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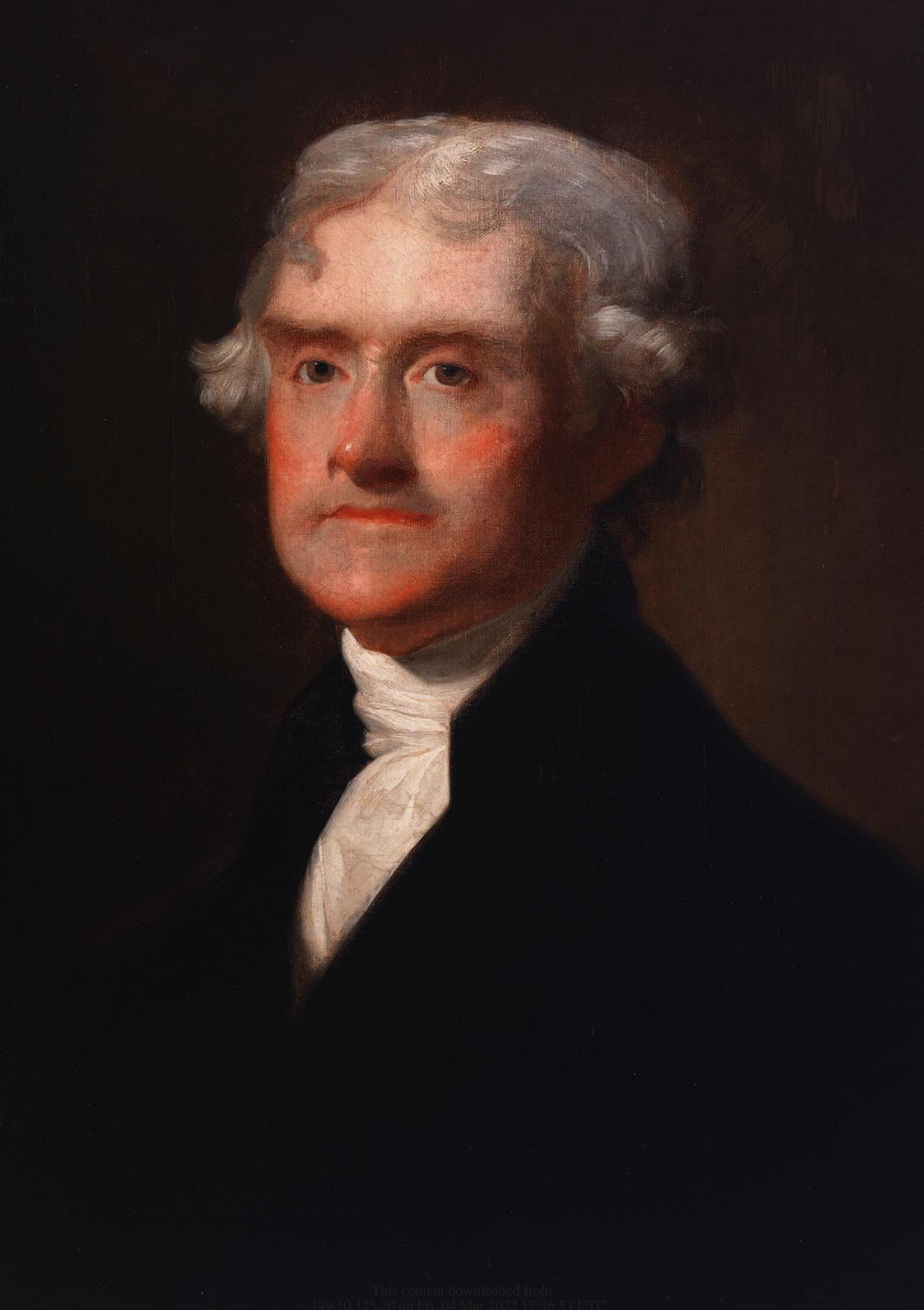
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MICHAEL J. FABER

## Thomas Jefferson, Federalist

When the Constitutional Convention met in Philadelphia in 1787, two of the most significant political figures in the young republic were unable to attend because they were serving in diplomatic posts overseas. Both John Adams and Thomas Jefferson were keenly interested in the work of the convention and followed the ratifying contests as closely as they could. The position of Adams was perfectly clear and widely assumed: he was known as a proponent of stronger federal government (often to the point of being called a monarchist), and there was little doubt in anyone's mind that he would favor the Constitution. Because he became a leading figure in the Federalist Party in the 1790s, he is always considered among the Federalists in the ratification debates, if he is considered at all.<sup>1</sup>

Thomas Jefferson, on the other hand, is his usual mercurial self when it comes to the question of ratification. In Virginia, Federalists and Anti-Federalists wrestled over Jefferson's name, both claiming his support for their side. Because Jefferson advocated adding a bill of rights to the proposed Constitution, and because he later became the chief figure in the opposition party in the 1790s, he is easy to mistake for an Anti-Federalist. He is often identified as such in history textbooks and other places. During his lifetime, Jefferson was also the subject of partisan attacks claiming that he had not supported ratification, but the evidence clearly shows that this was not true. His objections to the document were no more severe than those of most Federalists, and less significant than the reservations of some. Jefferson, though he had his doubts, clearly and unequivocally favored ratification of the Constitution. His position offers considerable insight into the Federalist position, and the degree to which there were doubts even among the supporters of the Constitution.<sup>2</sup>

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Thomas Jefferson (1743–1826).  
(*Virginia Museum of History & Culture*, 1978.22)

A word of clarification is appropriate here. The term “Federalist” is the source of much confusion when examining the period of United States history from the 1780s through the 1820s. In particular, the term applies to two overlapping but different groups. Those who supported the Washington administration, favoring Adams over Jefferson in the presidential elections of 1796 and 1800, and opposing the Jefferson administration, called themselves Federalists because they saw themselves as the natural heirs of the Federalists of the 1780s. These earlier Federalists favored a stronger national government, pushing for what they saw as a true federal system in which the national government had some independent power and some control over the state governments, and they ultimately fought for the ratification of the Constitution. Many 1780s Federalists became 1790s Federalists but, given the number who did not, it is a mistake to look at this as a continuous party. Foremost among these Federalists who became Republicans was James Madison, one of the leading Federalists in the ratification debates, who became one of the leaders of the opposition party. Thomas Jefferson was the

other primary Republican leader, but he was far less conspicuously a Federalist during the 1780s.<sup>3</sup>

Most of the prominent Federalists of the 1780s wrote public essays in support of the Constitution or made speeches in a ratifying convention; in many cases they did both. Each of these venues called for a confident defense of the proposed document rather than a candid discussion of its virtues and faults. Many Federalists did express doubts in private letters, but these doubts were overshadowed by public proclamations of support. Jefferson wrote nothing for public consumption in this debate, and he was not present for the convention discussions.

THOUGH JEFFERSON LIKELY UNDERSTOOD that his views would become known, there is no reason to believe he wrote any of these letters with the intention of shaping the public debate. His comments on the Constitution in these letters were all for private discussion, largely with James Madison but also with Adams, and they are very candid. This may account for why Jefferson is often considered an Anti-Federalist, but his doubts were really no more significant than those of Madison, or most other Federalists.

From this point in this essay, the term “Federalist” always refers to the Federalists of the 1780s, those who favored the Constitution, and not to the political party of the 1790s and later. Jefferson was not a Federalist in the later use of the term; he led the opposite party. But Jefferson should be considered a Federalist of the 1780s variety, because he did favor strengthening the national government, and he did support ratification of the Constitution despite having some reservations.

