists’ sense of betrayal at the hands of the power they had once revered, it is possible, in light of Adams’ comment, to address the way in which their love of power combined with their providential identity to make inevitable a separation that had previously been unimaginable. John Dickinson, giving evidence of the incomprehensibility of independence up until the very late stages of the conflict, wondered, “what new form of government shall we adopt, or where shall we find another Britain, to supply our loss? Torn from the body, to which we are united by religion, liberty, laws, affections, relation, language and commerce, we must bleed at every vein.”[^301] Still, Englishmen in America had always been at least dimly aware of the possibilities available to a people possessing a vast, continental expanse rich in natural resources and far distant from the bases of Europe’s colonial powers. Before the onset of constitutional crisis, obsequious colonists remarked on the possibilities the colonies in America presented for expansion of the British empire:

...there are supposed to be now upwards of one million English souls in North America (tho’ ’tis thought scarce 80,000 have been brought over sea) and yet perhaps there is not the one fewer in Britain, but rather many more, on account of the employment the colonies afford to manufacture at home. This million doubling, suppose but once in 25 years, will in another century be more than the people of England, and the greatest number of Englishmen will be on this side of the water. What an accession of power to the British empire by sea as well as land! What increase of trade and navigation! What numbers of ships and seamen! We have been here but little more than 100 years, and yet the force of our privateers in the late

war, united, was greater both in men and guns, than that of the whole British navy in Queen Elizabeth’s time.\textsuperscript{302}

Just after the onset of the constitutional crisis, it was possible for colonists to use their potential for power as a threat to call their British brethren to reform their conduct towards the colonies. James Otis wondered, “Is it to be believed, that when a continent of 3000 miles in length, shall have more inhabitants than there are at this day in Great-Britain, France and Ireland, perhaps in all Europe; they will be quite content with the bare name of British subjects, and to the end of time, supinely acquiesce in laws made, as it may happen, against their interest, by an assembly 3000 miles beyond the sea..?”\textsuperscript{303} Still, he muted this threat by admitting - perhaps candidly, perhaps cynically - no possibility that the colonies could exist on their own without the organizing power of Parliament:

...if the parliament had not [sovereign] authority, the colonies would be independent, which none but rebels, fools or madmen will contend for. God forbid these colonies should ever prove undutiful to their mother country! Whenever such a day shall come, it will be the beginning of a terrible scene. Were these colonies left to themselves, to-morrow, America would be a meer shambles of blood and confusion, before little petty states could be settled.\textsuperscript{304}

\textsuperscript{302} Benjamin Franklin, "The Interest of Great Britain Considered, with Regard to Her Colonies, and the Acquisitions of Canada and Guadeloupe. To Which Are Added, Observations Concerning the Increase of Mankind, Peopling of Countries, &C.," \textit{Early American Imprints, Series I}, #8600, 1760, 44-5.

\textsuperscript{303} James Otis, "A Vindication of the British Colonies, against the Aspersions of the Halifax Gentleman, in His Letter to a Rhode-Island Friend.," \textit{Early American Imprints, Series I}, #10117, 1765, 15.

\textsuperscript{304} Ibid, 16.
Not all colonists were so solicitous of Parliament, or muted in their faith in the power of the united colonies. One native of New York who had moved to London reported to inhabitants of the mother country that, along with “the blessings of life” that such a vast territory with a widely varied climate sustained, the colonies “have all the sinews of power.” He continued, warning Englishmen, “...not a doubt can be entertained that this vast country will, in time, become the greatest empire that the world has ever seen….\textsuperscript{305}

2.2. Virtue, Corruption, and the Providential Identity of Colonial Englishmen

The polarization theses advanced by Clark and Breen also fall short because they fail to recognize in the polarization of English identity the deeper polarization between the compact form of England’s unitary national identity and the differentiated and individuated form of identity emerging in a commercial and democratic age. In the former, the (ostensibly) objective historical and hierarchical authority of national identity demanded all who would be members of the social unity accept a collective consciousness, dissolving alternative forms of authority, competing institutions of power, and individual identities; in the latter, the individuation of selves capable of possessing and acting in defense of concrete interests made necessary the emergence of a differentiated network of institutions dependent for their power on the subjective authority of consent. In revisiting the story of the polarization of identity during the critical period prior to the colonial decision to declare independence from Britain, then, it is necessary to attend to both forms

of polarization - the polarization within English identity itself and the polarization between the collective form of national identity Englishmen inherited from the medieval world and the more differentiated form of individual identity characteristic of the modern world.

From Clark’s perspective, in which English identity is treated as the most meaningful constituent of a people’s collective existence, the polarization of English identity must carry with it explicitly religious meaning and must occur for explicitly religious causes. From Breen’s perspective, in which British identity is treated as the product of common experiences within a homogenized marketplace of material culture, the polarization of British identity must be traceable to material causes but cannot be ascribed any religious significance - though as a liberal, or as a defender of the modern state who demands that each particular state be authorized by reference to a universal ideology, Breen insists upon the primacy of a transcendent Reason which supports an authoritative doctrine of natural rights. From outside the narrow perspective of national identity and civil religious authority necessitated by the unitary form of the modern state, however, it is possible to discern how the providential form of English national identity began to polarize for reasons traceable not solely to theological or ecclesiological differences but to a more straightforward recognition that those at the center of the empire and those at its colonial margins were unable or unwilling to reconcile competing interests.

As Breen recognizes, the polarization of English identity began with the colonists’ recognition that their interests were not simply different from those of Englishmen, but
that it Englishmen had begun to act as if it was in their interest to force the colonists into a subservient relationship. Indeed, it was their recognition that the people of England had not only been profiting on their existing trading relationship with the colonies but that they also hoped to benefit further from levying taxes on the colonies that made the classical and Whig language of virtue and corruption resonate in the minds of Englishmen in America. Breen, as was indicated in the previous chapter, attempts to define this concept of virtue narrowly as a “liberal” language of “market virtue,” but this definition fails to account for the way in which this relatively thin conception of virtue was given resonance by a much richer Whig language of virtue and corruption. What is more, the ostensibly liberal language of market virtue was itself a response to colonial condemnations of their British brethren couched in the Whig language of corruption. Colonists began routinely to apply terms like “corrupt” or “venal” or their equivalents as epithets against the English people following the Stamp Act. Englishmen, the colonists complained, were enjoying the luxuries provided by trade with the colonies while forcing colonists to purchase English manufactured goods and to pay taxes - ostensibly to reimburse England for its expenses in the French and Indian War despite what the colonists saw as their own heroic efforts in defending themselves. Use of this language of corruption intensified after the Tea Act as colonists became aware of the practices of the British East India company, both with respect to their cozy relationship to British officials and their abominable practices in India. In the minds of colonists, the attempt of the English people, through Parliament, to finance their own increasingly lavish lifestyle through an imbalanced trade
with, and taxation of, the colonies was not simply an injustice committed against the colonists, it was a betrayal of the heroes of English liberty.

Having identified the English people as corrupt, many colonists became vocal in exhorting their fellow colonists to virtue. Chief among these, as Breen notes, were the groups who formed to enforce non-importation agreements. And while in some cases these groups may have been motivated more by traders’ self-interest than by a virtuous abstention from luxury items, these agreements were quite effective in intensifying the self-identification of colonists as defending virtue against the corruption to which Englishmen had succumbed. According to the text of one boycott agreement,

...there is a necessity to agree upon such measures as may tend to discourage, and as much as may be, prevent the use of foreign luxuries and superfluities, in the consumption of which, we have heretofore too much indulged ourselves, to the great detriment of our private fortunes.; and, to this end, to practice ourselves, and, as much as possible, to promote, countenance, and encourage in others, a habit of temperance, frugality, economy, and industry... [W]e are clearly convinced [taxes] have been imposed contrary to the spirit of our constitution, and have a direct and manifest tendency to deprive us, in the end, of all political freedom, and reduce us to a state of dependence, inconsistent with that liberty we have rightfully enjoyed under the government of his present most sacred majesty, (to

306 The term “virtue” and related concepts are central to republican interpretations of the American Founding experience, particularly the interpretation appended by John Pocock as the last chapter of his sweeping study, The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition (Princeton: Princeton University Press, 1975). His study is designed to describe the features of civic humanism, explain its rebirth in the work of the Florentine republicans, and contend that this humanistic republicanism provided the dominant intellectual framework in which American appeals to virtue were made during the revolutionary era. One of several claims he makes about republican virtue is that since this virtue belongs to the active citizen, it is all but incompatible with the private activities of commerce. This interpretation overlooks the place of self-interested merchants in advancing many of the arguments for frugality and shared sacrifice for common purposes.

whom we owe, acknowledge, and will always joyfully pay all due obedience, and allegiance).; have thought it necessary to unite, as nearly as our circumstances will admit, with our sister colonies, in resolutions for the purpose aforesaid; and therefore, do hereby agree, and bind ourselves to, and with each other, by all the ties and obligations of honour and reputation, that we will strictly and faithfully observe, and conform to the following resolutions…308

For others, these exhortations to virtue were seen not simply as a way of encouraging colonists to abide by their voluntary commitment to a common cause, or even as a way to defend themselves against the temptations of luxury that had sapped the spirit of liberty among the people of England - they were seen a way of reforming that people. In supporting a boycott on tea, one calling himself Rusticus suggested that the boycott was necessary to demonstrate the seriousness of the colonial cause in the eyes of their British brethren:

...it is not only the cause, but our manner of conducting it, that will establish our character. The happiness and prosperity both of the colonies and of Great Britain depend upon an intimate union and connexion. This union, it is true, depends upon freedom. For without freedom there can be no confidence. Without confidence, no affection; and without affection, considering our situation and distance from Britain, the union between this country and that cannot long subsist. To preserve, therefore, that union, and to promote the happiness and prosperity of both countries, let us resolve to maintain our liberty.309

This Whig language of virtue and corruption on its own, however, was not sufficient to effect a full repudiation by the colonists of their affections for the people of Eng-

308 Anonymous, "We, the Subscribers." #11158, 1769, 1.

land. It was only when this language of corruption and virtue was placed in its providential dimension that colonists began to see themselves as distinct from the people of England, and as a people - and peoples - that required representation by their own distinct governments. The providential dimension to this language of corruption and virtue was supplied by the model of constitutional history found in the works of the English Whigs who presented their nation’s history as an extended struggle between liberty and slavery. But while the colonists had long been aware of and influenced by the constitutional histories of leading English Whigs, their early arguments to the history of these English heroes of liberty focused only on effecting a reform of British policy. The colonists’ decisive break from their English identity - and from the British Empire - could only come when they had identified the English people themselves (as opposed to any single lawless occupant of the throne) as the tyrants who sought to enslave the inhabitants of the colonies. What is more, as part of this break colonists came to reinterpret the Whig history of liberty in a way that transcended a narrowly English history; colonists increasingly looked beyond English heroes to all heroes of liberty. Josiah Quincy concluded his essay on the historical circumstances of the colonies by citing Roman examples Brutus and Cassius:

__310__ For the character and leading practitioners of Whig political thought, see Caroline Robbins, *The Eighteenth-Century Commonwealth* (Cambridge: Harvard University Press, 1959). One anonymous pamphlet was entitled “Considerations upon the rights of the colonists to the privileges of British subjects, introduc’d by a brief review of the rise and progress of English liberty...” and sought (just as the title explains) to “steadily support that liberty which we received from our ancestors.” Anonymous, “Considerations Upon the Rights of the Colonists to the Privileges of British Subjects, Introduc’d by a Brief Review of the Rise and Progress of English Liberty, and Concluded with Some Remarks Upon Our Present Alarming Situation,” *Early American Imprints, Series 1*, #10273, 1766, 23.
Spirits and genii, like these, rose in Rome --- and have since adorned Britain: such also will one day make glorious this more Western world. America hath in store her Bruti and Cassii --- her Hampdens and Sydneys --- patriots and heroes, who will form a band of brothers:--- men who will have memories and feelings --- courage and swords:--- courage, that shall inflame their ardent bosoms, till their hands cleave to their swords --- and their swords to their enemies hearts.\textsuperscript{311}

Just as this Whig history was used to place Englishmen within a broader history of liberty, the framework was useful in assimilating colonists who had never conceived of themselves as Englishmen. Americanicus rallied the diverse population of New York by remembering (perhaps even creating) heroes of liberty within the history of each people, and forgetting deep animosities that had separated these peoples:

And you native sons of South and North Britain [Englishmen and Scotsmen], trace the renown of your worthy progenitors, recollect the glorious stands that they have made in defence of their civil and religious liberties; think of those immortal names of Hampden, Sydney, Pratt, Glyn, &c. --- And likewise you sons of Hibernia [Irishmen], recount the deeds of your heroic predecessors, for the preservation of their inestimable rights of internal representation; when they obliged the members of Parliament to swear on their bended knees in the streets, that they would never consent that the Irish Parliament should be abolished and they go to the English Parliament; a home that the Ministry was very sanguine in.... Nor can you, Gentlemen, who are descendants of the primitive planters of this colony [Dutchmen], retrospect the zeal of your ancestors in stipulating for the enjoyment of their just rights and privileges, at the surrender of the province, without a becoming ardor for the continuation of them; you I hope, will consider the least infraction of your liberties, as a prelude to greater incroachments.\textsuperscript{312}


\textsuperscript{312} Britannus Americanicus, “A Serious Address to the Inhabitants of New York.” \textit{Early American Imprints, Series I}, #10041, Dec. 17 1765.
Thus, the historical narrative of struggle for constitutional liberties offered by the
English Whig tradition of political discourse provided a powerful framework within
which British subjects in America could conceive of themselves as united - united as
Americans in their opposition to an English people who had been corrupted by luxury
and to a British power whose constitution - most particularly in the English people’s
claims to dominate the colonies through the institution of Parliament - was corrupt be-
yond reform. This conclusion runs counter to Trevor Colbourn’s conclusion about Ameri-
can use of Whig history: “Had the Founding Fathers remained totally true to the English
whig historical tradition they would never have produced a revolution - and their coun-
terparts in England did not.”\(^{313}\) Leaving aside the role of the historical mode of thinking
that was deployed in the Glorious Revolution in 1688, Colbourn, like other scholars of
ideology whom we have criticized here, fails to place the Whigs’ historical science of
power in the context of actual institutions of power. It is true that English Whigs after
1688 did not produce a revolution, but it is critical to note that their interests and identi-
ties as Englishmen were always theoretically capable of representation in Parliament,
whereas English colonists were forced to acknowledge that their interests and identities
existed at a far remove from the power that claimed their allegiance. The emergence of
Parliament to check monarchical power cemented English Whigs’ faith in their concep-
tion of history, but the doctrine of virtual representation combined with Parliament’s
claims of sovereignty over the colonies - during a decade of colonial objections - made it

\(^{313}\) Trevor Colbourn, *The Lamp of Experience: Whig History and the Intellectual Origins of the
impossible for Whigs in the colonies to share in the English Whigs’ faith in their nation’s history. England’s providential history therefore became for the colonists not triumphal but terrible, leading one New Englander to conclude that “England was no longer ‘in a Condition at present to Suckle us, being pregnant with Vermin that corrupt her Milk, and convert her Blood and Juices into Poison.’”\(^{314}\) History had brought the colonists to a place unknown to English Whigs and given them a responsibility far greater than constitutional reform.\(^{315}\)

2.3. Thomas Paine and the Ambiguity of American Identity

No piece of colonial political argument advanced a more provocative combination of the colonists simultaneous love and fear of power with the providential narrative that compelled the colonists to slip the bonds that had joined them to their British brethren and to the British Empire than Thomas Paine’s *Common Sense*. Paine’s tract is invariably adduced as evidence of the radicalism of the American Revolution; it has also been described, in terms easily translatable into the idiom of identity, as a kind of symbolic murder of an overbearing father figure by a people at last mature enough to assert its own

\(^{314}\) Quoted in Ibid., 228.