“FOR ALL OF THE EXPRESSIONS OF PESSIMISM IN THE 1780’S,” writes historian Gordon Wood, “it is clear that not all American intellectuals had lost their confidence in the republican experiment. Jefferson, viewing the new republics while standing amidst the pomp and debauchery of Paris, remained calm and sanguine. America—by contrast—still seemed the land of happy frugal yeomen.” With so many prominent political figures painting dire pictures of the future of the United States and advocating for stronger national government, Jefferson stands out as an optimistic voice, a rarity

among those who saw the potential for greatness in the American experiment.<sup>4</sup>

This is not to say that Jefferson failed to recognize political problems which needed to be fixed. Although focused on diplomatic affairs from his post in France, he nonetheless found plenty of time to ruminate upon the dilemma of national government in his own country. He had previously recognized the problems with the Articles of Confederation and saw the need for a stronger central government. In a letter to James Madison in December 1786, Jefferson laid out this preference. “To make us one nation as to foreign concerns, and keep us distinct in Domestic ones, gives the outline of the proper division of powers between the general and particular governments.” From his vantage point in Europe, he could clearly see the harm caused by thirteen independent sovereign states trying to act as one united nation.<sup>5</sup>

Madison kept Jefferson apprised of developments concerning the federal convention to be held in Philadelphia, from the early general approval of the idea, through the selection of delegates, to the actual meeting, or at least what Madison could tell without violating the rule of secrecy adopted by the delegates. He also laid out his basic plan for the new government in a letter on 19 March. This letter makes clear that Madison and Jefferson did not quite see eye to eye on how to structure the government; as historian Adrienne Koch puts it, “Madison’s notion of compromise gave more to ‘stable Government’ than Jefferson believed ‘votaries of liberty’ should concede—especially in the dangerous supreme veto of the ‘general’ government ‘*in all cases whatsoever*’ on the Local legislatures.” This idea of a general veto struck Jefferson as a novel idea, but a bad one. “It fails in an essential character,” he objected, “that the hole and the patch should be commensurate. But this proposes to mend a small whole by covering the whole garment.” Nonetheless, Jefferson agreed with most of Madison’s general ideas of government, and he wanted to see something stronger and more effective emerge from the convention.<sup>6</sup>

In August 1787, Jefferson praised the Philadelphia Convention in several letters, describing it to John Adams as “an assembly of demigods,” and outlined what he hoped that body’s proposals would look like. “My idea is that we should be made one nation in every case concerning foreign affairs,

and separate ones in whatever is merely domestic,” he wrote to John Blair, a Virginia delegate to the convention. “That the Federal government should be organized into Legislative, executive and judiciary as are the state governments, and some peaceable means of enforcement devised for the federal head over the states.” The absence of a judiciary under the Articles of Confederation, he added in a letter to Joseph Jones the next day, “has already done more harm than all the other federal defects put together, and . . . every evil almost may be traced to that source.” Still, even with “all the defects of our constitutions . . . the comparison of our governments with those of Europe are like a comparison of heaven and hell. England, like the earth, may be allowed to take the intermediate station.” The problems in the state and federal governments “are so light in comparison with those existing in every other government on earth,” he wrote to George Washington that same day, “that our citizens may certainly be considered as in the happiest political situation which exists.”<sup>7</sup>

Despite all these optimistic comments, Jefferson was somewhat apprehensive. He recognized that the Articles of Confederation were deeply flawed, and like most of his countrymen, he was intensely curious about what the Philadelphia Convention might propose. Though he was half a world away, the secrecy of the convention was frustrating. He described the decision to keep the proceeding secret as “abominable” in a letter to John Adams; it reflected the delegates’ “ignorance of the value of public discussions.” Adams, rather diplomatically, neither disputed nor agreed with this characterization. Jefferson, in cooler moments, no doubt recognized that closed doors enabled a freer discussion. John Jay certainly did, noting in a letter to Jefferson that the announcement of the Convention’s decisions “will probably cause not only much Consideration, but also much Discussion, Debate, and perhaps Heat; for . . . disinterested Patriots and interested Politicians will sit in Council and in Judgment, both within and without Doors. There is nevertheless a Degree of Intelligence and Information in the Mass of our People,” he added more optimistically, “which affords much Room for Hope that by Degrees our Affairs will assume a more consistent and pleasing Aspect.” Jefferson must have agreed on both points, despite his concerns, and he retained a cheerful demeanor in correspondence and conversations that called for a more diplomatic tone.

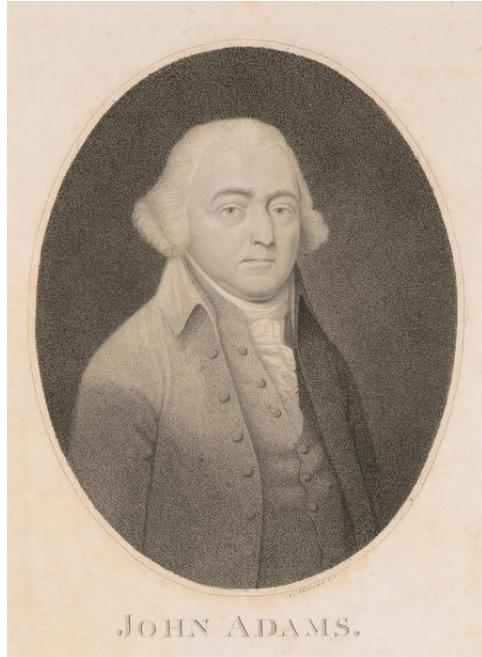
“He concealed his worries about what was brewing in Philadelphia from all his European correspondents,” notes historian Joseph Ellis, “preferring to play his customary role as America’s champion.”<sup>8</sup>

WHEN THE RESULTS OF THE CONVENTION DELIBERATIONS were finally released, they took some time to travel across the ocean to an impatient but eager Jefferson, who was less than impressed. The first recorded reaction of Jefferson to the proposed Constitution is in a letter he wrote to his old friend John Adams on 13 November 1787. By this point at least seven people had sent him a copy of the document (though most had not yet arrived), and his initial thoughts were unfavorable. “I confess there are things in it which stagger all my dispositions to subscribe to what such an assembly has proposed,” he wrote to Adams.

The house of federal representatives will not be adequate to the management of affairs either foreign or federal. Their President seems a bad edition of a Polish king. He may be reelected from 4 years to 4 years for life. Reason and experience prove to us that a chief magistrate, so continuable, is an officer for life. When one or two generations shall have proved that this is an office for life, it becomes on every succession worthy of intrigue, of bribery, of force, and even of foreign interference. . . . Once in office, and possessing the military force of the union, without either the aid or check of a council, he would not be easily dethroned, even if the people could be induced to withdraw their votes from him. I wish that at the end of the 4 years they had made him for ever ineligible a second time. Indeed I think all the good of this new constitution might have been couched in three or four new articles to be added to the good, old, and venerable fabrick, which should have been preserved even as a religious relique.

Here is Jefferson at his most opposed to the new Constitution, presenting several arguments that the Anti-Federalists would use throughout the ratification debates. It is significant, however, that he is writing this in a letter to Adams. First, it is clearly a private reaction; Jefferson knew very well that Adams would never think to share it with the public without his express permission, and Adams, still being in England, was unlikely to have much influence over the decision on whether to adopt the Constitution.<sup>9</sup>

More important, though, is the fact that Adams was known to be for a stronger federal government than Jefferson might have preferred, and he was an advocate for strong executive power. Jefferson exaggerated his critique of



John Adams (1735–1826). (*Library of Congress*)

the presidency in order to prompt a stronger response from Adams, whom Jefferson undoubtedly expected to favor the Constitution. And Jefferson received the response he expected, as Adams defended the idea of a strong president.