\(^{315}\) This is not to discount the jarring optimism displayed by many of the American Founding generation about the future of the American empire. (See, for instance, John Adams’ “A Dissertation on the Canon and the Feudal Law,” in *The Revolutionary Writings of John Adams*, ed. C. Bradley Thompson (Indianapolis: Liberty Fund, 2000), 19-36. Among secondary sources, see Ernest Lee Tuveson, *Redeemer Nation: The Idea of America’s Millennial Role* (Chicago: University of Chicago Press, 1968) and Nathan O. Hatch, *The Sacred Cause of Liberty: Republican Thought and the Millennium in Revolutionary New England* (New Haven: Yale University Press, 1977).) Instead, it is to argue that American historical optimism was couched explicitly within the context of America’s independence from Britain. It is only by removing itself from the historical cycle within which Britain was locked that America had hope for the future.
individuality. These interpretations are sustainable, as far as they go, but because they do not recognize the providential form of the English identity against which Paine and the colonists rebelled, they cannot recognize the ambiguity of American identity evident in Paine’s justification for independence. Indeed, the ambiguity is double. The first ambiguity is that Paine’s justification for independence is situated within the providential framework of English national identity and that, for this reason, his rejection of the English constitution and monarchy retains for Americans, under the concept of republicanism, a belief in their providential national mission and an acceptance of the unitary political form necessary to accomplish that mission. Paine’s republicanism is not the humble, self-sufficient, sturdy (if backward looking) republicanism of Anti-Federalism or the novel confederal republicanism offered by Madison to govern an extensive territory; instead it is an ideological republicanism possessing an evangelical - even messianic - character. This points to the second ambiguity in Paine’s argument - namely that the American identity defined by Paine transcended the strictly national limits characteristic of English identity and became universal or cosmopolitan in its features at a time when individual identities were growing increasingly diverse and, consequently, the possibility of sustaining a collective identity even of a more limited national character had disappeared.


2.3.1. A Providential Republicanism

A central claim to this project has been the argument that England’s providential form of national identity necessitated the emergence of the centralized monarchical state. It has also been argued that the ideational form of national identity and the institutional form of the unitary and sovereign state mutually reinforce one another. Finally, it has been argued that the triad of national identity/civil religious authority/unitary state power characteristic of the English social unity has persisted in the American experience, but that it has persisted alongside a more modern arrangement of identity/authority/power in which identity and authority are not hierarchical and obligatory but differentiated and voluntary, and in which political institutions are necessarily decentralized and voluntary; we have described this triad in the terms civic identity/voluntary association/republic. In employing the term “republic” in this way, we have intended to draw an explicit institutional distinction between the unitary and obligatory political form that emerged to represent medieval England’s compact national identity and the decentralized and consensual political form necessary to represent the multiplicity and diversity of interests and identities characteristic of the pluralistic and institutionally differentiated modern world. By contrast, Thomas Paine, in defending the republican alternative to English monarchy in his polemic Common Sense, defines republicanism in terms wholly incompatible with the institutional principles of decentralization and consensual authority, and wholly inconceivable apart from the institutional centralization and obligatory authority characteristic of England’s civil religious identity state.
Quite clearly, Paine is critical of the English constitution, dismissing it as but:

...the base remains of two ancient tyrannies, compounded with some new republican materials.
First.—The remaines of monarchical tyranny in the person of the king.
Secondly.—The remaines of aristocratical tyranny in the persons of the peers.
Thirdly.—The new republican materials, in the persons of the commons, on whose virtue depends the freedom of England.318

If the distinguishing factor of the English constitution was, as Paine explained, in the republican virtue of the English people, it was their loss of virtue that had permitted the abuses of power with which the colonists had been afflicted. But he denied the conclusion common in revolutionary discourse that the people of England had been corrupted by wealth and power provided by the colonies; he overlooked the diagnosis that the differentiation of political institutions and the proliferation of commercial activity within the British Empire had resulted in the emergence of a multiplicity and diversity of competing interests. Instead, his analysis of the problem of England’s constitution was, as he implied in the passage above, grounded on the premise that its differentiation even into three constituent parts made possible its corruption. “[T]he corrupt influence of the crown, by having all the places in its disposal, hath … effectually swallowed up the power, and eaten out the virtue of the house of commons (the republican part in the constitution)....”319

319 Ibid, 83.
Because he judged the English constitution to be irredeemably corrupt, Paine gave colonists cause to abandon attempts to seek redress of their grievances from George III, and reason to renounce their sense of identity as Englishmen and loyal subjects of the British crown. Indeed, if Americans were to rescue what was valuable in their former civic identity, they must do so by providing a refuge for England’s lost republican virtue. “For it is the republican and not the monarchical part of the constitution of England which Englishmen glory in, viz. the liberty of choosing an house of commons from out of their own body—and it is easy to see that when republican virtue fails, slavery ensues.

Why is the constitution of England sickly, but because monarchy hath poisoned the republic, the crown hath engrossed the commons?”

And although Paine described the republican materials of the English constitution as “new” he also portrayed republicanism in what might be thought of as a Rousseauian or pre-lapsarian way; republicanism, in his explanation, represents the pristine form of government that is natural to man before he is corrupted by the lusts for wealth and power, and before the natural relations between men are distorted by inequalities of the same. In attempting to resist the differentiation of interests within the polity, Paine resorts to the providential form and content of English history, imagining England’s republican virtue as continuous with the virtue of God’s chosen Hebrew people under their divine constitution.

[Israel’s] form of government (except in extraordinary cases, where the Almighty interposed) was a kind of republic administered by a judge and the elders of the tribes. Kings they had none, and it was held sinful to acknowledge any being under that title but the Lord of Hosts. And when a

320 Ibid.
man seriously reflects on the idolatrous homage which is paid to the persons of Kings, he need not wonder, that the Almighty ever jealous of his honor, should disapprove of a form of government which so impiously invades the prerogative of heaven.\textsuperscript{321}

In this way Paine asserts for republican America the same kind of national unity and collective calling that the English nation had emulated from the experience of God’s first chosen people. Yet as Paine notes, the republican nation of Israel succumbed to the idolatry of kingship, and the nation of England had repeated Israel’s sin by accepting kingly rule. The wages of this sin had been a perpetual series of conflicts between aspirants to the throne both within England and throughout Europe. “In short, monarchy and succession have laid (not this or that kingdom only) but the world in blood and ashes. ’Tis a form of government which the word of God bears testimony against, and blood will attend it.”\textsuperscript{322}

\textbf{2.3.2. The Universal History of a Particular People}

By juxtaposing the natural character of republicanism with the novelty of the republican materials of the English constitution, Paine convinced Americans that both nature and history had ordained them for task of defending republican virtue and advancing the cause of liberty. The re-emergence of republican government after years of monarchical corruption had seemingly become suspended in England; though the duties of kingship had been taken over by a representative assembly, the influence of the king had in-

\textsuperscript{321} Ibid, 76.

\textsuperscript{322} Ibid, 83.
terfered with the development of republican virtue. But the republican project, having reached this stage, could not be allowed to fail; Americans had a responsibility to themselves, to their posterity, and to peoples of all places and times to ensure its success. “The sun never shined on a cause of greater worth. ’Tis not the affair of a city, a country, a province, or a kingdom, but of a continent—of at least one eighth part of the habitable globe. ’Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now.” What is more, the power of England to stop this cause was doubtful; independence was providentially ordained. “Small islands not capable of protecting themselves, are the proper objects for kingdoms to take under their care; but there is something very absurd, in supposing a continent to be perpetually governed by an island. In no instance hath nature made the satellite larger than its primary planet, and as England and America, with respect to each other, reverses the common order of nature, it is evident they belong to different systems: England to Europe, America to itself.”

Finally, just as America had escaped English corruption and was destined to eclipse British power, America had also transcended English identity. “Europe, and not England, is the parent country of America.” Thus Paine characterized the new American identity in cosmopolitan terms:

323 “The nearer any government approaches to a republic the less business there is for a king. It is somewhat difficult to find a proper name for the government of England. [Some call] it a republic; but in its present state it is unworthy of the name....” Ibid.

324 Ibid, 84-5.

325 Ibid, 92.
It is pleasant to observe by what regular gradations we surmount the force of local prejudice, as we enlarge our acquaintance with the world. A man born in any town in England divided into parishes, will naturally associate most with his fellow parishioners (because their interests in many cases will be common) and distinguish him by the name of neighbour; if he meet him but a few miles from home, he drops the narrow idea of a street, and salutes him by the name of townsman; if he travel out of the county, and meet him in any other, he forgets the minor divisions of street and town, and calls him countryman; i.e. county-man; but if in their foreign excursions they should associate in France or any other part of Europe, their local remembrance would be enlarged into that of Englishmen. And by a just parity of reasoning, all Europeans meeting in America, or any other quarter of the globe, are countrymen; for England, Holland, Germany, or Sweden, when compared with the whole, stand in the same places on the larger scale, which the divisions of street, town, and county do on the smaller ones; distinctions too limited for continental minds.326

In this way Thomas Paine reinvented America within the history of republican liberty. But in so doing he denied the groups that constituted America histories of their own. The histories that had attached to the identities of American colonists - as British subjects, as Englishmen, and to some degree even as Virginians or Quakers or Dutch - were forgotten, replaced with a new cosmopolitan American identity and a stylized history of the progress of republican liberty. Thus the Declaration of Independence - the first collective, albeit ambiguous, statement of American civic identity - begins by introducing the concrete historical experiences of arbitrary and tyrannical government that first united the colonists through the abstract statement,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal sta-

326 Ibid, 87.
tion to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

Here, then, is the culmination of the process by which British subjects in America lost their identities as Englishmen and were forced to forge a new identity through a long process of discourse and debate about the legal, historical, political and natural bases of identity that united them. But the renunciation of British authority and the establishment of new centers of authority to which citizens of the new American republics would be subject was itself characterized by two ambiguities that would plague America until the Civil War. First, Americans, in rejecting the authority of the distant British empire, tightly clung in their revolutionary constitutions to the authority of their own state assemblies. Indeed, in instructing their delegates to the Continental Congress regarding the decision to declare independence from Britain, several revolutionary state assemblies expressly stipulated that their participation in the fight for independence should in no circumstances abridge their authority as individual assemblies over the internal regulation of their state’s affairs.327 At the same time as these young states insisted upon sovereignty over their own territories, however, their individual existences as free states would have been impossible - utterly inconceivable - had they remained disconnected units of power. Indeed, it was crucial to the colonists’ decision to declare independence that they recognized their col-

lective potential as a unit of political power that could secure its territory and its trade from external threats. The ambiguity, then, is expressed in the question: To which power should I pay my allegiance - the immediate power that more directly represents me (not simply my interests, but also my identity) or the more distant power that offers me greater security?

The second set of ambiguities hidden in the new, American, civic identity adopted by the people who had previously thought of themselves proudly as Englishmen lay in the only available symbol of that shared identity - the Declaration of Independence. On the one hand, this symbol evidenced as shallow a common civic identity among the thirteen new states as was possible. It did not establish a common government, stating only that “as Free and Independent States, [the united States of America] have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do”; in other words, though the states were united in a negative sense - through their rejection of British power - they would each individually act - exercise positive authority - as independent states. Nor did the Declaration of Independence prescribe a form of government that would be common to the states; it simply affirmed that governments are established to protect the rights of the governed. In addition to its vagueness with respect to political forms, the Declaration offered the thinnest of historical accounts of the birth and growth of the American people. Indeed, the American people go unnamed in the historical narrative offered in the Declaration, which begins by describing a point “in the course of human events” when it had
become “necessary for one people to dissolve the political bands which have connected them with another.” The “people” in the Declaration appear to share only the history of oppression at the hands of British power. Indeed, without British power against which Americans could define themselves as a people, American national power began to appear as almost as great a threat to the liberties many citizens enjoyed within the context of their representative state governments.

3. Identity and Institutions: The Theory of Britain’s Federal Empire

Simultaneously with these stylized historical arguments characteristic of England’s compact providential identity offered in response to the differentiation of interests between themselves at the colonial margins of the British Empire and their British brethren at the Empire’s center, lawyers in the colonies exploring constitutional defenses of their rights developed an institutional response to claims of British Parliament’s sovereignty that defined the colonies as equal constituents in a federal British Empire. In addition to introducing the organizational principle of federalism to the modern American science of politics, this institutional response to the differentiation of interests and identities within the orbit of British power depended upon natural rights claims. Though colonial clergymen resorted to unrestrained but imprecise defenses of the traditional, common law, or constitutional rights of Englishmen by calling them “natural” or by grounding them in a “fundamental” law divine in origin, colonial lawyers resorted to a concept of natural rights defined in a highly constrained fashion and employed in a precise and technical way. We grossly misunderstand the place of natural rights in colonial discourse if
we fail to situate that concept within the context of the federal theory of the British Empire. Colonial lawyers advanced as an institutional response to the differentiation of England’s compact and unitary national identity.

### 3.1. James Otis

Legal or constitutional attempts by colonists to reconcile themselves as marginal members of the British Empire to the imperial center began at the earliest stage of the colonists’ dispute with Parliament’s claims to exercise sovereignty over the colonies. In his immediate response to the Stamp Act, James Otis offered a preliminary account of a differentiated conception of Britain’s Empire, explaining the colonists’ support of a British constitution that would incorporate colonial legislatures. Otis - who, as was noted in the previous chapter, based his argument on explicitly theological grounds - understood this constitution in terms largely compatible with the idea of England as a unitary confessional state.\(^{328}\) “All power is of GOD,” he insisted. “Next and only subordinate to him, in the present state of the well-formed, beautifully constructed British monarchy, standing where I hope it will ever stand, for the pillars are fixed in judgment, righteousness and truth, is the King and Parliament.”\(^{329}\) Below King and Parliament, however, Otis saw the

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\(^{328}\) Otis does not seem to have disputed in principle the propriety of England’s confessional state, though he did perceive the practical problems that would follow any attempt to extend the authority of the Anglican Church within the colonies. After professing to “esteem [the Church of England] by far the best national church,” he suggested as a prudential matter that Parliament should take care not to lay the burden of any tithes on the colonies. “...to those colonies who in general dissent from a principle of conscience, it would seem a little hard to pay towards the support of a worship, whose modes they cannot conform to.” James Otis, “The Rights of the British Colonies Asserted and Proved” (1763), in The American Republic: Primary Sources ed. Bruce Frohnen (Indianapolis: Liberty Fund, 2002), 119-34 at 124.

\(^{329}\) Ibid., 127.
possibility and necessity of establishing several subordinate but coordinated layers of legislative authority to connect all deliberative bodies with the divine authority represented by King and Parliament. “Under these,” he explains, “it seems easy to conceive subordinate powers in gradation, till we descend to the legislative of a town council, or even a private social club.”\footnote{Ibid.} He did not offer any explicit blueprint for the organization and interrelation of these subordinate powers, merely suggesting the possibility that the reality of institutional differentiation within the British Empire could be reconciled with the hierarchical form of the English confessional state.\footnote{Otis could not yet acknowledge the differentiation between the interests of Englishmen at the colonial margins of the British Empire and those at its center. Though he did complain of Parliament’s unequal treatment of the colonists as compared to English residents, in appealing to the King for redress under the terms of the British constitution with its “supreme legislative, and the supreme executive, [serving as] a perpetual check and balance to each other” Otis could only say that this negative relationship between executive and legislative was necessary if one or the other branches was in error. Ibid., 126.} He was content to conclude that,

\ldots His Majesty George III is rightful King and sovereign, and, with his Parliament, the supreme legislative of Great Britain, France, and Ireland, and the dominions thereto belonging; that this constitution is the most free one and by far the best now existing on earth; that every part has a right to be represented in the supreme or some subordinate legislature; that the refusal of this would seem to be a contradiction in practice to the theory of the constitution; that the colonies are subordinate dominions and are now in such a state as to make it best for the good of the whole that they should not only be continued in the enjoyment of subordinate legislation but be also represented in some proportion to their number and estates in the grand legislature of the nation; that this would firmly unite all parts of the British empire in the greatest peace and prosperity, and render it invulnerable and perpetual.\footnote{Ibid., 134.}
3.2. Richard Bland

The Virginia legislator Richard Bland departed from the explicitly theological terms under which Otis asserted the possibility of a hierarchical ordering of the constituent parts of the British Empire, beginning instead with the recognition that not only were the colonies differentiated as institutions within the Empire, the colonists existed as separate peoples within the Empire.\(^{333}\) Bland’s argument picks up where we left off in the last chapter, as colonists sought to reconcile their belief in their unity with the English people with the experience of their distance from that people. He begins by repudiating, at last, the fiction of virtual representation. Appealing to English constitutional history, he attempts to demonstrate how virtual representation was constitutionally acceptable when applied to residents of England itself but in violation of the English constitution when applied to residents of the colonies. Bland (following a common Whig theme) traces the history of the English constitution to the Saxon settlement of Britain. “This Government,” he explains, “like that from whence [the Saxons] came, was founded upon Principles of the most perfect Liberty.”\(^{334}\) This perfect liberty derived from the fact that “every Freeman, that is, every Freeholder, was a member of their … Parliament.” Not all members of society were permitted a seat in this assembly; “Non-Proprietors of Land” had no share in rule, and over time the right of each freeholder to sit in Parliament was diminished to the right to vote for a Parliamentary representative. Bland continues tracing the diminution of

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\(^{334}\) Ibid., 70.
the right of freeholders to be present, or represented, in Parliament, citing statutes in the reigns of Kings Henry V and Henry VI which placed geographical and monetary limitations on the “Right of Election.” Bland concludes in such a way as to demolish the fiction of virtual representation.

As these Freeholders then were deprived of their Rights to substitute Delegates to Parliament, they could not be represented, but were placed in the same Condition with the Non-Proprietors of Land, who were excluded by the original Constitution from having any Share in the Legislature, but who, not withstanding such Exclusion, are bound to pay Obedience to the Laws of Parliament, even if they should consist of nine Tenths of the People of Britain; but then the Obligation of these Laws does not arise from their being virtually represented in Parliament, but from a quite different Reason.  

In this provocative argument, Bland defines the “virtual” character of the representation ostensibly granted to those Englishmen not possessing the right to vote as nothing more than their obligation to obey laws over which they had no control. He traces the obligation of Englishmen to obey these laws not of their own making directly to the principles of the theory of the state of nature. Implicitly locating the “Act of Association” by which Englishmen retreated from the state of nature in the ancient Saxon formation of Parliament, Bland holds that this original act required that “each Member subjects himself to the Authority of that Body in whom, by common Consent, the legislative Power of

335 Ibid., 72.

336 Though Bland accepts that “nine Tenths of the People of Britain are deprived of the high Privilege of being Electors” and that these people are nonetheless obligated to obey the laws of Parliament, he insists that this fact “shows a great Defect in the present Constitution, which has departed so much from its original Purity; but [it] can never prove that those People are even virtually represented in Parliament.” Ibid., 73.
the State is placed….” But, crucially, Bland stipulates that each member of society retained the natural right “to retire from the Society, to renounce the Benefits of it, to enter into another Society, and to settle in another Country.” He who chooses not to exercise this natural right to exit the society of his birth and “continues to exercise the Rights of a Citizen in all other Respects, must be subject to the Laws which by these Acts he implicitly, or to use your own Phrase, virtually consents to….”

Here, then, is the ground upon which Bland argues that the colonies are not obligated to accept the laws of Parliament, and here is the origin of his defense of the rights of the colonies. Those Englishmen who exercised their natural right to “quit” England also possessed the natural right to assemble with one another “and by common Consent take Possession of a new Country and form themselves into a political Society, [becoming] a sovereign State, independent of the State from which they separated.” In this way Bland rejects any and all claims to the colonists’ possession of “rights of Englishmen.” Nevertheless, he makes a very specific claim, on natural rights grounds, to those rights as guaranteed in the colonies’ charter documents. He observes that the new sovereign states formed by those who had departed from England possessed the natural right to voluntarily enter into compacts with another sovereign power; Bland defines colonial charter documents (not without straining his argument slightly) as compacts made by independent powers with the English sovereign. “This independent Country was settled by

337 Ibid., 72-3.
338 Ibid., 75, emphasis added.
Englishmen at their own Expense, under particular Stipulations with the Crown: These Stipulations then must be the sacred Band of Union between England and her Colonies, and cannot be infringed without Injustice.”339 Finally, in adverting to the injustice of Parliament’s assertions of its sovereignty over the colonies, Bland articulates the grounds upon which the peoples who had compacted with the English sovereign could withdraw from their compacts. Bland found such a withdrawal almost unthinkable unless Parliament itself acted in open hostility to the colonies. If the colonists were “merely deprived of their civil Rights, … their Remedy is to lay their Complaints at the Foot of the Throne, and to suffer patiently rather than disturb the publick Peace, which nothing but a Denial of Justice can excuse them in breaking.” If, however, “the Colonists should be dismembered from the Nation by Act of Parliament, and abandoned to another Power, they have a natural Right to defend their Liberties by open Force, and may lawfully resist…”340 Bland’s lawyerly invocation of natural rights theory provided a very precise and constrained justification for the right of the colonists to resist the power of British Parliament.  

339 Ibid., 80.  
340 Ibid., 84.
3.3. Thomas Jefferson

Thomas Jefferson offered this same argument in his “Summary View of the Rights of British America.”\textsuperscript{341} Jefferson began his defense of the colonists’ rights by observing how those who departed England to settle North America exercised the right, “which nature has given to all men, of departing from the country in which chance, not choice, has placed them, of going in quest of new habitations, and of there establishing new societies, under such laws and regulations as, to them, shall seem most likely to promote public happiness.”\textsuperscript{342} There in North America these intrepid settlers spilled their blood and expended their fortunes establishing a flourishing society almost entirely without British aid; it was wholly by their own choice that they resumed a connection to the society from which they had departed. Jefferson explains, “…the emigrants thought proper to adopt that system of laws, under which they had hitherto lived in the mother country, and to continue their union with her, by submitting themselves to the same common sovereign, who was thereby made the central link, connecting the several parts of the empire thus newly multiplied.”\textsuperscript{343}

Jefferson spends comparatively little time reiterating the argument that the British Crown served as the central link connecting the constituent parts of the British Empire; instead he develops through a stylized history of British America the implications of the

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\textsuperscript{342} Ibid., 274.

\textsuperscript{343} Ibid., 275.
premise that the colonists had removed themselves from England into in a state of nature - both constitutionally and geographically. Indeed, the very name “British America” is suggestive of Jefferson’s departure from the task engaged in by Otis and Bland, each of whom sought to defend the rights of the “British Colonies.” Jefferson all but overwrites the colonies as political institutions, adverting to the existence of their charters imposed upon the colonies by a “family of Princes” characterized by “treasonable crimes against their people.” Under the charter documents, Jefferson concludes, “this country which had been acquired by the lives, the labors, and fortunes of individual adventurers, was by these Princes, several times, parted out and distributed among the favorites and followers of their fortunes; and, by an assumed right of the Crown alone, were erected into distinct and independent governments….”

4. **The Declaration of Independence and the Federal Theory of Empire**

In the two years during which the Continental Congress sought a final resolution to the conflict between the colonies and the Empire, they effectively retraced the series of constitutional arguments sketched previously. Their Declaration of Rights and Grievances presented almost the entire range of arguments from which the colonists had drawn. Acknowledging their allegiance to the British Crown, the delegates to the Continental Congress protest Parliament’s claims to rule them, arguing,

…the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council: and as the English colonists are not represented, and from their local and other circumstances,

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344 Ibid.
cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are bona fide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America, without their consent. 345

These constitutional claims - that the heart of English liberty is the right of the people to participate in the assemblies that rule them, that Parliament’s assertions of sovereignty over the colonies denied the colonists this right, that the legitimate constitutional form of the British empire was an imperial confederation in which each constituent part of the empire ruled itself in a provincial assembly connected to the empire through its subject to the Crown - run like a red thread through not only the constitutional debates between the Stamp Act and the formation of the Continental Congress, they form the central theme of the deliberations of the Continental Congress in the two years prior to the Declaration of Independence. The persistence and prominence of these themes in the public statements of the Continental Congress gives reason to expect these themes to be present in the Congress’s most famous proclamation, the Declaration of Independence. This treatment of the Declaration begins with this expectation in mind; and in addressing the

text of the document itself, asks about its immediate purpose, the substance and form of its argument, and the details of its construction, before seeking the benefit of any political or philosophical context in elucidating the document’s meaning.

4.1. The Dissolution of Identity

The Declaration of Independence, when consulted on its own terms, announces its immediate purpose to be the dissolution of political connections. Indeed, the dissolution of political connections serves as the focal point of the argument of the Declaration of Independence, the point from which the argument departs in its first paragraph and to which it returns in its final paragraph. The document opens with a description of a “course of human events” in which “it becomes necessary for one people to dissolve the political bands which have connected them with another,” and it closes with the proclamation that “these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved….”

Though the immediate function of the Declaration was to dissolve political connections, it must be noted that the authors of the Declaration refer to two different kinds of political connection uniting two different kinds of political bodies. The first connection cited above was the connection of civic kinship or identity through which Englishmen in the American colonies were united to their fellow Englishmen back across the Atlantic. This connection depended not upon legal or constitutional obligations but on the ties of
what the authors of the Declaration referred to as “common kindred.” The dissolution of this political connection could not occur until there had developed a new collective identity on which those who had renounced their English national identity could agree. By no means was it necessary that this new collective identity should retain the same features and form as English national identity, but it is a central theme of this work that Americans have in practice retained a national identity bearing only superficial differences from English national identity, and have failed to theorize and adopt a new form of collective identity suitable for republican institutions. The second political connection cited above was found in the colonies’ respective relationships to the British Crown, through which the colonies were related to one another and to all other constituent entities of the British empire. A dissolution of this political connection left the colonies “as Free and Independent States, [possessing] full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.”

Because the Declaration of Independence was written both to dissolve the bond of common kindred that had connected the colonists with Englishmen and to dissolve the bond of royal allegiance that had connected the colonies to the British empire, the interpreter should expect to see two distinct arguments justifying the dissolution of two distinct kinds of political bond. Both of these arguments are, in fact, present in the Declaration. If there are two political connections the Declaration severs, and distinct ar-

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arguments justifying the severance of each connection, these facts complicate the traditional accounts of the logic of the Declaration.

4.1.1. Dissolving Ties of “Common Kindred”

We should begin by examining the dissolution of the ties of “common kindred” or of shared English identity. These ties are far too frequently overlooked by interpreters of the Declaration who seek to define the document solely in intellectual terms - whether as an explicitly legal argument or as a statement of a liberal or democratic philosophy grounded on claims of natural law or natural right. To bring the ties of common kindred back into focus permits us to understand the Declaration as part of the lengthy process by which the affections of the colonists were turned away from their English brethren and political institutions and turned towards new political bodies and institutions.347

A crucial step in the transformation of the affections of the colonists away from their English brethren was treated in the previous chapter - it was the recognition that the interests of Englishmen in the mother country had not simply departed from but had become irreconcilable with the interests of Englishmen in the colonies. Thus, colonists ultimately began to cast blame for the tyrannical acts of Parliament upon the English people themselves. In transferring blame from Parliament to people, defenders of colonial liberties and prerogatives shifted the debate from a more or less technical dispute about concept of representation - which colonists understood as “the foundation of English liberty, 

and of all free government, …a right in the people to participate in their legislative council” - to a struggle for control of the stylized history of English liberty. Indeed, the very first line of the Declaration - “When in the Course of human events” - announces the document as a kind of narrative explaining why it has “become[] necessary for one people to dissolve the political bands which have connected them with another…..” The “one people” of the colonies are bound not simply by the shared interests that distinguished them from Englishmen in the mother country; by the time of the Declaration, the diverse bodies of English subjects in the colonies had come to see themselves bound as “one people” who existed together as sufferers of oppression at the hands of an English power they now recognized as illegitimate.

Though many of the specific policies listed in the Declaration’s list of grievances were directed only at particular segments of this “one people,” the formulation of the grievances gives no doubt but that the “one people” speaking in the Declaration recognized each of these tyrannical policies as a threat to them as a people. Further, the stylized history of the Declaration was not simply one of oppression at the hands of a single tyrannical monarch. Instead, this oppression was part of a broader plot to deprive the colonists of their liberties - a plot in which the corrupt English people, because of their support of an illegitimate Parliament, were complicit.

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348 Another example of the way in which one colony’s experience of oppression was accepted as an act of oppression against the “one people” as a whole is to be found in the Continental Congress’s re-publication of the Suffolk Resolves - which had been issued by the leaders of Suffolk County, Massachusetts in response to the repression they suffered under the Intolerable Acts - as its first public statement. See the proceedings of Saturday, September 17, 1774 in Journals of the Continental Congress, Vol. 1 (1904), 31-41.
We have warned [the English people] from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. [This statement can only refer back to colonists’ arguments to have entered into a state of nature with respect to England upon their emigration and settlement of the colonies.] We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity.

Because the English people had become corrupt, the “free people” of the colonies could no longer accept the English identity that had once bound them to that people. “We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.” Having severed the bond of shared English identity, the colonists could announce their emergence onto the stage of history as “Free and Independent States...reliant on the protection of divine Providence....”

This interpretation is sustained not only by the trajectory of political discourse described in the previous chapter, it is also supported by petitions promulgated by the Continental Congress prior to the Declaration of Independence. On two separate occasions the Continental Congress had issued direct appeals to the English people; in both cases the Congress pointed to the growing schism between Englishmen in the colonies and their fellow Englishmen across the ocean, and sought to return a wayward English people to its noble tradition of liberty. In the earlier address, issued September 5, 1774, the Congress chided Englishmen for having permitted their loyal “fellow-subjects” in the
colonies to become the subject of oppression, while nonetheless attempting to call this once-noble people to support the colonists’ fight against the usurpations of Crown, ministry, and Parliament, and thus to reclaim the ancient virtue of Englishmen.

When a Nation, led to greatness by the hand of Liberty, and possessed of all the glory that heroism, munificence, and humanity can bestow, descends to the ungrateful task of forging chains for her Friends and Children, and instead of giving support to Freedom, turns advocate for Slavery and Oppression, there is reason to suspect she has either ceased to be virtuous, or been extremely negligent in the appointment of her rulers. In almost every age, in repeated conflicts, in long and bloody wars, as well civil as foreign, against many and powerful nations, against the open assaults of enemies, and the more dangerous treachery of friends, have the inhabitants of your island, your great and glorious ancestors, maintained their independence and transmitted the rights of men, and the blessings of liberty to you their posterity. Be not surprized therefore, that we, who are descended from the same common ancestors; that we, whose forefathers participated in all the rights, the liberties, and the constitution, you so justly boast [of], and who have carefully conveyed the same fair inheritance to us, guarantied by the plighted faith of government and the most solemn compacts with British Sovereigns, should refuse to surrender them to men, who found their claims on no principles of reason, and who prosecute them with a design, that by having our lives and property in their power, they may with the greater facility enslave you.349

The historical stakes as the members of the Continental Congress understood them in its July 8, 1775 letter to the English people were even higher, and the tone of their address more severe. The representatives of the united colonies made one final appeal to their bonds of identity with the English people:

Friends, Countrymen, and Brethren!
By these, and by every other Appellation that may designate the Ties, which bind us to each other, we entreat your serious Attention to this our

349 “Letter to the people of Great-Britain... September 5, 1774,” in Ibid., 82.
second Attempt to prevent their Dissolution. Remembrances of former Friendships, Pride in the glorious Achievements of our common Ancestors, and Affection for the Heirs of their Virtues, have hitherto preserved our mutual Connexion; but when the Friendship is violated by the grossest Injuries; when the Pride of Ancestry becomes our Reproach, and we are no otherwise allied than as Tyrants and Slaves; when reduced to the melancholy Alternative of renouncing your Favour or our Freedom; can we hesitate about the Choice? Let the Spirit of Britons determine.  