You are afraid of the one—I, of the few. We agree perfectly that the many should have a full fair and perfect Representation.—You are Apprehensive of Monarchy; I, of Aristocracy. I would therefore have given more Power to the President and less to the Senate. . . . You are apprehensive the President when once chosen, will be chosen again and again as long as he lives. So much the better as it appears to me . . .

Jefferson appears to have been feeling out Adams, as a proponent of executive power, for an argument in defense of Article II as it was proposed. It is worth noting, too, as political scientist Jeremy Bailey points out, “Jefferson criticized its lack of a term limit, not its powers”; Jefferson was not as opposed to a strong executive as is generally assumed, but he still nudged Adams to defend the idea. Both Jefferson and Adams only briefly mention the issue of representation in the House; because they already know they

agree in principle on that point, it needs no discussion. Jefferson, despite the concerns he raises in his letter to Adams, is clearly not opposed to the Constitution. Rather, he is undecided and examining whether the defects he sees are problematic or merely inconvenient. He states this more clearly in a letter he wrote to William Stephens Smith, serving in London as secretary to Adams, on the same day as his letter to Adams. “There are very good articles in [the Constitution]: and very bad,” he writes. “I do not know which preponderate.”<sup>10</sup>

While this exchange was occurring, Jefferson was receiving generally glowing reviews of the Constitution from various correspondents. Christopher Gadsden expected “the Phylosophic part of Europe” to approve, though “the Trading part of G[rea]t B[ritai]n” might have objections to the stronger commercial position it would create for the United States. Edward Carrington found it satisfactory, with the sole exception that the federal government would not have a veto power over state laws; he later added that he saw support for ratification “getting much into fashion” in Virginia despite the opposition of a few significant figures like Patrick Henry. James Madison, of course, offered an extensive defense. John Hector St. John de Crèvecoeur saw “Considerable opposition,” especially in New York and Pennsylvania, but he expected “the good sense of the Inhabitants” to win out in the end. Alexander Donald wrote that “a great majority of the People approve” of the proposed Constitution, but “interested men will do every thing in their power . . . to poison the minds of the People.”<sup>11</sup>

Not all of the reviews, however, were positive. William Stephens Smith was concerned. “I have read it frequently and with great attention,” he wrote in early December, “and tho’ I am a great friend to foederal Men and foederal measures, I am decidedly of opinion, that some alterations were necessary, still on the plan proposed, I look with an anxious mind, and ‘trembling can’t enjoy.”” Smith suggests that his three-year absence from the United States may have “disqualified [him] from being competent to decide on the question,” something that Jefferson may have considered, having been absent himself for those same three years. Smith saw a variety of dangers in the Constitution; like Jefferson, he saw them especially in the presidency. Uriah Forrest of Maryland also expressed doubts to Jefferson, noting that the proposed Constitution “contains many good articles, but I am free to own there

appears to me some so very bad, as to throw the weight in that scale.” The most significant defect was the perpetual reeligibility of the president, which Forrest attributes to overreaction to Shays’ Rebellion in Massachusetts. Forrest solicited Jefferson’s opinion, to which Jefferson replied by sending a partial copy of a letter he had sent to Madison a few days earlier, in which he had made several of the same points Forrest himself had made.<sup>12</sup>

On balance, though, Jefferson’s correspondents favored ratification. Lafayette considered the presidency too powerful, but he expected George Washington, as the first president, to establish limits and safeguards to that power. Smith, despite his doubts, wrote to Jefferson in January that he “would (notwithstanding its defects) rather [the Constitution] should be adopted as it is than be entirely laid aside,” because the potential danger of tyranny was likely a long way off, and anarchy was the more pressing danger. In March, John Page wrote “that I had been at first an Enemy to the Constitution proposed, and had endeavoured to fix on some Plan of Amendments,” but the variety and inconsistency of Anti-Federalist demands caused him to reconsider and support ratification.<sup>13</sup>

Whatever one may say of Jefferson’s position, it is clear that he was absorbing every bit of information available on the ratification debates. In mid-December he wrote in a letter to William Carmichael a brief description of the early debates and the likely people and arguments against ratification. He is somewhat dismissive of some of the arguments against the Constitution, but he acknowledges that “these objections are serious, and some of them not without foundation.” His description of the dispositions of the states is largely accurate, though he was pessimistic about Virginia’s likelihood of ratifying, and he expected a second convention should the proposed Constitution fail. Madison and Washington both sent regular updates on the Constitution’s progress, and Jefferson often passed this information, with his own interpretation, on to others. Few correspondents updated him on the arguments being made by the Anti-Federalists, but Edward Carrington did send him a copy of the Federal Farmer essays (albeit in June, too late to make much of a difference), and he did receive some newspapers from America.<sup>14</sup>

By mid-December, Jefferson still could not fully support the Constitution, but he did not exactly oppose it, either. “As to the new

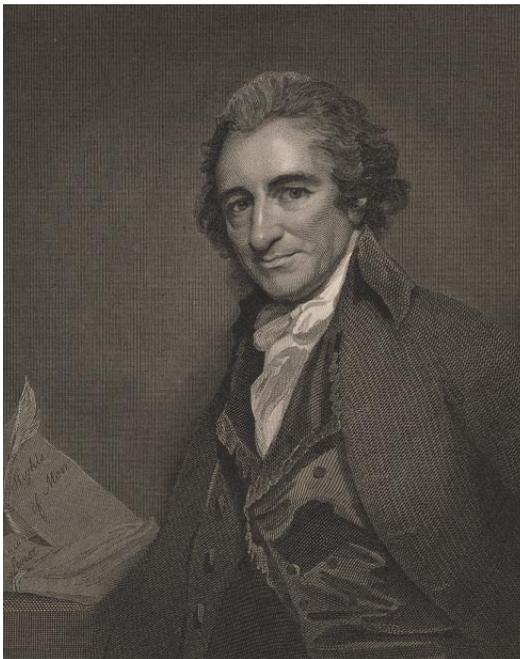
Constitution,” he wrote to Carrington, “I find myself nearly a Neutral. There is a great mass of good in it, in a very desirable form: but there is also to me a bitter pill, or two.” Here Jefferson raises a different objection, that Congress might have been given full power over imposts while leaving direct taxation to the states; here, he presents one of the most central arguments of the Anti-Federalists. Nonetheless, even here Jefferson is not opposed to ratification; the idea that the Constitution could be amended to meet his approval is consistently implied in his critiques. The idea that such amendments might safely occur after ratification rather than before had not yet occurred to him, just as it had not yet been accepted by most of the Constitution’s supporters in America.<sup>15</sup>

In all of the intellectual struggles, Jefferson mirrored other Federalists who had reservations. What is different in his case is that this intellectual journey was done in writing, with most of Jefferson’s closest interlocutors far away. For others, such discussions generally occurred in person, leaving no record. In discussing the Constitution with the people of France, Jefferson adopted a more patriotic tone, praising the work of the convention without questioning the defects of the proposed government.<sup>16</sup>

EVEN THOUGH MOST OF HIS CONFIDANTS WERE FAR AWAY, two key friends were on hand in Paris for discussing the Constitution. He discussed the subject with Thomas Paine and the Marquis de Lafayette in person; unfortunately, there is no record of exactly what they discussed. “According to the Marquis, the three men debated the Constitution in a convention of their own as earnestly as if they were to decide its fate.” Historian Louis Gottschalk describes these meetings as an “informal seminar on political theory” taught by Jefferson, though the learning likely went both ways. Jefferson was cautious regarding the Constitution’s defects, though Lafayette’s optimism no doubt had an influence on Jefferson as well. Lafayette informed George Washington in February that he and Jefferson were of the same mind.

It seems the want of a declaration of rights, of an insurance for the trial by juries, of a necessary rotation of the president, are, with the extensive powers of the executive, the principal points objected to. Mr. Jefferson and myself have agreed that those objections appear’d to us both well grounded, but that *none should be started untill*

Marie-Joseph Paul Yves Roch Gilbert du Motier, Marquis de Lafayette (1757–1834). (*Library of Congress*)



Thomas Paine (1737–1809). (*Library of Congress*)

*nine states had accepted the Confederation.* Then amendments, if thought convenient, might be made to take in the dissidents.

The idea that all talk of amendments should be put off until after nine states had ratified would be Jefferson's most significant contribution to the debate, though Jefferson's version of it comes across somewhat differently from Lafayette's.<sup>17</sup>

"Were I in America," he wrote in a February letter to Smith, "I would advocate it warmly till nine should have adopted, and then as warmly take the other side to convince the remaining four that they ought not to come into it till the declaration of rights is annexed to it. By this means we should secure all the good of it, and procure so respectable an opposition as would induce the accepting states to offer a bill of rights. This would be the happiest turn the thing could take." It would be easy to dismiss this as a flippant remark to a like-minded friend, but a few days later he repeated the idea to Madison (who was no doubt aghast upon seeing it). He wrote it again to Alexander Donald on 7 February, a letter that worked its way into the hands of Patrick Henry before the ratifying convention. Lafayette did not suggest that any states should hold off on ratifying until amendments were approved, but Jefferson clearly saw value in these states using their refusal to ratify as leverage to secure changes.<sup>18</sup>

Washington read this idea a little differently when Lafayette shared it. "The opinion of Mr. Jefferson & yourself is certainly a wise one," he wrote to the Marquis in April, "that the Constitution ought by all means to be accepted by nine States before any attempt should be made to procure amendments. For, if that acceptance shall not previously take place, men's minds will be so much agitated and soured, that the danger will be greater than ever of our becoming a disunited People. Whereas, on the other hand, with prudence in temper and a spirit of moderation, every essential alteration, may in the process of time, be expected." This is not quite what Jefferson was suggesting, but in his more optimistic moments it seems that he agreed with the assessment that changes could be made after ratification.<sup>19</sup>

Given some time to consider the proposed Constitution, Jefferson took what Joseph Ellis calls "a responsibly critical posture," that the Constitution should be adopted, then amended to add a bill of rights and presidential term limits. By early February, Jefferson had recognized that his concern

about the reeligibility of the president was not widely shared in the United States. Though he was perplexed and disturbed by this, he ceased to strenuously advocate this change. Instead, he expressed hope that such a change would be made at some point in the future, before a potential tyrant should be elected. For the foreseeable future, he expected responsible statesmen to be selected, beginning of course with the incorruptible George Washington. Jefferson saw Washington as a bulwark against the potential corruption embodied in a potentially perpetual presidency. This willingness to set aside the point was “altogether uncharacteristic, and speaks to the unique trust he placed in Washington.”<sup>20</sup>

Still, the idea that Jefferson opposed ratification persisted. George Mason, writing to Jefferson in late May, clearly believed he was writing to a correspondent of like mind concerning the Constitution. He criticized “the precipitate, and intemperate, not to say indecent Manner” in which the Philadelphia Convention concluded, which prevented him from formally presenting his proposal for a bill of rights to be added. Here Jefferson would certainly have been sympathetic. Mason went on to note that he found many aspects of the proposed Constitution objectionable, “But it would be tedious to enumerate all the Objections; and I am sure they cannot escape Mr. Jefferson’s Observation.” Jefferson, for his part, saw only a few sections as sufficiently problematic to consider rejecting the document, and by this point he favored ratification with amendments to be made afterward, along the Massachusetts model. Here Mason certainly misread his correspondent. “There seems to be a great Majority [in the Virginia ratifying convention] for Amendments; but many are for ratifying first, and amending afterwards. This Idea appears to me so utterly absurd, that I can not think any Man of Sense candid in proposing it.” Certainly, Jefferson saw himself as a “man of sense,” and by this time he saw great value in this approach, and great danger in insisting on prior amendments. The very next day, long before Mason’s letter could possibly have reached his hands, he was writing to Carrington in support of the Massachusetts model of recommended amendments. In particular, Jefferson was still advocating a bill of rights and a limitation on the eligibility of the president to seek reelection, though he did not expect the latter to be adopted given that it seemed to have little support across the ocean.<sup>21</sup>

Jefferson knew that his home state of Virginia was going to be the crucial battleground state. Its ratification was essential for the success of the Constitution. Several correspondents sent Jefferson optimistic updates about the Constitution's prospects for ratification by Virginia, but nonetheless he was worried. By mid-June he was concerned that failure to ratify "would drive the states to despair, and bring on events which cannot be foreseen," which led him to conclude that ratification was "absolutely necessary." He had by this time thoroughly discarded his earlier hope to see four states reject the Constitution to secure amendments, because he now favored the Massachusetts model of recommended amendments. "The glorious example of Massachusetts, of accepting unconditionally, and pressing for future amendment," he wrote in July, "will I hope reconcile all parties."<sup>22</sup>

ALTHOUGH JEFFERSON DID NOT ATTEND the Virginia ratifying convention in June 1788, he was certainly there in spirit. What was less certain was which side his spirit supported. As Jeremy Bailey puts it, "It could be said that Jefferson's reputation was in the air, and some Federalists saw it as an obstacle to ratification." After all, Jefferson's position, or as much of it as was known, "matched the views of the Virginia Anti-Federalists, especially those who found much to praise in the Constitution, but were hesitant to support ratification because of certain objections."<sup>23</sup>

For his part, Jefferson claimed that he did not want to be a part of the public debate. In late December he wrote to Uriah Forrest, "I pretend to make no mystery of my opinion, yet my distance from the scene gives me too much diffidence in my views of it to detail them lengthily and publicly." He sent Forrest a copy of his 20 December letter to Madison, inviting him to use the letter however he thought best, provided it stayed anonymous. Jefferson was sufficiently free with his opinions that he must have realized they would become public, and it seems likely that he relished the attention so long as he could claim that he was not trying to get involved.<sup>24</sup>

On 9 June, Patrick Henry openly invoked Jefferson in opposition to ratification. Amid praise of Jefferson's abilities (though Henry does not mention his name), Henry informed the convention that he had "good information" that Jefferson "advises you to reject this Government, till it be amended. . . . Living in splendour and dissipation, he thinks yet of Bills of

Rights.” The next day, Edmund Randolph attempted to mitigate the damage, asserting that, although Jefferson may have wanted nine states to adopt and four to hold out for amendments, he certainly would want Virginia to be one of the nine. However, Randolph also confessed that he had not received any letter from Jefferson on the subject.<sup>25</sup>

Edmund Pendleton was somewhat more effective in reclaiming Jefferson for the Federalists. On 12 June, after noting that it was improper to introduce the opinion of an individual who was not there to explain or defend it, Pendleton notes that he interpreted Jefferson’s plan very differently from Henry. The reason to secure nine ratifications is to secure the good in the document and prevent disunion; with nine states ratifying, amendments can be made after the proposed Constitution has been approved. The issue is not whether to ratify; Pendleton notes that Jefferson is certainly in favor of that. The issue is “subsequent or previous amendments,” and Jefferson clearly favors the former. “If then we are to be influenced by his opinion at all,” Pendleton concludes, “we will ratify it, and secure thereby the good it contains.” Amendments could come later.<sup>26</sup>

Henry was not conceding. The same day, he responded to reclaim Jefferson as an Anti-Federalist. Pendleton, he said, “has endeavored to explain the opinion of Mr. Jefferson our common friend, into an advice to adopt this new Government.”