The Continental Congress’s address went on to enumerate the lengthy list of grievances the colonists had against Parliament and the representatives of the Crown, asking

To what are we to attribute this Treatment? If to any secret Principle of the Constitution, let it be mentioned; let us learn, that the Government, we have long revered, is not without its Defects, and that while it gives Freedom to a Part, it necessarily enslaves the Remainder of the Empire. If such a Principle exists, why for Ages has it ceased to operate? Why at this Time is it called into Action? Can no Reason be assigned for this Conduct? Or must it be resolved into the wanton Exercise of arbitrary Power? And shall the Descendants of Britons tamely submit to this?—No, Sirs! We never will, while we revere the Memory of our gallant and virtuous Ancestors, we never can surrender those glorious Privileges, for which they fought, bled, and conquered.  

In addition to these appeals to their common history of English liberty, the colonists appealed to their common interests with Englishmen as beneficiaries of the commercial power of the British Empire: “Let us now ask what Advantages are to attend our Reduction? the Trade of a ruined and desolate Country is always inconsiderable, its Revenue trifling; the Expence of subjecting and retaining it in subjection certain and inevitable.” If the British impulse to imperialism bore no resemblance to the noble history

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350 “The Twelve Colonies, by their Delegates in Congress to the inhabitants of Great Britain,” in Ibid., Vol 2, 163.

351 Ibid., 165-6.
of English liberty, and if its political ambitions were contradictory to the economic benefits that imperialism offered, the Congress could conclude, “What then remains but the gratification of an ill-judged Pride, or the hope of rendering us subservient to designs on your Liberty.” The foolish pride of Englishmen threatened the colonies, but the Congress made it clear that this pride posed an equally grave threat to Englishmen themselves:

Notwithstanding the Distress to which we are reduced, we sometimes forget our own Afflictions, to anticipate and sympathize in yours. We grieve that rash and inconsiderate Councils should precipitate the destruction of an Empire, which has been the envy and admiration of Ages, and call God to witness! that we would part with our Property, endanger our Lives, and sacrifice every thing but Liberty, to redeem you from ruin.

A Cloud hangs over your Heads and ours; 'ere this reaches you, it may probably burst upon us; let us then (before the remembrance of former Kindness is obliterated) once more repeat those Appellations which are ever grateful in our Ears; let us entreat Heaven to avert our Ruin, and the Destruction that threatens our Friends, Brethren and Countrymen, on the other side of the Atlantic.

As dire as was the situation the colonists faced, they still had the hope of securing the noble tradition of English liberty that their brethren had abandoned, and they would fight for that tradition, even if its defense required that they “part with our Property, endanger our Lives, and sacrifice every thing” including their connections with the English people.

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352 Ibid., 169.
353 Ibid., 170.
354 Ibid.
4.1.2. Dissolving Ties of Institutional Allegiance

It is now necessary to turn to the dissolution of the second set of ties that had bound the people(s) of the colonies to the power of the English state - between the respective colonies and the English Crown. Having stated that “when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce [a people] under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security,” the Declaration’s authors immediately note that this stylized historical description of the origins of despotism described their concrete experience: “Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain [George III] is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.” There follows the extensive list of grievances designed to demonstrate George III’s tyrannical ambitions. Through this litany of complaints, the authors of the Declaration offer implicitly a sketch of their understanding of

The first article of this constitutional theory was their willing acceptance of the emerging British Empire. This proposition is only obliquely referenced in the Declaration - in the document’s assertion of “Great Britain” as the political entity from which the colonies sought their independence; still, it was the imperial practice rather than the form of empire itself to which the colonists objected. Colonists took both pride and comfort in the commercial benefits and military might provided by the emerging power of the British Empire; they had late been the beneficiaries of the British army’s assistance in defending their western boundaries in the French and Indian Wars, and they acknowledged
the benefits of imperial management of commercial affairs. Indeed, far from opposing an imperial conception of Britain, the colonists fought for a political existence in which their respective colonies could co-exist with the several political bodies represented by parliamentary assemblies under the unifying and controlling power of the British Empire. In other words, the colonists understood British Empire in what we would label “federalist” terms. The federal conception of British Empire had been well developed in the Continental Congress’s prior statements, both in the Congress’s substantive arguments and in their decisions to address directly the various constituent parts of that emerging empire - the peoples of England, Quebec, Ireland, and Jamaica. In its “Declaration of Rights and Grievances,” the Continental Congress insisted that the federal form was the only form by which traditional English liberties could be accommodated to new institutional realities:

as the English colonists are not represented, and from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone

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356 Jefferson, in his draft of the document on taking up arms, wrote, “To continue their connection with the friends whom they had left and but loved they arranged themselves by charters of compact under the same one common king who became the thro' whom union was ensured to the multiplied who thus became the controul link uniting of union between the several parts of the empire. Some occasional assumptions of power by the parl. of Gr. Brit. however foreign and unknown to unacknowledged by the constitution we had formed of our governments were finally acquiesced in [... ] thro' the warmth of affection. Proceeding thus in the fullness of mutual harmony and confidence both parts of the empire encreased in population and in wealth with a rapidity unknown in the history of man. The various soils political institutions of America, it's various climes soils and climates opening sure certain resource to the unfortunate and to the enterprising of all every country where and ensured to them the acquisition and free possession of property. Great Britain too acquired a lustre and a weight in the political system among the powers of the world earth which it is thought her internal resources could never have given her.” Quoted in Journals of the Continental Congress, Volume II, ed. Worthington Chauncey Ford, et. al. (Washington DC: Government Printing Office, 1905), 130.
be preserved, in all cases of taxation and internal polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed.\footnote{357}

Likewise, in addressing the people of England, the colonists demanded their equality as a people within the British Empire and insisted upon exercising this equality through their assemblies of their own election:

...we consider ourselves, and do insist, that we are and ought to be, as free as our fellow-subjects in Britain, and that no power on earth has a right to take our property from us without our consent.…. Are not the Proprietors of the soil of Great-Britain Lords of their own property? can it be taken from them without their consent? will they yield it to the arbitrary disposal of any man, or number of men whatever?--You know they will not. Why then are the Proprietors of the soil of America less Lords of their property than you are of yours, or why should they submit it to the disposal of your Parliament, or any other Parliament, or Council in the world, not of their election?\footnote{358}

The link connecting the various parts of the federal empire of Great Britain was the British Crown. Though the Declaration dissolved “all Allegiance to the British Crown,” the constitutional theory of the Continental Congress offered no objections in principle to monarchy, or to a British (as opposed to English) monarch. As the Congress explained, “To continue their connection with the friends whom they had left, they arranged powers of legislation. To continue their connection with the friends whom they had left and but loved they arranged themselves by charters of compact under the same one common king who became the thro' whom union was ensured to the multiplied who

\footnote{357}{See citation in n. 345}
\footnote{358}{Ibid., Vol. I, 82-3.}
thus became the controul link uniting of union between the several parts of the empire."359 The British Crown, in the constitutional theory suggested in the Declaration, was understood properly to function in an executive capacity, authorizing and supporting legislative and judicial institutions already established in the various colonies. Further, the Congress understood the authority of the British Crown to be grounded in contract or compact, and the terms of these contracts between the colonies and the Crown were established in the colonies’ respective charters. The Crown’s violation of these charters - and particularly the king’s apparently systematic plan to deprive the colonies of their charter rights - would not simply dissolve the colonies’ obligations of allegiance to the Crown, they would effectively return the colonies to the state of nature wherein they would be free to organize themselves in any political form they saw as most productive to the protection of their lives, their liberty, and their happiness. In the years leading up to the decision to separate from the British empire, the King, according to the colonists’ grievances, had challenged the legislative authority of colonial assemblies, denied the authority of established judicial institutions in the colonies, established new administrative offices staffed with purportedly selfish and obnoxious officers, and imposed standing armies on the colonies. In addition to his failure to perform his executive duties as the colonists understood them, the authors of the Declaration charged the King with participation in a conspiracy to deprive them of their right and privilege of self-government: “He has combined with others to subject us to a jurisdiction foreign to our constitution

359 Ibid., Vol. II, 130.
[i.e. Parliament] and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation....” (Because the colonists did not accept Parliament as sovereign, they saw no reason to announce in the Declaration the dissolution of their connection with Parliament.) Finally, after explaining George’s own tyrannical acts and his participation in Parliament’s tyrannical plot, the authors of the Declaration conclude, “He has abdicated Government here, by declaring us out of his Protection and waging War against us.” Not only had their King failed to live up to his feudal contractual obligation to protect his people, he had taken up arms against them. And despite the colonists’ “repeated Petitions,” their King had responded “only by repeated injury.” The colonists concluded that such a “Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.”

To be clear, there is nothing in this justification of the dissolution of the colonies’ political connections to the British Crown that cannot be thoroughly understood in terms of the constitutional theory implied in the Declaration’s list of grievances against George III and articulated more fully in the constitutional debate that developed over the preceding fifteen years. The colonists understood their relationship to the British Empire as mediated through the constitutional office of the monarchy, but they also understood that office to have been constitutionally limited by the terms of those colonial charters their ancestors extracted from the Crown. With respect to the persistent argument that the colonists’ renunciation of their connection to Great Britain was a violation of the British Constitution and therefore demanded resort to a natural law that transcended the British
Constitution, it must be noted that this argument assumes as authoritative and indisputable the constitutional interpretation offered by supporters of an imperial British Parliament.\(^{360}\)

By contrast, if we take seriously the colonists’ federal conception of the British Empire, the various claims of a transcendent natural law or right that was necessary to authorize the colonists’ decision to renounce the authority of the Crown appear as claims about the legitimate jurisdiction of the British Empire. With respect to the legitimate jurisdiction of that empire, it was specified by the terms of the charters that bound the individual colonies to the power of the British monarchy. If, as supporters of a “British” imperial parliament claimed, the colonists gave up their rights as Englishmen when they departed England, the colonists claimed in response that the jurisdiction of the British Empire was limited by the terms of the colonial charters which specified rights of self-government and secured the Crown’s approval and protection of these rights. Nothing in these charters granted jurisdiction over exclusively colonial affairs to English Parliament, or to any imperial “British” Parliament. Thus, when Parliament asserted such a jurisdiction, and when King George III repeatedly rejected what the colonists saw as his legitimate and inescapable constitutional duty to oppose Parliament’s assertions of power, the colonists judged that the contractual and constitutional grounds of their allegiance to the

\(^{360}\) “...especially pertinent to misunderstanding the Declaration of Independence, is the contention that American Whigs had no choice but to fall back on natural law because there was no constitutional right to resist legitimate authority. The very act of rebellion, in itself, was a rejection of constitutional law. That supposition is true only if one accepts Tory arguments, Tory political theory, and Tory constitutionalism....” John Phillip Reid, “The Irrelevance of the Declaration,” in *Law in the American Revolution and the Revolution in the Law*, ed. Hendrik Hartog (New York: New York University Press, 1981), 52.
king had been violated; they were freed from the contract and found themselves once
again in a state of nature vis-a-vis Great Britain, as “Free and Independent States, [pos-
sessing] full Power to levy War, conclude Peace, contract Alliances, establish Commerce,
and to do all other Acts and Things which Independent States may of right do.”

4.2. The Creation of Identity

To the extent it can be claimed the Declaration of Independence created - either
explicitly or implicitly - a new national or collective identity among Americans, this iden-
tity was both tenuous and ambiguous. The consolidation of such a national identity and
the recasting of the Declaration of Independence as the central symbol of that national
identity were, as recent scholarship has argued, contingent historical events - the product
of a pitched partisan battle among Federalists and Democratic-Republicans for control
over the legacy of the American Revolution. At another level, however, it must be ob-
served how this partisan battle for control of the institutions of the new American state
was almost immediately translated into the historiographic terms of national identity -
how a people with one particular conception of the mission to which the power held to
represent them should be committed re-visioned history in such a way as to support that
conception of power.

4.2.1. The State of Nature and the Ambiguity of American Identity

In presenting arguments justifying the dissolution of these political connections,
the authors of the Declaration of Independence were ambiguous on the relationship be-
between the political connection that bound the respective colonies with the English Crown and the connection of English civic identity that bound (most) individual colonists with one another and with Englishmen outside of the colonies. These two sets of bonds had been mediated (or could be mediated, according to the constitutional theory common to the colonists) through the federal institutional framework of the British Empire centered by the monarchy. The proud heritage of English liberty as experienced by the freeman’s enjoyment of traditional rights, including the right to representation, could be carried on through the assemblies representing the various provinces of the new British Empire, and the various peoples of this emerging empire could be bound to its central administrative power through their shared allegiance to and affection for the British Crown.

In their dissolution, these two sets of bonds were related by the concept of nature. This is not a recapitulation of the standard argument that claims of natural rights or natural law were necessary to transcend British constitutional law. Instead, the concept of nature marked both the jurisdiction of the constituent powers of the British Empire and the historical origin of the people(s) declaring independence from that empire. As stated in the previous chapter, and reemphasized above, colonists fighting for their rights as Englishmen sought to ground those rights in their charter documents. These contracts between groups of settlers and the English Crown were entered into - according to the interpretations of English colonists - when these settlers were in a state of nature with respect to English power, and they guaranteed allegiance to the English Crown in exchange for royal protection of the rights they had traditionally enjoyed. Thus the authority of the
Crown was limited to the terms of the contract, while the authority of Parliament was not recognized. Having been released from their allegiance to the Crown by his failure to defend them against Parliament’s claims of authority (and indeed in his complicity in Parliament’s attempts to exceed its rightful jurisdiction), the colonists found themselves again in a state of nature where they could legitimately “assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them,” declaring themselves “Free and Independent States....”

In this state of nature, the citizens of these “Free and Independent States” organized themselves into a federal form similar to the form they claimed had bound them to the British Empire. Despite the jealous commitment of these citizens to the independence of their respective state legislatures, however, there existed among them a powerful sense of their common historical mission as the defenders of the English legacy of liberty. Here is the root of an ambiguity in American identity that is not resolvable. The colonists were ambiguous on the question of who was doing the dissolving - the colonies in cooperation with one another or the peoples of the colonies as a unit.361 For instance, though the document is styled “The unanimous Declaration of the thirteen united States of America,” emphasizing the independence of the states as states, the first paragraph immediately asserts the declaration of independence as an act of “one people” as a whole. And in the closing two paragraphs, the authors of the Declaration repeat this confusion. Emphasizing their unity as a people, they charge, at the end of the second to last paragraph, that their

“British brethren” had been “deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.” But at the start of the final paragraph the authors refer to themselves as “the Representatives of the united States [united here is an adjective, not part of a proper noun] of America” acting “in the Name, and by Authority of the good People of these Colonies….” Did the colonists conceive of themselves as one people, or thirteen peoples? This question is impossible to answer because they conceived of themselves in both senses.

4.2.2. The Irrelevance and Re-visioning of the Declaration

The provocative title for this section is taken from one of a number of recent works that challenge the status that has been granted to the Declaration of Independence in contemporary political discourse. Such critical historical work, as valuable as it is, is incapable on its own of uprooting deeply held civil religious interpretations of the Declaration of Independence; one of the central themes of this dissertation is that civil religious interpretations are all-but-irresistible to the heirs of the providential form of English identity, which demands that power bear some transcendent authority and be directed towards some transformative purpose. This work is useful, however, in recreating that brief moment in time when the Declaration of Independence was accepted as marking the end of English colonists’ connections with their British brethren and the British Empire.

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Immediately after the ratification and promulgation of the Declaration of Independence, Americans paid little, if any, attention to the document as an authoritative symbol of American identity or power. Pauline Maier’s excellent recent treatment of the Declaration’s origins and transformation, *American Scripture*, records how the Declaration was received as a simple proclamation of a decision undertaken - after an extended period of deliberation - by the peoples of the several states by their representatives in Congress assembled.363 Indeed, one of Maier’s singular contributions to our knowledge of the historical context of the Declaration’s creation and ratification was her recovery of nearly ninety documents issued by local or state assemblies justifying a declaration of independence. These documents - themselves derivative of a traditional English form of political protest - situate the Declaration in its theory and function within the relatively narrow realm of ideas and aims in which revolutionary-era English colonists participated, as opposed to the broad realm of ideas and aims shared by the children of the Enlightenment.364 In particular, these documents indicate the way in which groups of Englishmen throughout the thirteen colonies engaged in deliberations within town and county assemblies, passed instructions along to state representatives and ultimately to their delegates to the Continental Congress to authorize independence. When the final Declaration was issued, then, it was received as a document that culminated a long period of deliberation throughout the colonies about the end of their relationship to the British

364 Ibid., Chapter 2, 47-98.
Empire and English people. Throughout the Revolutionary War, the debates over the Constitution, and the early years of the republic, those few speakers and authors who made mention of the document focused on its function in separating the colonies from the British Empire, paying no notice to any theoretical novelties within the document. This fact, observes Philip Detweiler, another leading student of the Declaration’s history, “explains why we have no contemporary commentary, such as The Federalist Papers afford for many clauses of the Constitution, to determine the meaning or application of the preamble of the Declaration.” Likewise, Maier observes that, despite the emergence of annual celebrations of the decision for independence, “seldom if ever, to judge by newspaper accounts and histories of the celebrations, was the Declaration of Independence read publicly in the late 1770s and 1780s. It was as if that document had done its work in carrying news of Independence to the people, and neither needed nor deserved further commemoration.”

Nothing in the Declaration’s history or early reception marked it as standing apart from the preceding declarations, except insofar as the Continental Congress’s document served to indicate the deliberate consensus of the several colonies as expressed through their representatives. The early obscurity of its authorship did nothing to alter this sense of the document’s unremarkable character. Indeed, it was not widely known by the general public that Jefferson had drafted the Declaration of Independence until the 1790s and


366 Maier (1997), 162.
Knowledge of Jefferson’s role in the Declaration’s authorship did not become widespread until Democratic-Republican partisans - seeking to strengthen ideological and political ties with the revolutionary French republic - began to focus on the Declaration’s preamble as the source of an anti-monarchical and anti-British republican ideology. One republican newspaper contended that the Declaration should not be understood only “as affecting the separation of one country from the jurisdiction of another; but as being the result of a rational discussion and definition of the rights of man, and the end of civil government.” Republicans increasingly celebrated the Declaration, particularly its preamble, as central to America’s revolutionary heritage in political debates and in Fourth of July celebrations (which had traditionally been sponsored and dominated by Federalists). Jefferson’s supporters advanced his authorship of the Declaration as evidence of his critical role - alongside, or ahead of Federalist heroes - as a leading figure of America’s founding. Jefferson initially responded to this publicity with reticence. His lingering bitterness over changes made to his pristine draft before its ratification had led him to distance himself from the Continental Congress’s final product. Further, the collective authorship of the document made it difficult for him to accept sole credit for the Declaration’s authorship; Jefferson’s Federalist critics made it a point to observe the collective character of the drafting process, when they were not ignoring Jefferson’s role or accusing him of unoriginality, even plagiarism: “There is not an idea in it, but what had been


368 Quoted in Maier (1997), 171.
hackneyed in Congress for two years before.” Jefferson deftly walked between Republican claims of his singular role in the Declaration’s authorship and Federalist dismissals of that role, accepting credit for its authorship while dissolving any of the document’s shortcomings within the sentiments of the day, until late in his career when the widespread embrace of his contribution to American independence led him to embrace his role as drafter of the Declaration as one of the three achievements for which he wanted Americans to remember him.\(^{369}\)

In the very act of remembering Jefferson, and his longtime political adversary, John Adams, after their deaths just hours from one another on the fiftieth anniversary of the Declaration of Independence, Americans solidified the place of the Declaration of Independence at the center of a national and civil religious founding myth. Pauline Maier reports, “With one voice those who gave eulogies interpreted God’s taking together two of the last three signers of the Declaration not as a sign of his displeasure, but proof that the United States had a special place in His plans and affections. ‘Had the horses and the chariot of fire descended to take up the patriarchs, it might have been more wonderful,’ one speaker said, ‘but not more glorious.’”\(^{370}\) Such an interpretation of events would have ignited the righteous indignation of the “iconoclastic” Adams, Maier suggests; “Adams [had] compared the idolization of Washington and other revolutionaries to the canonization of saints and other ‘corrupt’ practices of a superstitious, hierarchical past….\(^{371}\) The

\(^{369}\) Ibid., 180-9; McDonald (1999).

\(^{370}\) Maier (1997), 189.

\(^{371}\) Ibid., 180.
fact and circumstances of his and Jefferson’s deaths, however, and the interpretation of their deaths in the providential framework of Anglo-American national identity, lead Maier to a provocative, but misguided, conclusion about the final transformation of the Declaration into a civil religious idiom. Maier finds it “strange” that

the Protestant spokesmen for an increasingly evangelical nation, men who thrilled at Jefferson’s execration of ‘monkish ignorance and superstition,’ and who readily attributed the failure of the French Revolution to a ‘catholic priesthood’ that had thrown over the people a ‘pall of bigotry, through which no ray from above could penetrate,’ proved as ready as Jefferson to use religious, and often Catholic, terms in describing America’s revolutionaries and heritage. But what other language could they use? Protestantism traditionally regarded the [forms] of Catholic worship with deep suspicion. It therefore never developed a vocabulary that would be of use to Americans who discovered the importance of revolutionary artifacts and the superhuman virtues of their forefathers. And so the children of an American Enlightenment enlisted the terminology of ‘monkish ignorance and superstition,’ and spoke of relics and altars, of saints and canonization, reconstructing a secular, eighteenth-century political tradition into a functional Catholicism for a Protestant country.372

What Maier fails to acknowledge, however, is that the form of America’s civil religion is not Catholic but Hebrew. Back to its roots in the English people’s sense of chosenness for a divine and transformative purpose as far back as the early middle ages, the peculiar Anglo-American structure of identity been formed and re-formed in terms of the model of God’s first Chosen People. Many evangelical and most fundamentalist Protestant accounts of America’s history and mission share the Hebraic structure of Anglo-American identity, with its emphasis upon the calling placed by God on a particular people, drawing

372 Ibid., 189-90.
them outside of or above history, so to speak, organizing them as a People under tran-
scendent authority and represented by a unitary power, and rewarding or punishing them
for their successes or failures in accomplishing the purposes to which they have been
called. Even the iconoclastic John Adams - young America’s soberest advocate for a clas-
sical republicanism in which carefully mixed and balanced institutions would guard
against the dangers of sinful man’s ineradicable love of power - could, in a moment of
civil religious enthusiasm, exclaim, as was noted in Chapter 5, that in America, “the great
designs of Providence must be accomplished!”
Chapter 7: The Promise of Madisonian Republicanism

1. INTRODUCTION

In his lamentation for the demise of America’s revolutionary republicanism in the self-interested liberal constitutionalism of the American Federalists, Gordon Wood cites John Adams as the last advocate of “classical politics” in a world increasingly understood and ordered through the ideology of liberalism. Certainly Adams, among all Founders, drew most heavily from the balanced constitutionalism of classical republican thought; in addition, it is clear that the Constitution produced by the Philadelphia Convention departed from the classical republican project of reproducing in its citizens a common civic virtue, instead serving what is recognized as the liberal end of protecting individual property rights. Still, Wood’s interpretation stands in stark contrast to Adams’ understanding of himself and of American patriots as standing at the vanguard of a Protestant Enlightenment that would at last usher in a republican era that would end what American dissenters considered the oppressive alliance of “priestcraft and kingcraft”. Adams’ self-understanding begs the question: How, in terms of the model of a transition from classical republicanism to modern liberalism, is it possible to understand this Adams - who accepted without a thought his own and his nation’s responsibility to accomplish “the great designs of Providence” in establishing institutions of self-government in America? Further, how, in terms of Wood’s flat and historically limited conception of ideology as con-
stituted of a historically-contained mentalite, is it possible to understand the persistent sense of republican (now democratic) America’s world-transformative mission which, communicated by Adams over two centuries ago, retains its urgency to this day? Finally, is it possible to take seriously the profound dread expressed by some of the leading members of America’s founding generation, including James Madison, of consolidations of power without dismissing these concerns as evidence of the undemocratic or anti-populist character of the complicated institutional structure established in the Philadelphia Constitution?

These questions address directly the meanings of identity, authority, and power in the American Founding era, their transformations, and the implications of these transformations. By asking these questions, it is intended to show that contemporary ideological interpretations of the American Founding era are inadequate to explain the profound transformations of that era, or to legitimate the institutional product of that period. It has been argued that the era during which the United States of America were born - colonized, established as free and independent states, and joined in a common republican project - must be understood as a critical step in the multiplication and diversification of authorities and identities in the modern world. Yet the dominant political languages or ideologies available to members of the Founding generation - the classical (or religious and communitarian) language of republicanism and the statist language of sovereignty -

were ill-suited to explain anything but unity, both within institutions themselves, and among institutions and the people held to authorize them and which said institutions existed to represent. Because of the limits of these ideological concepts of republicanism and sovereignty, debates over the ratification of the Constitution tended to emphasize either the unity of a people sharing in a small republic ordered by the socialization of citizens into a common civic virtue (as with Anti-Federalists) or the unity of a state (or church-state) powerful enough to impose order from above (as with high Federalists). Likewise, modern interpretive paradigms which focus on ideologies of republicanism or liberalism emphasize unity as a normative theme, either lamenting the decay of public virtue into private interest, or celebrating the development of a state capable of protecting individual rights which had begun to be recognized as sacrosanct.

To explain Madison’s contributions to the American understanding of constitutionalism in any of these terms, however, is to overlook his most profound contributions. Madison insisted, in a passage that should be taken as the epigraph for his entire body of reflections on the structuring of political institutions suited for the modern world, “The compound Govt of the U. S. is without a model, and to be explained by itself, not by similitudes or analogies.” If we take seriously Madison’s insistence that the compound government of the United States is without model, it becomes possible to recognize his contributions the way he understood them. The first of these contributions was to recognize the limits of the political ideologies of republicanism and sovereignty available to

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him, and to develop a critique of these standard ideologies - and, it is important to note, a critique of the mal-formed political institutions they encouraged or sustained. Armed with a sophisticated criticism of these mal-formed institutions which had been sustained by ideological conceptions of sovereignty or republicanism, Madison offered his second contribution to American constitutionalism, serving as the primary architect and interpreter of a new set of political institutions grounded on the recognition of the multiplicity and diversity of authorities and identities in the modern world. More importantly, Madison intended this “compound Govt of the U.S.,” designed specifically to accommodate the multiplicity and diversity of authorities and identities characteristic of the modern world, to arrest the factious power of ideological concepts of sovereignty or republicanism over the minds of citizens of the new compound government, and to craft a new conception of their authority and common identity as a republican people suitable for this novel institutional form.

2. Madison and the Challenges of Republican Government

James Madison was a son of the American Revolution. Born in 1751, Madison entered intellectual maturity just as the British colonies in North America were reaching the limits of their allegiance to the British imperial system. His allegiance was always to republicanism, though his understanding of the meaning and challenges of republican government developed to a degree of sophistication which surpassed that of all of his peers (save perhaps Jefferson). Beginning with Madison’s earliest political writings, in which he offered harsh criticism of the imposition of an Anglican creed or civil religious
identity upon dissenters, it can be seen that Madison’s republicanism began with a recognition of the injustice - and ultimately the practical impossibility - of grounding a political system on a common civil religious identity, and developed into a critique of the very form of English national identity. This critique of the self-reinforcing and corrupting character of English national identity - and indeed of collective identities more broadly speaking - developed into a case against the concept of sovereignty that had been imported into the American political tradition, serving to sustain arguments for a confederation of separate republics characterized by the sovereignty of their respective peoples, and later, for a unitary and statist (essentially British) form of government possessing the power to order the extended territory of the United States from above. In his rejection of these republican and statist applications of the concept of sovereignty, Madison’s peculiar republicanism can be seen as an institutional alternative offered to address the shortcomings of the existing alternatives of the compact classical republic and the unitary sovereign state.

2.1. Madison’s Republicanism and the Critique of Collective Identity

Common interpretations of Madison’s Tenth Federalist, frequently accepting without question either the critical posture of Progressivism toward a Constitution designed to frustrate the undiluted will of the People, or the posture of pluralist liberalism which describes a system ostensibly designed to reconcile the irreducible interests of each individual into a common good, fail to recognize the origins and thus depth of Madison’s
reflections on republican government. To understand the depth of Madison’s reflections, it is necessary to return to their origins, in his response to what he perceived as the unjust persecutions of individuals who dissented from the collective identity carried by membership in the Anglican Church. Through an exploration of Madison’s response to this persecution, and of his subsequent reflections on the danger of faction to republican government, it is possible to see at the heart of Madison’s republicanism an account of the corruption of the individual human consciousness caused - within the framework of collective identities - by the mutual reinforcement of “reason and self-love.”

2.1.1. Anglican Identity, Persecution, and Conscience

We begin with the issue of identity because we have argued that issues of identity appear prior to any recognition of problems in the related structures of authority and power, and because this appears, chronologically, to have been the case with Madison. As a young man, Madison was dismayed by attempts to impose by force England’s civil religious identity upon Virginia dissenters; his sense of the injustice of this practice prompted his reflections on the inviolable dignity of each individual’s identity, which Madison defended using the language of the natural right of conscience. These reflec-

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tions, which led Madison to a nuanced understanding of the dangers of collective identity, helped Madison frame the problem of republican government at the time of the framing and ratification of the Constitution in an unconventional but prescient way.

Madison’s reflections on the dangers to republicanism posed by the mutually reinforcing relationship between reason and self-love began early in his life, as he offered a common Whig opinion on the corrupting and oppressive implications of compulsory membership in England’s national church and civil religious identity. In a letter to his friend William Bradford dated Jan. 24, 1774, the twenty-three year old Madison observed, “You are happy in dwelling in a Land where those inestimable privileges are fully enjoyed and public has long felt the good effects of their religious as well as Civil Liberty. Foreigners have been encouraged to settle amg. you. Industry and Virtue have been promoted by mutual emulation and mutual Inspection, Commerce and the Arts have flourished and I can not help attributing those continual exertions of Genius which appear among you to the inspiration of Liberty and that love of Fame and Knowledge which always accompany it.”

By contrast to the many benefits to individuals and to society as a whole that accrue as a result of a protection of the liberty of conscience, Madison noted, “Religious bondage shackles and debilitates the mind and unfits it for every noble enterprise, every expanded prospect.” Madison found this to be the case in his home “country” of Virginia, which had suffered social decay as a result of the corrupting influence of religious establishment. “Poverty and Luxury prevail among all sorts: Pride ignorance and

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Knavery among the Priesthood and Vice and Wickedness among the Laity.” Worse, this decay had reached into the very religious consciences of republican citizens. “That diabolical Hell conceived principle of persecution rages among some and to their eternal Infamy the Clergy can furnish their Quota of Imps for such business. This vexes me the most of any thing whatever. There are at this in the adjacent County not less than 5 or 6 well meaning men in close Gaol for publishing their religious Sentiments....”