What are his sentiments? He wishes nine States to adopt, and the four States may be found somewhere to reject it? Now, Sir, I say, if we pursue his advice, what are we to do?—To prefer form to substance? For, give me leave to ask what is the substantial part of his counsel? It is, Sir, that four States should *reject*. . . . Where then will four States be found to reject, if we adopt it? . . . Do not gentlemen see, that if we adopt under the idea of following Mr. Jefferson’s opinion, we amuse ourselves with the shadow, while the substance is given away?

Should Virginia adopt the Constitution, he explained, that will leave no state with sufficient influence to push the adopting states into accepting amendments. “Every possible opportunity of procuring amendments is gone—Our power and political salvation is gone, if we ratify unconditionally.”<sup>27</sup>

Madison immediately responded, asserting his belief that, were Jefferson present, “he would be *for* the adoption of this Constitution.” However,

Madison offered no evidence to support this assertion, so he settled for wishing that “his name had never been mentioned,” and suggesting that he had more extensive information on Jefferson’s opinion that he was not at liberty to share. Jefferson was not mentioned again in the convention (except briefly in a discussion of European politics), but this idea that several states should reject lingered like a cloud over the proceedings. If nothing else, they helped to clarify a major point of contention. As historian Jeff Broadwater explains, “The skirmish over Jefferson’s letter mainly highlighted the principal issue before the convention: whether to recommend amendments or to make them a condition of ratification.” Henry made his case for prior amendments well, and the Federalists could only work to limit the damage. Jefferson’s spirit may have been contested, but his words were clearly in service of the Anti-Federalists.<sup>28</sup>

In July, James Monroe wrote to Jefferson with an account of the Virginia ratifying convention. He mentioned Jefferson’s suggestion that nine states should ratify and four should reject, which Patrick Henry brought up from a letter Jefferson had sent to Alexander Donald. “I was happy to find the great attention and universal respect with which the opinion was treated; as well as the great regard and high estimation in which the author of it was h[eld]. It must be painful to have been thus made a party in this transaction but this must have been alleviated by a consideration of the circumstances I have mention’d.” Jefferson could not have been surprised, though, given how freely he had shared that idea that several states should reject the Constitution.<sup>29</sup>

Nonetheless, Jefferson’s influence over the debate in Virginia was minimal. “Had he been on the scene his influence could not have failed to be considerable,” writes historian Dumas Malone, “but communications lagged so far behind events that the situation itself had changed by the time he could make his position known. Insofar as he exerted any influence on opinion this was probably against the Constitution, since his earliest comments were the least favorable and the fight in America was practically over before anybody there was informed of his final acceptance of the new frame of government.”<sup>30</sup>

JEFFERSON WAS PLEASED TO SEE THE CONSTITUTION RATIFIED, but his doubts did not disappear. In July, he wrote to Edward Rutledge of South Carolina to congratulate him on the ratification by his state, expressing his expectation that his own state of Virginia had “followed the good example.”

Our government wanted bracing. Still we must take care not to run from one extreme to another; not to brace too high. I own I join those in opinion who think a bill of rights necessary. I apprehend too that the total abandonment of the principle of rotation in the offices of President and Senator will end in abuse. But my confidence is that there will for a long time be virtue and good sense enough in our countrymen to correct abuses.

Jefferson also noted in a letter to Jay that in Europe the adoption of the Constitution “is considered as a very wise reformation,” to the extent that European speculators were trying to buy up large quantities of American bonds. He appears to have learned of the ratification by New Hampshire on 30 July, by which time he assumed that Virginia had also ratified. He had the order wrong; perhaps it was wishful thinking on his part to assume that his home state had been the decisive ninth one rather than New Hampshire.<sup>31</sup>

Three weeks later, he still had not heard the news from Virginia. In a letter to James Monroe, dated 9 August, he reiterated essentially the same position on the Constitution, though with some elaboration concerning which rights should be protected.

This constitution forms a basis which is good, but not perfect. I hope the states will annex to it a bill of rights securing those which are essential against the federal government; particularly trial by jury, habeas corpus, freedom of religion, freedom of the press, freedom against monopolies, and no standing armies. I see so general a demand of this that I trust it will be done. There is another article of which I have no hopes of amendment because I do not find it objected to in the states. This is the abandonment of the principle of necessary rotation in the Senate and the Presidency.

Jefferson had clearly been following the debate closely, though he was a little off regarding what exactly would make it into the amendments.<sup>32</sup>

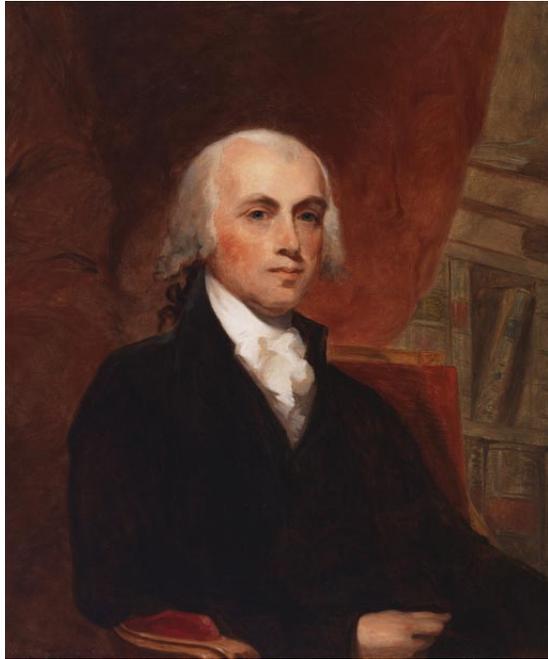
Upon learning that the Constitution had been formally ratified, Jefferson’s tone became consistently cheerful and optimistic. “Jefferson, despite his reservations about the Constitution, celebrated its ratification with correspondents in Europe and America,” asserts Jeff Broadwater. “To

Jefferson, the Constitutional Convention and the ratification process vindicated American republicanism; when Americans saw a problem, they would take steps to correct it.” He expected amendments, including a bill of rights, to be added shortly, and he expected the certain election of George Washington to the presidency to prevent any excess or danger on that front, at least for the near future. He still wanted changes that he did not expect to be made, especially term limits for the president, but overall he seemed prepared to accept the Constitution with its flaws, and see how it would work.<sup>33</sup>

AMID ALL HIS CORRESPONDENCE REGARDING THE CONSTITUTION, Jefferson’s discussion with James Madison was the most important, because Madison had the most significant impact on Jefferson, and Jefferson on Madison as well. Unfortunately, virtually the entire conversation occurred after ratification because of the time it took for letters to travel across the Atlantic, as well as Madison’s apparent reluctance to engage Jefferson on the merits of the Constitution.<sup>34</sup>