He explained to Bradford, “If the Church of England had been the established and general Religion in all the Northern Colonies as it has been among us here..., It is clear to me that slavery and Subjection might and would have been gradually insinuated among us.”

Because of the corrupting nature of the imposition of the collective identity of Anglicanism, Madison - as a good Whig - lauded his friend and the “heroic” patriots of Philadelphia and Boston for their resistance to British injustices, citing the classical republican theme that “Political Contests are necessary sometimes as well as military to afford exercise and practise and to instruct in the Art of defending Liberty and property.” Likewise Madison, as a good Whig, advocated a vigorous defense within the legislature against unjust attempts by an Anglican majority to infringe upon the right of conscience possessed by a dissenting minority, though he was pessimistic about their prospects as “[t]hat liberal catholic and equitable way of thinking as to the rights of Conscience, which is one of the Characteristics of a free people and so strongly marks the

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378 Ibid., 5.
People of your province [Pennsylvania] is but little known among the Zealous adherents to our Hierarchy.” Nevertheless Madison’s concern about the absence in Virginia of respect for the right of conscience went deeper than simply a recognition of ideological difference between that colony and others more friendly to that foundational freedom. Instead, Madison had begun to develop an account of the interplay between ideas and interests or identities within the context of social groups. The legal and social position of the Anglican Clergy, for instance, was a positive threat to the republican people; “[T]he Clergy are a numerous and powerful body, have great influence at home by reason of their connection with & dependence on the Bishops and Crown and will naturally employ all their art & Interest to depress their rising Adversaries; for such they must consider dissenters who rob them of the good will of the people and may in time endanger their livings & security.”379 But while he recognized a threat to republican virtue in the institutional structure of a religious establishment, his deeper concern was with the lazy acceptance of religious belief and practice that permitted a religious establishment to persist. “Union of Religious Sentiments,” Madison complained, “begets a surprizing confidence and Ecclesiastical Establishments tend to great ignorance and Corruption all of which facilitate the Execution of mischievous Projects.”380 Madison pleaded to his friend Bradford to “pray for Liberty of Conscience to revive among us.”


2.1.2.1. The Sources of Faction

In recognizing the injustice of violations of individual conscience committed by zealous majorities characterized by the “surprising confidence” engendered by a lazy “union of religious sentiments,” Madison found the kernel of the idea he would later develop into his famous critique of the danger of faction in Federalist 10. The importance of Madison’s youthful response to the problem of a multiplicity and diversity of religious identities in an Anglicizing Virginia is often obscured, however, by the narrow economic categories imposed upon his Tenth Federalist essay by Progressive and pluralist liberal interpretations, and by the classical republican categories within which Madison - by necessity - couched his argument. Defining faction as “a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community,” Madison observes, in keeping with a classical science of politics, that “the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society.” Still, as Madison was most immediately responding to attempts made in many state legislatures to absolve debtors of their obligations, he was forced to observe that the classical source of faction in property inequality had become more complex, as in modern commercial society
“[t]hose who are creditors, and those who are debtors, fall under a like discrimination.” What is more, “[a] landed interest, a manufacturing interest, a mercantile interest, a mon- eyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views.” The classical diagnosis of faction as grounded strictly on an inequality of property was, Madison concluded, no longer adequate in a world characterized by a multiplicity and diversity of interests. Nor, for that reason, would classical solutions of socializing the people to a singular form of civic virtue or establishing a mixed and balanced constitution serve as adequate responses to the problem of faction in the modern world.

Though the forms of property have multiplied and diversified in modern commercial society, it is still possible for contemporary interpreters to identify the source of the danger of faction in self-interest. Such an interpretation overlooks Madison’s treatment of other sources of faction characteristic of the modern world. In addition to the source of faction found in the diversity among men in their ownership of various forms of property, Madison is clear that “[a] zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their
common good." It is not only the difference between individuals in their ownership of property that, in the modern world, serves as a possible source of faction, the danger of faction is also to be found in the multiplicity and diversity of identities and forms of authority characteristic of the modern world. In light of this recognition, Madison’s critical insight is that this multiplicity and diversity of interests and identities characteristic of the modern world is useful - even necessary - to perfect republicanism.

2.1.2.2. The Danger of Faction: The Reciprocal Influence of Reason and Self-Love

By contrast to the liberal hope that the problem of the multiplicity and diversity of interests and identities can be overcome through the power of the liberal creed to transform the soul of man, or through the power of liberal political science to create social institutions that transform the vices of interests into virtues, Madison found this proliferation of interests and identities something to be embraced rather than overcome. The proliferation of interests and identities may be a permanent challenge to the establishment of the liberal nation-state, but it is the factor without which republicanism is impossible - for Madison’s republicanism depends upon the recognition of each individual as a sovereign subject to the authority of his Creator and conscience, and the reconciliation of these individuals under the a power which earns the consent of the governed while nonetheless approximating justice.

381 Federalist 10, in The Federalist, ed. George W. Carey and James McClellan (Indianapolis: Liberty Fund, 2001), 44.
Our failure to understand this critical insight follows from our failure to understand Publius’s anthropology. The liberal, having inherited the Puritan’s dark view of human nature, too easily identifies this as the central feature in Publius’s treatment of the individual. Like all who wear their saintliness as a badge of honor, American liberals are ever vigilant in seeking validation of their thesis of unregenerate man’s original sinfulness, and they find this validation in Publius’s treatment of the self-interested citizen, lamenting that “[t]he latent causes of faction are thus sown in the nature of man.” Further, like all convinced of their own righteousness, liberals have unswerving confidence in their duty to act as agents of fallen man’s transformation, calling for the depraved man to be reborn as a citizen by emptying himself for use in service of the People, or by reconditioning himself to participate fully in the pluralist governmental system that permits his irreducible self-interests to be reconciled to the interests of others.

Interpreting Publius in light of their implicitly religious categories, liberals misjudge Publius’s claims about the shortcomings of individual reason. An extended citation is necessary. Publius explains,

As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of
these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.\textsuperscript{382}

Clearly Madison, who insists that the first object of government is protecting the diverse faculties of men and the resulting diversity of interests, is not arguing in condemnation of the individual pursuit of property or financial gain. Nor can it be said, from a review of his Memorial and Remonstrance, that Madison would have argued in condemnation of the individual pursuit of religious knowledge; Madison explains that not only is the exercise of man’s conscience a natural right (indeed the only wholly unalienable right), “[i]t is the duty of every man to render to the Creator such homage and such only as he believes to be acceptable to him.”\textsuperscript{383} Neither the individual’s pursuit of his own interests nor his pursuit of religious knowledge is evidence of the fallibility of human reason. Instead, Madison cautions that the problem of the proliferation of interests and identities is not found at the level of the individual but at the level of the group. Though the sources of faction may be sown in the nature of man, faction is not one man’s interest, or one man’s religious conviction, but the common interest or opinion of a group comprised of enough members to convince one another of the justice of the particular interest or religious conviction under which they have united. Individuals may - indeed must - possess individual interests and religious beliefs or identities in a free society; it is in the self-reinforcing effect of common interests and religious identities that the danger of faction emerges.

\textsuperscript{382} Ibid., 43

\textsuperscript{383} “James Madison, Memorial and Remonstrance against Religious Assessments,” in Rakove (1999), 30.
The pernicious element Madison identifies in man - the source of faction sown in the nature of man - is not self-interest, then; rather, the source of faction is man’s inability to reconcile the particular with the universal. Man is unable to reconcile his self-interest with the common interest, and ultimately with justice. Man is unable to reach complete knowledge of religious truth. But this proclivity to particularity is, in and of itself, not the source of danger. Particularity only becomes a danger when it is not particular enough. So long as interests are so unself-ish as to be shared among a substantial group of individuals, and so long as religious (or other all-encompassing) identities are not those of the solitary soul standing in awe and reverence alone before God but of any substantial congregation of men, Madison recognizes the pernicious potential that man’s “opinions and his passions will have a reciprocal influence on each other.”

For this reason, the structural feature of the extended republic which comprises a multiplicity and diversity of interests is the least influential of Madison’s responses to the danger of faction. With the extension of the republic’s territory, Madison simply capitulates to the fact that within civil society, man’s reason will always be connected with his self-love, and that there will always exist opportunities for men’s opinions and passions to mutually reinforce one another. Far more important to Madison’s response to the danger of faction were his efforts to change the way individuals thought about their interests - and identities - and how they organized under the authority of those interests and identities.
2.2. Madison’s Republicanism and the Critique of Sovereignty

Madison identified the self-reinforcing nature of the kinds of collective identity that appear as factions as a potentially mortal threat to the establishment of republican government. As is well known Madison was able to use both the religious energy of dissenting Protestantism and the multiplicity and diversity of interests characteristic of the extensive territory of the United States as means by which to strengthen the republican experiment. Despite these powerful cultural and structural challenges to any kind of unitary collective identity, however, Americans maintained as political gospel the concept of sovereignty. Forrest McDonald explains that Americans of the Founding era, drawing from the definition of the concept of sovereignty advanced by Blackstone, accepted “[a]s a practical matter,” that “the powers inherent in sovereignty were unlimited, and sovereignty was by definition indivisible....” This conception of authority is bound up with a unitary and undifferentiated form of power, and such a unitary and undifferentiated form of power inevitably lends itself to abuses by those who claim a unitary and undifferentiated form of collective identity. Thus post-revolutionary republicanism in practice had degenerated in many cases into acts of oppression committed by majorities, claiming legitimately to exercise the sovereign power of their state legislatures, over minorities. Still, there existed no alternative to the language of sovereignty, so it was incumbent upon Madison, as a critic of the concept, to redefine it in such a way as to make it compatible with sustainable republican institutions.

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Some interpreters of Madison accept his critique of the concept of sovereignty as a more limited and nationalist critique either of the injustice of state legislatures or of the impotence of the Articles of Confederation.\textsuperscript{385} Clearly, both arguments were present in Madison’s critique of the concept of sovereignty, but both served the broader purpose of Madison’s redefinition of the concept. “The great desideratum in Government,” Madison explained to Jefferson, “is, so to modify the sovereignty as that it may be sufficiently neutral between different parts of the Society to control one part from invading the rights of another, and at the same time sufficiently controlled itself, from setting up an interest adverse to that of the entire Society.”\textsuperscript{386} Here Madison subtly redefines sovereignty from an inherent, even mystical, attribute that characterizes a single power as comprehensive and irresistible into the definition of power divided, delimited, and disconnected - “sufficiently neutral” - from any specific interest. In elaborating the necessity of thus dividing and delimiting power in his Federalist essays, Madison unpacked this statement, recognizing both the tendency of a factious majority to impose its will upon a minority, and the tendency of those who bear public power to attempt to concentrate that power and to employ it for private rather than public interests.


\textsuperscript{386} “James Madison, Letter to Thomas Jefferson, October 24, 1787,” in Rakove (1999), 150.
2.2.1. *The Division of Sovereignty: The Form of the National Government*

One technique Madison employed to ensure that “the sovereignty” remained “sufficiently neutral between different parts of the Society” was to establish a separation of powers that would protect the citizens organized within their state governments from concentrations and oppressive uses of power at the national level, and that would reduce the possibility that the interests of the great body of citizens would be sacrificed to the narrow interests of those who wielded power within the national government.

Against the tendency of popular government to dissolve into faction, Madison offered the novel republican form characterized by the structural arrangement of the extended territory, and the institutional arrangement of representation, which, combined, were intended to permit republican liberty while frustrating faction. Though Madison charged that “[c]omplaints are everywhere heard from our most considerate and virtuous citizens...that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party; but the superior force of an interested and over-bearing majority,” this is not necessarily a nationalist critique of state governments. It is, rather, a republican critique of ill-formed state republics. Madison decries “that prevailing and increasing distrust of public engagements, and alarm for private rights,” which, he concludes are “chiefly, if not wholly, effects of the unsteadiness and injustice, with which a factious spirit has tainted our public administration.”

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387 Federalist 10, 42-3.
Against the tendency of governments to consolidate, Madison defended a federal system in which the national government was characterized of limited and separated powers. True republican government depended upon the maintenance of this delicate arrangement of powers.

Power being found by universal experience liable to abuses, a distribution of it into separate departments, has become a first principle of free governments. By this contrivance, the portion entrusted to the same hands being less, there is less room to abuse what is granted; and the different hands being interested, each in maintaining its own, there is less opportunity to usurp what is not granted....

The political system of the United States claims... praise. The power delegated by the people is first divided between the general government and the state governments, each of which is then subdivided into legislative, executive, and judiciary departments. And as in a single government these departments are to be kept separate and safe, by a defensive armour for each; so, it is to be hoped, do the two governments possess each the means of preventing or correcting unconstitutional encroachments of the other.388

2.2.2. The Division of Sovereignty: A Feudal Confederation of Republics

Madison’s second technique in reconfiguring “the sovereignty” was not to place it within a single body but to locate it within a confederation of republics. To be clear: Madison’s intention was not to establish a national government sovereign over state governments, but to establish a peculiarly differentiated institutional form within which “the sovereignty” existed not in one part of a confederation of republics, but in the very confederal union of republics itself. It is the case that Madison’s greatest disappointment

about the final structure of the Constitution was its lack of a national veto against state legislation, and while this bit of evidence is often adduced in defense of nationalist interpretations of Madison, his rationale in justifying the necessity of such a national veto suggests a radically different way of conceiving of sovereignty:

> Without such a check in the whole over the parts, our system involves the evil of *imperia in imperio*. If a compleat supremacy is not necessary in every Society, a controlling power at least is so, by which the general authority may be defended against encroachments of the subordinate authorities, and by which the latter may be restrained from encroachments on each other. If the supremacy of the British Parliament is not necessary as has been contended, for the harmony of that Empire; it is evident I think that without the royal negative or some equivalent control, the unity of the system would be destroyed. The want of some such provision seems to have been mortal to the antient Confederacies, and to be the disease of the modern.\(^{389}\)

If one of the key features of sovereignty accepted by the Founding generation was the notion that sovereign power was unlimited, Madison severely challenges this notion in stating “a compleat supremacy is not necessary in every Society”. In this, indeed, he draws support from Revolutionary era arguments against Parliament’s claims to sovereign power over the component parts of Britain’s federal empire. “The fundamental principle of the revolution,” Madison insists (in a statement that presents a striking contrast to contemporary interpretations of the principles of the Revolution),

> was, that the colonies were co-ordinate members with each other, and with Great-Britain; of an Empire, united by a common Executive Sovereign, but not united by any common Legislative Sovereign. The Legislative power was maintained to be as complete in each American Parliament, as

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in the British Parliament. And the royal prerogative was in force in each colony, by virtue of its acknowledging the King for its Executive Magistrate, as it was in Great-Britain, by virtue of a like acknowledgement there. A denial of these principles by Great-Britain, and the assertion of them by America, produced the revolution.  

For Madison there was, in standard colonial arguments for resistance against British Parliament’s claims to sovereignty, at least an inchoate argument against the necessity of an absolute and final legislative power; what was necessary and acceptable instead was the existence of an absolute and final veto power to protect against potentially oppressive acts passed by the legislatures of the constituent parts of the confederacy.

Likewise, if another key feature of sovereignty accepted by the Founding generation was the notion that sovereign power was indivisible, the structure of Madison’s peculiar confederal republic served to challenge this notion as well. Elaborating upon the “disease” of the modern confederation of American states, Madison noted, “Encroachments of the States on the general authority, sacrifices of national to local interests, interferences of the measures of different States, form a great part of the history of our political system.” Yet he insisted that the form of the confederation established by the proposed Constitution possessed novel features that would frustrate such encroachments of the states on the power of the confederation. “It may be said that the new Constitution is founded on different principles, and will have a different operation. I admit the difference to be material. It presents the aspect rather of a feudal system of republics, if such a phrase may be used, than of a Confederacy of independent States.” Establishing a com-

parison between the proposed confederal republican Constitution and the feudal confederations he had studied, Madison observed the critical flaw of this form: “In all of them a continual struggle between the head and the inferior members, until a final victory has been gained in some instances by one, in others, by the other of them.” This danger of the corruption of the confederation into a consolidated government was, however, to be guarded against in the proposed Constitution.