Jefferson’s primary influence on Madison was indirect, and predated the Philadelphia Convention. Madison received more than three hundred books from his mentor in Europe to assist him in preparing his critique of the Articles of Confederation and his ideas for how to improve the frame of government. Biographer Dumas Malone calls the sending of these books Jefferson’s “most important actual contribution to the constitutional thinking of this period,” and it is difficult to disagree with this assessment. Where Jefferson’s thinking during the entire ratification episode was muddled and fragmentary as a result of his distance from the scene, Madison’s was clear and systematic thanks in large part to the careful study of the books he received from Jefferson.<sup>35</sup>

The actual discussion of the proposed Constitution between these two men began with a letter from Madison in early September, before the convention adjourned. In this letter, despite the rule of secrecy, Madison outlined for Jefferson the general contours of the proposed system of government. He expressed cautious optimism, but he seemed quite anxious to hear what Jefferson might think. He followed up with more details in a letter in late October, in which he enclosed a copy of the proposed Constitution (which several others had already sent to Jefferson). Anticipating one of



James Madison (1751–1836). (*Virginia Museum of History & Culture, 1856.2*)

Jefferson's chief concerns, he spent considerable ink addressing the executive branch, though he also addressed representation and the legislative branch, as well as offering a general overview of how the final draft came to look like it did. Both letters arrived in Paris in mid-December, and Jefferson's reply was prompt. He listed aspects of the Constitution of which he approved, including the fact that the national government could operate independently of the states, the general power to tax, the different representation in the two houses of Congress, and the veto power. He then proceeded with his critique, beginning with the absence of a bill of rights. He disputed James Wilson's claim that such an enumeration of rights was unnecessary; he described such an enumeration as "what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference." Jefferson's second objection in this letter was "the abandonment in every instance of the necessity of rotation in office, and most particularly in the case of the President." The president, he suggested, would always be reelected, and thus serve for life. This was gener-

ally a bad idea, both in terms of balancing governmental power and in terms of foreign influence and potential corruption. Jefferson did not have a suggestion for how to keep the good in the Constitution while fixing the bad, but he encouraged Madison to keep an open mind. “At all events,” he wrote, “I hope you will not be discouraged from other trials, if the present one should fail of it’s full effect.” Evidently Jefferson did not share Madison’s optimism, nor was he as impressed with the proposed government. “I own I am not a friend to a very energetic government,” he concluded. “It is always oppressive.”<sup>36</sup>

With the mail taking as long as it did to complete a transatlantic voyage, Madison did not wait for Jefferson’s reply before writing more. Eleven days before Jefferson’s reply to his earlier letters, Madison wrote again to describe the Constitution’s prospects of ratification. His optimism remained; things were looking favorable in most of the states. In February, after the Massachusetts convention ratified the document, he wrote again with updates. With six ratifications already secured, Madison expected victories in New Hampshire, Maryland, and South Carolina, and he believed there was a good chance of adoption by Virginia. That would make ten states, even if New York, North Carolina, and Rhode Island failed to ratify. In April, still not having received Jefferson’s December letter, Madison wrote yet again with an update on the Virginia convention. He believed the majority of the delegates were supporters of the Constitution, and he reported that Edmund Randolph was likely to support ratification despite his refusal to sign the document in September. In these three letters, Madison focused on events and strategy, having not yet received Jefferson’s thoughts on the content of the proposed government.<sup>37</sup>

It is unfortunate that these two were separated by an ocean at this crucial time. “A series of long conversations between [Jefferson] and Madison would have been mutually beneficial,” writes Malone, in something of an understatement. “But letters were slow, while events moved rapidly.” By the time Madison finally received Jefferson’s December letter, it was July and ratification was secured. Having been enmeshed in the political debates for so long, he began his reply with strategy once again, explaining the debate and decision in Virginia. He mentioned that Jefferson’s opinions had been used by the opposition to portray Jefferson as opposed to ratification, and

explained that he had countered by portraying Jefferson as a friend to the Constitution as a whole, and to most of the parts contained therein. Still, though, Madison did not engage Jefferson's objections to certain parts of the Constitution, preferring to put those off until another letter. A few weeks later, Madison again updated his friend on events without a word in response to the latter's objections. In yet another letter two weeks after this one, Madison yet again declined to engage in the philosophical debate, instead recounting events in the New York and North Carolina ratifying conventions. By September, it is clear that Madison was stalling. The tone of his insistence that a second convention to consider amendments would be a very bad idea suggests a man who wants to put off the question of amendments for as long as he can.<sup>38</sup>

Jefferson was not nearly so taciturn. On 31 July, in his first letter to Madison after learning of the successful ratification of the Constitution, he resumed his argument for what needed fixing in the Constitution.

It is a good canvas, on which some strokes only want retouching. What these are, I think are sufficiently manifested by the general voice from North to South, which calls for a bill of rights. It seems pretty generally understood that this should go to Juries, Habeas corpus, Standing armies, Printing, Religion and Monopolies. . . . The few cases wherein these things may do evil, cannot be weighed against the multitude wherein the want of them will do evil. . . . I hope therefore a bill of rights will be formed to guard the people against the federal government, as they are already guarded against their state governments in most instances.

Jefferson was prepared to drop his objections concerning rotation in office for the immediate future, seeing that very few others seemed to share it. His focus in future arguments with Madison would focus almost exclusively on securing individual rights and liberties.<sup>39</sup>

Ultimately, though, the correspondence between Madison and Jefferson had little effect on the ratification debate. Jefferson certainly pushed Madison toward proposing amendments, but political circumstances in Virginia clearly had a greater effect. Nonetheless, the correspondence is valuable, because debates like this had been occurring within the Federalist ranks for quite some time. Madison and Jefferson did not quite see eye to eye, just as the Federalists were not all of one mind. "Their difference was one of emphasis, but an important one," writes Lerner. "To Jefferson the crucial

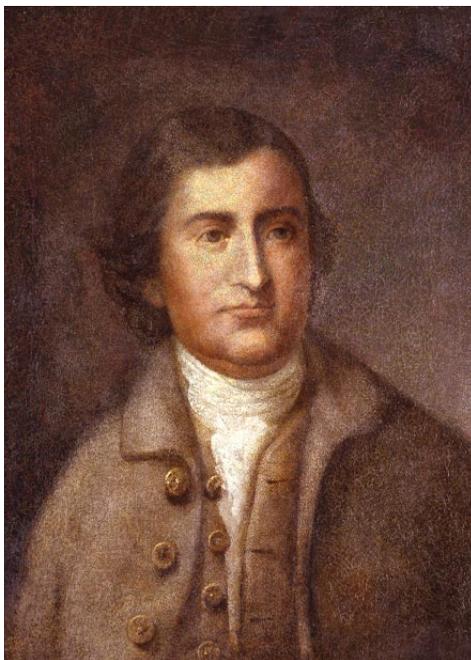
problem was one of safeguarding the liberties of the people from potential tyrannies; to Madison it was one of finding, empirically as well as theoretically, the pattern of power and safeguards that would provide effective government.” Adrienne Koch suggests that the difference in views between Madison and Jefferson was because of their divergent recent experiences. While Madison had been experiencing firsthand the weakness of American national government under the Articles of Confederation, Jefferson had been observing the monarchies of Europe. This led the former to favor centralization as a solution to American problems, while the latter was concerned about centralized power because of the problems it created in France and the rest of Europe. Nonetheless, the two were able to have a civil discussion and work toward a consensus position. As Malone asserts, “If they did not occupy precisely the same ground, they stood close together as discriminating friends of the Constitution—and also of human liberty.”<sup>40</sup>

Madison would go on to lead the fight for amendments in the first Congress, and here we do see Jefferson’s influence. Madison’s position on amendments was similar to Jefferson’s, but, as historian Pauline Maier puts it, “Madison lacked Jefferson’s enthusiasm.” It was clear that Madison had been reluctantly brought around to Jefferson’s position on a bill of rights. “Above all,” writes historian Jürgen Heideking, “Jefferson’s influence can be seen in the speech Madison gave on 8 June 1789, when he introduced his proposal for a bill of rights in the House of Representatives. The arguments he used to dispel Federalists’ reservations about a bill of rights are nearly indistinguishable from Jefferson’s.”<sup>41</sup>

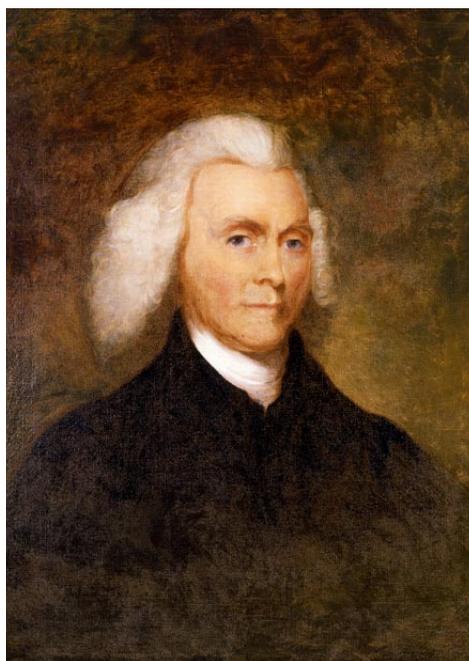
JEFFERSON’S POSITION ON THE CONSTITUTION emerges fairly clearly from his correspondence on the subject. It was not a static position, but it quickly moves from reservations to reluctant approval, then on to a certain degree of enthusiasm if only a bill of rights could be added. His intellectual journey here is important, but not unusual. Though some of his objections, chief among them concerns about the accountability of the president and the absence of adequate protection for rights, were raised by many who opposed the Constitution, we must remember that plenty of Federalists shared concerns like these as well.

The path that Jefferson took to Federalism was similar to that taken by Edmund Randolph, though Jefferson evolved faster. Randolph, a delegate to the Philadelphia Convention, was one of three who declined to sign the final document; the reasons he gave were equivocal, at best, but he insisted that a second convention should be held before ratification to consider amendments proposed by the people. The idea of amending after ratification seemed dangerous and more than a little nonsensical, but Randolph eventually came around to it. It took him from September 1787 to June 1788 to get there fully, and he backslid a bit during the Virginia convention, but it was ultimately fear of disunion that convinced Randolph to become an energetic supporter of ratification. Randolph was very explicit on the importance of union in his shift; in his first major speech of the Virginia ratifying convention, Randolph explained that, for him, “The only question has ever been, between previous, and subsequent amendments, so will I express my apprehensions, that the postponement of this Convention, to so late a day, has extinguished the probability of the former without inevitable ruin to the Union, and the Union is the anchor of our political salvation; and I will assent to the lopping of this limb [meaning his arm] before I assent to the dissolution of the Union.” Jefferson’s correspondence does not include such a drastic statement, nor the evocative imagery of cutting off any of his own limbs, but he does suggest that the Massachusetts model of unconditional ratification and recommended amendments might be the best way to smooth over differences and ensure the continuity of the federal union. This comes after his suggestion that several states might reject the Constitution in order to establish leverage to force changes, which itself comes after an expressed desire to see changes before ratification. Like many of the reluctant Federalists residing in the country during the debates over ratification, Jefferson very likely saw union as important enough to accept a somewhat flawed Constitution rather than risk disunion.<sup>42</sup>

There are also similarities between Jefferson and Edmund Pendleton, who served as the president of the Virginia ratifying convention. Pendleton, like Jefferson, published no public essays on the Constitution, but he stated reservations in private letters. He expressed concerns about the president’s continuation in office, his potentially cozy relationship with the Senate, and several clauses concerning commerce, as well as the potential



Edmund Randolph (1753–1813). (*Virginia Museum of History & Culture, 1858.5*)



Edmund Pendleton (1721–1803). (*Virginia Museum of History & Culture, 1851.2*)

conflict between the clauses requiring an oath of office and prohibiting religious tests. There exist far fewer letters written by Pendleton than by Jefferson, but each one seems to become a little more enthusiastic than the last. Shortly before the Virginia convention, he wrote to Richard Henry Lee to explain why he was in favor of amending after ratifying, offering essentially the same justification Jefferson offered for his switch. “The Amendments I wished,” he writes to Lee, “rather tended to eradicate the *seeds* of Future *mischief*, than to remove dangers immediately eminent in Operation.” Pendleton goes on to explain that he sees a bill of rights as unnecessary, but he does not object to additional protections for individual liberty. In the convention, he went further, making an argument Jefferson himself might well have made:

I discovered objections—I thought I saw there sown some seeds of disunion—not in the immediate operation of the Government, but which *might* happen in some future time.—I wish amendments to remove these. But these remote possible errors may be eradicated by the amendatory clause in the Constitution.—I see no danger in making the experiment, since the system itself points out an easy mode of removing any errors which shall have been experienced.

The reliance on the amendment process, and the expectation that the dangers in the Constitution were in the future rather than the present, were both part of Jefferson’s position by this time as well. Pendleton’s objections were no greater than Jefferson’s, and no less than Randolph’s, but all three ultimately saw greater value in ratifying a flawed document than rejecting it in hopes of something better.<sup>43</sup>

Randolph and Pendleton were certainly not the only Federalists to express reservations. Madison himself found much to object to in the proposed Constitution, yet he favored ratification from the beginning. The Virginia ratifying convention contained many examples of Federalists pointing out what they thought might be made better, as part of a collective appeal to accept the document as a workable compromise rather than expecting a perfect frame of government. And much was made of the amendment procedure, enabling flaws to be corrected as they become apparent. It is difficult to imagine the myriad ways in which Jefferson being present in Richmond for the convention would have changed the proceeding, but given his position on the Constitution, the outcome would have



Thomas Jefferson. (*Virginia Museum of History & Culture, 1858.3*)

remained the same. If anything, Jefferson might have swayed a few more delegates to join the Federalist cause.