In the feudal system the sovereign, though limited, was independent; and having no particular sympathy of interests with the great Barons, his ambition had as full play as theirs in the mutual projects of usurpation. In the American Constitution the general authority will be derived entirely from the subordinate authorities…. This dependence of the General, on the local authorities, seems effectually to guard the latter against any dangerous encroachments of the former: Whilst the latter, within their respective limits, will be continually sensible of the abridgment of their power, and be stimulated by ambition to resume the surrendered portion of it.\footnote{\textit{Letter to Thomas Jefferson, October 24, 1787,” in Rakove (1999),146-8.}}

The critical difference, in other words, was that the sovereign power in the proposed American confederal republican Constitution was not a single component within the confederation; rather the sovereign power existed solely in the union of the constituent parts of the confederation.

Despite Madison’s failure to secure a national veto against state legislation, he continued, in his efforts to secure the Constitution’s ratification, to emphasize the novel conception of sovereignty he had intended for the confederal republican Constitution to create. This is evident in his treatment of the failures of historical examples of confederations. Reinforcing his criticism of the injustice of the sovereign American republics, and

\footnote{\textit{Letter to Thomas Jefferson, October 24, 1787,” in Rakove (1999),146-8.}}
of the consequent necessity for the organization of these fatally flawed republics in a confederation, Madison argued in Federalist 18 that the Achaean League, for a time, was successful in minimizing the acts of injustice committed by its member states.

[T]here was infinitely more of moderation and justice in the administration of its government, and less of violence and sedition in the people, than were to be found in any of the cities exercising SINGLY all the prerogatives of sovereignty. The Abbe Mably, in his observations on Greece, says that the popular government, which was so tempestuous elsewhere, caused no disorders in the members of the Achaean republic, BECAUSE IT WAS THERE TEMPERED BY THE GENERAL AUTHORITY AND LAWS OF THE CONFEDERACY.

Nevertheless, the persistence within these republics of some notion of sovereignty presented a permanent and fatal source of discord to the confederation. Indeed, it is possible to see in Madison's conclusion about the decay of the Achaean League evidence that the perniciousness of the notion of sovereignty is to be found in the same intellectual defect - the mutually reinforcing relationship between reason and self-love - that stimulates factions, and that persuades factious majorities of the justice of their oppression over minorities. Madison explains how, in the last days of the League, the Romans “seduced the members from the league, by representing to their pride the violation it committed on their sovereignty.”

Here the past foreshadowed the future of America’s confederal republic.

392 Federalist 18, 89.
2.3. Madison’s Republicanism: “To maintain the various authorities established by our complicated system...”

Despite Madison’s painstaking effort to articulate a peculiarly differentiated and delimited conception of sovereignty compatible with the multiplicity and diversity of interests and identities characteristic of the modern world and capable of perfecting republican government, the traditional conception of sovereignty Americans had inherited from the British identity-state remained. Thus, for instance, Justice Story reported that within the Constitutional Convention and state ratifying conventions,

“sovereignty,” in its largest sense ... meant supreme, absolute, uncontrollable power, the *jus summi imperii*, the absolute right to govern. A state or nation is a body politic, or society of men, united together for the purpose of promoting their mutual safety and advantage by their combined strength. By the very act of civil and political association, each citizen subjects himself to the authority of the whole; and the authority of all over each member essentially belongs to the body politic. A state which possesses this absolute power, without any dependence upon any foreign power or state, is in the largest sense a sovereign state.393

From this he concluded, completely oblivious to Madison’s attempt to reconstruct “the sovereignty,” that “it is wholly immaterial what is the form of the government, or by whose hands this absolute authority is exercised. It may be exercised by the people at large, as in a pure democracy; or by a select few, as in an absolute aristocracy; or by a single person, as in an absolute monarchy,” Madison recognizes that in authentically republican government - which is not grounded upon the sheer force of a majority faction

but which derives its authority from the consent of the governed - the form that sovereignty takes is by no means "immaterial".

Central to Madison’s account of modern republican government was his recognition of the necessity for moderns to accept a differentiation of power, and one that would grow increasingly complex as did the multiplication and diversification of interests and identities in civil society. As he explained to Jefferson, “…no Society ever did or can consist of so homogeneous a mass of Citizens. In the savage State indeed, an approach is made towards it; but in that State little or no Government is necessary. In all civilized societies, distinctions are various and unavoidable.”

Despite this inescapable necessity of social and political differentiation in the modern world, however, Madison recognized that the critical problem facing republican government in the modern world was the almost irresistible demand - both among members of civil society and among bearers of public power - for unity. Madison sought to frustrate this irresistible demand for unity by arranging powers in such a way that no one power would ever be able to dominate another power. Madison’s Constitution must be understood as an arrangement of powers.

It is important to recognize this conception of Madison’s constitutionalism as an arrangement of power in contrast to the fundamental law conception of constitutionalism advanced by his some-time Federalist allies - and, indeed, by scholars and citizens today who view the Constitution as necessarily animated by some pre- or trans-political purpose (generally held to have been embedded within the Declaration of Independence).

Martyn Thompson has showed how the concept of fundamental law, by which Huguenot theorists beginning late in the sixteenth century attempted to check and limit monarchical power, was transformed in eighteenth century political discourse as it was incorporated into discussions on the concepts of popular will and sovereignty. Within the intellectual framework of the social contract, the essentially feudal language of fundamental law - which depended upon claims to an ancient contract by which the power of a monarch had been granted and was therefore controlled - could easily come to be identified as a people’s founding law. Such an understanding of fundamental law as inherently limiting power sat uneasily beside the notion of popular sovereignty, which could scarcely admit of limits on the will of the people, and eighteenth century theorists dissolved the former meaning. Rousseau, Thompson concludes, “subordinated fundamental law to the sovereign will of the community. With this decision, ...Rousseau demolished the elaborate intellectual constructions that identified fundamental law not only with contracts but also with the ancient foundations of the state edifice.”

Thompson sees that this conception of fundamental law was developed most prominently in the American understanding of constitutionalism. In particular, he finds Hamilton’s brand of constitutionalism to give evidence of an understanding of the Constitution as neither historical nor contractual but as positive law reflective of some abstract principle animating government. This understanding of constitutionalism is best evidenced, Thompson observes, in Hamilton’s famous declaration in Federalist 78 that “a

395 Thompson (1986), 1127.
constitution is, in fact, and must be regarded by the judges as, a fundamental law... They ought to regulate their decisions by the fundamental laws rather than by those which are not fundamental... Accordingly, whenever a particular statute contravenes the Constitution, it will be the duty of the judicial tribunals to adhere to the latter and disregard the former.” This understanding of the Constitution as fundamental law is compatible with the principle of popular sovereignty, in Hamilton’s view, because the people retain the right “to alter or abolish the established Constitution whenever they find it inconsistent with their happiness.”

One could add to Hamilton’s fundamental law understanding of the Constitution the definition of the Constitution advanced by John Marshall in his far-reaching decision in *Marbury v. Madison*. As with Hamilton, Marshall treats the Constitution as positive law, and establishes a hierarchy of sovereignties, giving the will of the people organized for the purpose of establishing a Constitution priority over the will of the people organized for the purpose of establishing mere statutory law. “That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their own happiness, is the basis, on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it, nor ought it to be frequently repeated. The principles, therefore, so established, are deemed fundamental. And as the authority, from which they proceed, is supreme, and can seldom act, they are designed to be permanent.... Certainly all those who have framed written constitutions contemplate them as forming the fundamental and

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paramount law of the nation, and consequently the theory of every such government must be, that an act of the legislature, repugnant to the constitution, is void.\textsuperscript{397} It is this understanding of the Constitution as fundamental law that underwrites the practice of judicial review.

In theory and in practice, however, Madison rejects this understanding of the Constitution as a fundamental positive law, and thus the understanding that disputes about the propriety of policies should be resolved by an appeal to an extra-political authority. Prospectively addressing differences between states and the national government about the constitutional boundaries of their powers, for instance, Madison observes, in Federalist 46, that “the ultimate authority, wherever the derivative may be found, resides in the people alone, and that it will not depend merely on the comparative ambition or address of the different governments, whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expense of the other. Truth, no less than decency, requires that the event in every case should be supposed to depend on the sentiments and sanction of their common constituents.”\textsuperscript{398} In practice, Madison sought to establish an orderly process by which citizens could challenge the constitutional propriety of the national government’s exercise of power. In response to the Alien and Sedition Acts, Madison authored the Virginia Resolutions in which the “common constituents” of the national and Virginia governments, speaking through their Virginia state representa-


\textsuperscript{398} Federalist 46, 243.
tives, registered a “protest against the palpable and alarming infractions of the constitution....” On its own, this protest held no force, in Madison’s estimation; what was necessary was the coordinated action of multiple states to register a decisive objection to the constitutionality of this federal statute. Sketching out the justification for and mechanics of his proposed process for adjudicating disputes about the boundaries of federal power, Madison wrote, “That the good people of this Commonwealth having ever felt and continuing to feel the most sincere affection for their brethren of the other states, the true anxiety for establishing and perpetuating the union of all, and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions of the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each, for cooperating with this State in maintaining unimpaired the authorities, rights, and liberties, reserved to the States respectively, or to the people.”

3. Madison and the Confederate Republic

If Madison’s first contribution to the American understanding of constitutionalism was his effort to accommodate the dominant languages of republicanism and sovereignty to the multiplicity and diversity of identities and authorities characteristic of the modern

world, his more important contribution was to have served as the primary architect and
interpreter of a new set of political institutions grounded on the recognition of the inescapable multiplicity and diversity of identities and authorities. As Lance Banning has demonstrated, this task cannot fully or properly be understood in terms of the liberal dichotomy of nationalism against federalism, the Progressive dichotomy of populism against elitism, or even the republican dichotomy of individual rights and interests against civic virtue and the public good. Banning has compellingly made the historian’s case for interpreting Madison’s contributions to America’s republican Constitution as intended to establish a political form utterly distinct from the unitary and consolidated states of Europe; he has taken seriously Madison’s statement that the Constitution “is without a model, and to be explained by itself, not by similitudes or analogies.” The following section accepts Banning’s careful reconstruction of a Madison as the author of a novel and peculiarly modern confederal republicanism as a given, and seeks to demonstrate that Madison understood that this novel confederal republican form of power that existed “without a model” could not be sustained without a reconfiguration of authority and of individual and collective identity.

3.1. Madison on the Authority of Affections

While Madison intended confederation to minimize the danger that malformed republics could oppress their citizens, he also hoped to employ the federal form of the American union as a way of enhancing the republican character of the proposed constitu-

400 Banning (1988).
tional union by eliciting the willing allegiance of American citizens for this new national government. Thus, where debates about federalism were (and are now) conducted almost exclusively in the language of the state as a political form - the language of the sovereign powers of state governments against the national government - Madison suggested that debates about federalism ought to be conducted in the republican language of affections. In advocating a confederal republic both federal and national in character, Madison outlined a novel institutional form that would have multiple sources of affection upon which to ground its authority. At the time of the Constitution’s ratification, the national government could supply its deficit of authority by calling upon the authority that state governments drew from their citizens’ affections, but it was not necessarily the case that citizens would continue to be marked by intense affections for state governments and by intense skepticism of the national government. By permitting the common constituents of the states and the national government to hold the balance in disputes between those two levels of government, Madison outlined a means by which the union organized as a confederal republic could turn what threatened to be a potentially lethal competition between state and national governments into a strength rather than a weakness. What is more, to the extent the common constituents of state and national governments - and not some oracular arbiter of the Constitution’s word on the matter - held the authority to decide at which level powers should be exercised, there would exist a supple and dynamic system
by which each generation could decide upon the balance of state and federal power most appropriate to the circumstances they faced as citizens of a confederal republic.\footnote{For a treatment of what might be called political federalism over against a more common conception of federalism as a strictly constitutional concept, see George Carey, “James Madison and the Principle of Federalism,” in \textit{In Defense of the Constitution} (Indianapolis: Liberty Fund, 1995), 77-121.}

The most profound contribution of federalism to the new confederal republic was not in establishing a clear or efficient division of power between the governments of the states and that of the proposed national state, but in securing the affections of citizens of the respective states for the new national state. From the time that the colonies organized with one another in a Continental Congress to make their final collective plea in defense of their traditional rights and liberties to the British monarch, the colonial or state governments benefitted from their status as guarantors of their citizens’ rights and liberties. For this reason, in advocating the formation of the government proposed in the Philadelphia Constitution, Publius went out of his way to stipulate that the “[t]he state governments may be regarded as constituent and essential parts of the federal government; whilst the latter is in no wise essential to the operation or organization of the former.”\footnote{Federalist 45, 240.}

This argument depends, of course, on acceptance of the proposition in Federalist 39 that the Constitution, at its foundation, was not a national but a federal act. Because Madison in 39 explained the new union as having emerged out of the authority of the people as expressed through the several states (the “compact” theory of the Founding), the union owed its existence to the continued support of its creators through the states by
which that authority was expressed. What is more, Madison noted that the very operation of the national government depended on the federal structure of the constitution. Without the action of state legislatures, no president or senate could be elected, let alone act; the power of the states in the appointment of national officials meant to Publius that “each of the principal branches of the federal government will owe its existence more or less to the favour of the state governments, and must consequently feel a dependence…towards them.”

Thus, because the states owe nothing to the nation for their own existences, the nation could not be thought to pose any serious threat to usurp the states’ powers to protect their citizens’ rights and liberties.

In addition, the small size of the national government with respect to the collective sizes of the state governments made it unlikely, Publius argued, that the national state would be able to court any kind of advantage through exercise of personal influence; that advantage would go to the states. “Compare the members of the three great departments, of the thirteen states…with the members of the corresponding departments of the single government of the union; compare the militia officers of three millions of people, with the military and marine officers of any establishment which is within the compass of probability…; and in this view alone, we may pronounce the advantage of the states to be decisive.” The face of the government, so to speak, seen by the ordinary citizen of any of the United States would be the face of a member of the local administration. Indeed,

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403 Ibid.

404 Ibid.
should one level of government, state or national, ultimately depend upon the other for
the implementation of policy, it would be the nation depending on the states precisely be-
cause of the state governments’ numerical and geographical advantage.

Third, and perhaps most crucial, Madison argued that the states would have the
advantage with respect to the national government in disputes over the use of power be-
cause “[t]he powers delegated by the proposed constitution to the federal government, are
few and defined. Those which are to remain in the state government are numerous and
indefinite.”\textsuperscript{405} Beyond the simple but decisive fact that the national government was one
of enumerated and limited powers, however, Madison stated that the powers allocated to
the national government – those “exercised principally on external objects” – would be
unlikely to conflict with the powers of state governments which would be directed to in-
ternal matters. In other words, Madison went so far as to imply that the very possibility
of disputes between national and state power, because their powers went to different ob-
jects, was minimal. As a structural matter, Madison thought that the states would hold
the balance of power in a dispute with the nation – should such a dispute actually arise.

While the proposed union permitted citizens of the several states a way of trans-
ferring their affections for their state governments to the government of the national state,
the organization of citizens in such a way as to leave them directly subject to the national
state made it possible for that national state to earn the affections of the citizens of the
several states. In other words, in its federal character the constitutional union borrowed

\textsuperscript{405} Ibid., 241.
the virtue of the citizens of the several states, but in its national character the constitutional union had the ability to create citizens marked by their affection for the new national government. Indeed, in the event of disputes between state and national governments, Publius argued that these disputes would be resolved by the common constituents of these governments. “The federal and state governments,” he explained, “are in fact but different agents and trustees of the people, instituted with different powers, and designated for different purposes…. [T]he ultimate authority, wherever the derivative may be found, resides in the people alone; and…it will not depend merely on the comparative ambition or address of the different governments, whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expense of the other.”

3.2. Madison on Identity

Just as Madison’s peculiar republicanism depended upon a subtle reconfiguration of “the sovereignty” that would institutionalize a means by which to use the affections of the common constituents of the state and national governments to guard against a consolidation of power in either layer of government, it also depended upon reconfigurations of collective and individual identity to guard against the danger of majority tyranny.

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406 Federalist 46, 243.
3.2.1. The Transformation of Collective Identity

3.2.1.1. Disestablishment

We have already treated the origins of Madison’s mature reflections on the nature of faction in the corrupting influence of reason on self-love; it is necessary now to demonstrate how Madison attempted to establish republican institutions designed to minimize the danger of such a corrupting influence. This is most clearly evident in Madison’s “Memorial and Remonstrance against Religious Assessments.” Here Madison insists that sustainable republican government must deny to public power any claim to legislate on issues of religious belief and practice. Republican government derives its authority from the people, and no people possessing any modicum of civic virtue would permit their elected officials to claim power over religion. On the one hand, republican government assumes the equality of all citizens’ rights, and demands the mutual respect of all citizens for one another’s rights. This truth was not obvious, even to those Virginians - like a Patrick Henry - who claimed the revolutionary mantle of republicanism; thus Madison counsels, “Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?” Drawing directly from the language of Virginia’s republican Bill of Rights, Madison shows how it is
a corruption of Virginia’s republican principles to ask any individual to sacrifice his right
to conscience. He explains, quoting from the Bill of Rights, that if

“all men are by nature equally free and independent,” all men are to be
considered as entering into Society on equal conditions; as relinquishing
no more, and therefore retaining no less, one than another, of their natural
rights. Above all are they to be considered as retaining an “equal title to
the free exercise of Religion according to the dictates of Conscience.”
Whilst we assert for ourselves a freedom to embrace, to profess and to ob-
serve the Religion which we believe to be of divine origin, we cannot deny
an equal freedom to those whose minds have not yet yielded to the evi-
dence which has convinced us.407

The corollary to this principle of Madison’s republicanism is that anyone who
would permit the public power to legislate on issues of religious belief or practice by
definition lacks republican virtue. Because such an authority would threaten the rights of
at least a minority of the people, “[t]he Rulers who are guilty of such an encroachment,
exceed the commission from which they derive their authority [the whole people, Madi-
son implies, not simply a temporary minority], and are Tyrants. The People who submit
to it are governed by laws made neither by themselves nor by an authority derived from
them, and are slaves.”408 Further, Madison contends that the imposition on a republican
people of laws that would depend solely on coercive power for their enforcement “tend to
enervate the laws in general, and to slacken the bands of Society.”409 Sustainable republi-
can institutions cannot accept any attempt to impose a common creed or religious prac-

407 James Madison, “Memorial and Remonstrance against Religious Assessments,” in Rakove
(1999), 31.

408 Ibid., 30-1.

409 Ibid., 35.
tice; they depend upon earning the willing allegiance of citizens to the laws their representatives have enacted.

It is not simply that Madison rejects laws protecting an establishment of religion as anti-republican, he also asserts they are anti-American. Madison saw the republican promise of the American Revolution as presenting a stark contrast against the oppressive statism of Europe. It was a mark of America’s exceptionalism that respect for the right of conscience had left the American states relatively free of religious violence. By contrast, “[t]orrents of blood have been spilt in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion. Time,” Madison continued, “has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage that disease. The American Theatre has exhibited proofs that equal and compleat liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State.”

This being the case, Madison held that Americans, living up to the best of their revolutionary heritage, should fight vigorously in defense of the principle of the liberty of conscience; “...it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of Citizens, and one of the noblest characteristics of the late Revolution. The free men of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They

410 Ibid., 34.
saw all the consequences in the principle, and they avoided the consequences by denying the principle."

In denying to republican and religious institutions the mutual support of one another, Madison relies upon a subtle argument about the legitimate jurisdictions of temporal and spiritual authority. To be sure, he offers two more conventional arguments denying public power any legitimate authority in religious matters: one is grounded in what could be called a sociological claim that the civil authority neither possesses nor can possess authoritative knowledge of religious doctrine or practice; the other is grounded in the republican claim that individual citizens must mutually respect the rights of others in order for the rights of all to be protected. His more important argument is less straightforward, and indeed may appear paradoxical. Though the end of Madison’s argument in the “Memorial and Remonstrance” is to deny to public power any claim to legislate about religious belief or practice, the ground on which he claims the illegitimacy of such legislation is in the dual subjection of each individual to temporal and spiritual authority. The authority which possesses the primary claim to each individual’s allegiance, Madison contends, is the authority of the Creator. He asserts as the fundamental ground of the right of conscience “a fundamental and undeniable truth, ‘that [quoting the Virginia Bill of Rights] religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence.’” And while this fundamental and undeniable truth compels each individual to respect the right of his

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411 Ibid., 31.
fellow man to exercise the right of conscience unmolested, Madison also argues that this right is unalienable because upholding the right of conscience “is a duty towards the Creator.” Indeed, it is precisely this subjection of all men to the authority of the Creator, and this duty of all men to render the Creator some degree of respect or worship, that precludes the civil magistrate from asserting any claims about the content of that worship.

It is the duty of every man to render to the Creator such homage and such only as he believes to be acceptable to him. This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governour of the Universe: and if a member of Civil Society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no man’s right is abridged by the institution of Civil Society and that Religion is wholly exempt from its cognizance.412

To be clear: Madison makes the claim here that while all individual men are organized with one another collectively under the authority of civil society, they can only legitimately be organized under the authority of the Creator as individuals. Another way of saying this is that while the right of conscience demands that all who enter civil society mutually respect one another’s right to grant the homage they individually believe is due the Creator, it also demands that each individual actively exercise the right of conscience.

3.2.1.2. Representation

Just as Madison seeks to disaggregate or individuate men under the authority of the Creator who are otherwise united within civil society, Madison seeks, in his peculiar

412 Ibid., 30.
scheme of representation, to disaggregate or individuate men organized under the power of civil society. The dominant theory of representation against which Madison argued held that there existed within civil society a singular popular will which demanded only to be re-presented within a public assembly by individuals elected to serve their turn as agents of that popular will. Revolutionary state constitutions organized under this premise had resulted in what Madison recognized as injustices that jeopardized not only the stability of the confederation but the very name of republicanism. In treating his response to the failure of existing republican constitutions, scholars often emphasize the extension of the sphere within which republican government was to operate, while failing to give due attention to the peculiar representative scheme he proposed. Madison hoped representation would act:


Here Madison suggests that representation - in making the function of reason public - adds a layer of distance between reason and self-love, thus tending to interrupt the recip-

414 Fed. 10, 46.
local relationship that leads to faction. He elaborates upon this argument in his reflection that “the effect [of representation] may be inverted.” Madison observes, “Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people.” The extension of the republic over a large territory itself serves to interrupt the effect of self-love upon reason. “[A]s each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.”

More than simply serving the function of disaggregating or individuating men so as to minimize the danger of faction, representation serves the tutelary function implied within the phrase, “to refine and enlarge the public views.” The judgments of a people’s properly constructed representative body are normative, helping individuals or potentially factious groups to see beyond their own narrow goods to a common good. Indeed, it is through the judgements of a people’s properly constructed representative body that the people - individuated so as to minimize the danger of faction - may safely be reunited with one another. Madison elaborates on the necessity of this tutelary function within government in his short National Gazette essay “Who Are the Best Keepers of the People’s Liberties?” In a dialogue between “Republican” and “Anti-republican,” Madison’s

415 Ibid., 47.
anti-republican foe complains, “The people are stupid, suspicious, licentious. They cannot safely trust themselves. When they have established government they should think of nothing but obedience, leaving the care of their liberties to their wiser rulers.” Importantly, Madison’s “Republican” does not directly challenge this claim. “[T]oo true it is,” he laments, “that slavery has been the general lot of the human race. Ignorant - they have been cheated; asleep - they have been surprized; divided - the yoke has been forced upon them. But,” he concludes,

what is the lesson? That because the people may betray themselves, they ought to give themselves up, blindfold, to those who have an interest in betraying them? Rather conclude that the people ought to be enlightened, to be awakened, to be united, that after establishing a government they should watch over it, as well as obey it.416

3.2.2. The Transformation of Individual Identity

If Madison believed the function of properly formed republican institutions was to disaggregate men so as to combat the danger of faction, it can also be argued that he believed that properly formed republican citizens were themselves wholly individuated - that is, that they possessed their own distinct religious identities and fully-developed interests that identified them as selves. Though Madison clearly sought to diminish the strength of organized interests, he nevertheless sought to strengthen each individual’s interest in what was uniquely his own. In his essay on “Property” Madison effectively recasts each individual as a sovereign over his own property. He explains that “[t]his term in its particular application means ‘that dominion which one man claims and exercises

416 “Who Are the Best Keepers of the People’s Liberties,” in Ibid., 533.
over the external things of the world, in exclusion of every other individual.’” The term “dominion” indicates something far different from the ravenous appetites or naked ambitions generally implied under the term “self-interest,” and as Madison continues his re-definition of property, it becomes clear that there is a dignity granted to the individual who exercises sovereignty over his own property, and there is a natural and just limit to this sovereignty. Thus, “[i]n its larger and juster meaning, [the term property] embraces every thing to which a man may attach a value and have a right; and which leaves to every one else the like advantage.”

Then, reinforcing his relatively broad diagnosis of the problem of faction - and demonstrating that his remedy for faction depended less upon the balancing of group interests and identities than it did upon articulating and intensifying individual interests and identities - Madison continued his re-definition of the term property, defining it in such a way that no two fully-articulated individuals could wholly identify themselves as sharing interests in the same “property”. “In the former sense, a man’s land, or merchandize, or money is called his property. In the latter sense, a man has a property in his opinions and the free communication of them. He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them. He has a property very dear to him in the safety and liberty of his person. He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.” Finally, Madison connects each man’s sovereignty over his own property - over his own possessions, beliefs,

religious convictions, personal freedoms, and faculties - to the rights which each citizen of the Madisonian republican should enjoy and must respect. “In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.”\textsuperscript{418} Thus, in advocating that each republican citizen possess a property that was uniquely his - in land, in goods, in personal faculties, in opinions, in religious beliefs - Madison sought to create a republicanism in which each sovereign citizen possessed something worth defending, and in which each sovereign citizen was granted an equal power to defend his unique possession - his individual identity. Madison suggests these most critical features of his modern confederal republicanism - the transformations of individual and collective identity - in his proclamation issued shortly after the Constitution’s ratification: “[L]et it be the patriotic study of all to maintain the various authorities established by our complicated system, each in its respective constitutional sphere; and to erect over the whole, one paramount Empire of reason, benevolence and brotherly affection.”\textsuperscript{419}

3.3. The Failures of Madison’s Transformation

Madison accepts as his fundamental premise the republican principle of popular sovereignty: “The ultimate authority resides in the people alone.” And though, as we have noted, he went to great lengths to establish an institutional framework that would deny the factious possibility embedded in the notion of popular sovereignty - denying the claims of groups to sovereignty and attempting to create of each republican citizen a sov-

\textsuperscript{418} Ibid.

\textsuperscript{419} James Madison, “Consolidation,” in Rakove (1999), 500.
ereign independent in the enjoyment of his own peculiar property (i.e. identity) and vigilant in defense of his right to that property - Madison’s institutional framework has failed. It has failed, in closing, for two reasons - one relating to an inadequate institutional design, the other relating to the persistence of a civil religious national identity along with that identity’s demand for extra-political or transcendent authority and for the consolidation of political power in a unitary institution capable of representing that identity.

As has been argued, Madison’s critical movement was to redefine the concept of sovereignty, transforming the ubiquitous concept drawn from the history of England’s hierarchical, undifferentiated, and ecclesiastical polity into one safe for use in a decentralized republican polity characterized by the multiplicity and diversity of interests and identities. Where Madison was scarcely willing to concede the powers of sovereignty to any group, he insisted upon referring to each republican citizen as a sovereign, and he sought to encourage each republican citizen to develop fully the property of which he naturally found himself in possession - whether real goods, talents, faculties, inclinations, opinions, or religious beliefs - as a way of minimizing the danger of the collective thinking that is the source of faction. Institutionally, he sought to guard further against the danger of corrupt applications of the people’s sovereignty by offering a representative body designed for the purposes of refining and enlarging the public views so as to organize the people under a deliberatively-derived conception of their common interest rather than under some extra-political conception of the authority that unites them as a people.

Yet because of the distance that remained in his constitutional system between each sov-
ereign citizen and the national legislative body designed to represent their diverse interests and identities, this representative system ultimately failed to organize people in the way Madison had intended. The nature of Madison’s institutional failure is suggested by the institutional reflections of Thomas Jefferson and Alexis de Tocqueville. For Jefferson, the wellspring of republican government was found in the ward system; for Tocqueville, it was found in the township. It was here, within the most immediate range of each individual’s sovereign sphere that, in Tocqueville’s estimation, individual citizens would feel most acutely interested in the affairs of government, and it was only through the connection of individual citizens organized in the immediate deliberation about and administration of their local affairs, Jefferson believed, that they would remain connected to the business of their state and national republics.420

Without any formal and direct way of connecting sovereign republican citizens—lone individuals, in Madison’s formulation of the ideal republican citizen—nationalist civil religious identities came to play a critical role in organizing individuals under the new union. The authority of the new government was, from the start, highly tenuous, as rebellions against the national government’s taxing authority were widespread in the 1790s. What is more, Americans in their communities were forced to replace the British social and cultural institutions under (or against) which they had organized themselves as colonists, and Americans along the ever-expanding frontier were continually forced to

establish new institutions of cultural authority. This relative thinness of local institutions of cultural authority could be overcome, however, by the pervasiveness of Protestantism (and particularly the millennial hopes raised in the Revolutionary crisis), to allow, in the words of religious historian John Smilie, not the individual but “the nation [to emerge] as the primary agent of God’s meaningful activity in history.” And if it is thought that God acts meaningfully through the nation, it follows that “the nation [would become] the primary society in terms of which individual Americans discovered personal and group identity.”

During the foundational years of the new American republic, then, the American people were confronted with a challenge: How could members of the young nation establish new institutions of cultural authority? How could they ensure that these institutions of cultural authority were robust enough to accommodate the rapid social transformations characteristic of a nation undergoing unprecedented growth and economic expansion? How could they link these various institutions with one another in a chain that connected their identities as individuals and as members of natural communities (families and townships) with their identity as a citizen of a new American government? This overwhelmingly Protestant people effectively began to employ the same strategy as the English had: they relied upon their common religious identity as the comprehensive identity under

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which other identities (including their national identity) could be organized, and they de-
manded a government shorn of the protections against factious sovereignty Madison had
proposed - they demanded a unitary state that catered to the immediate will of “the peo-
ple”.

This remains the demand of American citizens who call upon the authority of the
“American creed” communicated in the Preamble to the Declaration of Independence as
the authority under which the American People should be gathered. Such a demand fails
to recognize the problem to which the Declaration of Independence was a response - it
was (and is) no longer possible in a world characterized by the multiplicity and diversity
of interests and identities to organize such diverse identities under a singular conception
of extra-political authority and to represent them through a unitary institution of power.
The crisis of American identity is not, as contemporary arguments would put it, about the
competing conceptions of the American creed that animate our competing civic factions;
rather the crisis is to be found in the permanent choice Americans face of whether to em-
brace the unique political institutions of the Madisonian republic that promise to render
us exceptional in the modern world of states.
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