FROM THE RATIFICATION OF THE CONSTITUTION through the end of his life, Jefferson always bristled at being labeled a partisan. “I am not a Federalist,” he wrote to Francis Hopkinson in March 1789, “because I never submitted the whole system of my opinions to the creed of any party of men whatever in religion, in philosophy, in politics, or in any thing else where I was capable of thinking for myself. Such an addiction is the last degradation of a free and moral agent. If I could not go to heaven but with a party, I would not go there at all. Therefore I protest to you I am not of the party of federalists. But I am much farther from that of the Antifederalists.” This, of course, is not helpful for understanding Jefferson’s part in the great debate of 1787–88. On the other hand, his very next statement clears up a great deal, even if it is somewhat revisionist: “I approved from the first moment, of the great mass of what is in the new constitution.” Jefferson’s support was tentative

and incomplete, but the same could be said of other Federalists. Madison still wanted Congress to have the power to veto state laws, as they would have been given under the Virginia plan. Edmund Randolph wanted to see a constitutional council to advise the president. Alexander Hamilton would have liked to see a stronger executive branch. Many Federalists privately lamented the lack of a bill of rights. Jefferson's critiques are no more extreme than most others who favored ratification, and his support of the proposed government was no less.<sup>44</sup>



## NOTES

1. Adams had an indirect influence over constitution-building in the United States because of the publication of his *Defence of the Constitutions of Government of the United States*. This widely read book put his ideas in the mix, though this is not the same as actually engaging in the debates over whether to ratify the proposed Constitution.
2. Dumas Malone, *Jefferson and the Rights of Man* (Boston, 1951), 177. Jefferson, like Adams, had some indirect influence over constitution-building through the publication and dissemination of his book, *Notes on the State of Virginia*. Its influence has not been extensively studied, though political scientists Dustin Gish and Daniel Klinghard make a strong case that Jefferson intended to try to influence constitutional thinking with the timing of the publication of the American edition (Dustin A. Gish and Daniel P. Klinghard, "Republican Constitutionalism in Thomas Jefferson's Notes on the State of Virginia," *Journal of Politics* 74 [2012]: 35–51).
3. Jefferson was certainly a federalist in the general sense of the term, but that argument is beyond the scope of this essay. On this point, I agree with historian Peter Onuf in his assessment that "Jefferson was always a federalist and that the federal principle was always preeminent in his thought." Onuf makes his case rather convincingly (Peter S. Onuf, *The Mind of Thomas Jefferson* [Charlottesville, 2007], 87).

4. Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (New York, 1969), 425–26.
5. Julian P. Boyd et al., eds., *The Papers of Thomas Jefferson* (41 vols.; Philadelphia, 1950–2017), 10:603.
6. *Ibid.*, 10:574–75, 11:219–20, 309–10, 363, 400–401, 480, 600; Adrienne Koch, *Jefferson and Madison: The Great Collaboration* (New York, 1950), 35.
7. Boyd et al., eds., *Papers of Jefferson*, 12:28, 34, 36, 69. Jefferson describes the same basic principles of government in several other letters in September, to George Wythe and John Adams. He is consistent in these basic ideas across letters (*ibid.*, 12:128, 189).
8. *Ibid.*, 12:69, 105–6; Joseph J. Ellis, *American Sphinx: The Character of Thomas Jefferson* (New York, 1996), 121.
9. Boyd et al., eds., *Papers of Jefferson*, 12:350–51. George Washington sent Jefferson a copy of the proposed Constitution the day after the convention closed. Benjamin Franklin sent one about a month later, followed closely by copies from Edward Carrington and John Jay. Jefferson's copy from James Madison was sent after all these, on 24 October. He also received copies from John Adams and Louis-Guillaume Otto, the chief French diplomat in the United States, and likely others, in addition to copies he would have seen printed in newspapers sent to him from America. Jefferson himself, in his autobiography, recalls that upon initially receiving the proposed Constitution, he “read and contemplated it's provisions with great satisfaction,” but on this point his memory undoubtedly failed him (Boyd et al., eds., *Papers of Jefferson*, 12:149, 236, 252, 266, 271, 357n; Paul Leicester Ford, ed., *The Autobiography of Thomas Jefferson, 1743–1790* [Philadelphia, 1914], 118).
10. Boyd et al., eds., *Papers of Jefferson*, 12:356, 396; Jeremy D. Bailey, *Thomas Jefferson and Executive Power* (New York, 2007), 70. Bailey's book, as a whole, makes a compelling case for Jefferson as a proponent of a strong executive.
11. Boyd et al., eds., *Papers of Jefferson*, 12:296, 271–82, 332, 335, 345. Crèvecoeur also noted that “If this new Constitution fails I will do every thing in my Power to Leave this country which will become the scene of anarchy and confusion,” which might have been the earliest version of a now-popular threat to move out of the country should an election not go one's way (*ibid.*, 12:332).
12. *Ibid.*, 12:390, 416, 475–79.
13. *Ibid.*, 12:460, 518, 651.
14. *Ibid.*, 12:425–26, 13:159–60, 245.
15. *Ibid.*, 12:446. Carrington did respond to Jefferson's argument, noting that in times of war this change would make it difficult for Congress to raise sufficient funds, which would result in the undesirable choice of excessive borrowing or military action against delinquent states, an explanation that Jefferson found convincing (*ibid.*, 13:102, 208).
16. “It is important to remember that approval of ratification did not equate to approval of the Constitution,” I have written elsewhere. “In fact, if we identify as Federalists everyone who voted for or supported ratification, the Constitution was somewhat unpopular even among the Federalists. There were many who supported ratification but wanted to see substantial amendments proposed by the first Congress or by a second convention” (Michael J. Faber, “The Federal Union

Paradigm of 1788: Three Anti-Federalists Who Changed Their Minds,” *American Political Thought* 4 [2015]: 553).

17. Merrill D. Peterson, *Thomas Jefferson and the New Nation* (New York, 1970), 360; Louis Gottschalk, *Lafayette Between the American and the French Revolution (1783–1789)* (Chicago, 1950), 374; Louis Gottschalk, ed., *The Letters of Lafayette to Washington, 1777–1799* (Philadelphia, 1976), 338 (emphasis added). Lafayette does not say much about Paine, but his involvement was certainly consequential. He and Jefferson seem to have had extensive and philosophical discussions about rights; this discussion spilled over into a remarkable letter by Paine written in an evening after one such session in which he works out his own “Ideas of natural and civil rights and the distinction between them” in writing. Political scientist Michael Zuckert finds evidence of substantial links between Jefferson’s thought and Paine’s during this period. “There was conversation between the two men, and evidence of cross-fertilization of thought as well, for not only common themes, but common phrases and ideas, appear in their writings from this period.” Jefferson, Paine, and Lafayette were often joined by Dr. Richard Gem, who attended the Jefferson family during times of illness, though his contributions to these discussions are fairly obscure. Gem helped shape Jefferson’s later ideas about generational change and the proposal that no law should stay in effect longer than nineteen years (Boyd et al., eds., *Papers of Jefferson*, 13:4, 7n, 15:384–99; Michael Zuckert, “Two Paths from Revolution: Jefferson, Paine, and the Radicalization of Enlightenment Thought,” in Simon P. Newman and Peter S. Onuf, eds., *Paine and Jefferson in the Age of Revolutions* [Charlottesville, 2013]: 266).

18. Boyd et al., eds., *Papers of Jefferson*, 12:558, 569, 571. Madison did not respond to Jefferson’s 6 February letter until 24 July, well after the Virginia convention voted to ratify the Constitution, and he did not respond to Jefferson’s now largely moot idea that four states should reject the Constitution. He mentioned it only to explain how the idea was introduced to the convention by Patrick Henry (*ibid.*, 13:412–13).

19. John Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution* (29 vols.; Madison, Wis., 1976–2018), 9:767.

20. Ellis, *American Sphinx*, 122; Boyd et al., eds., *Papers of Jefferson*, 12:558, 571; Brian Steele, “‘General Washington Did Not Harbor One Principle of Federalism’: Thomas Jefferson Remembers George Washington,” in Robert M. S. McDonald, ed., *George Washington and His Proteges* (Charlottesville, 2013), 74.

21. Boyd et al., eds., *Papers of Jefferson*, 13:205–6, 208.

22. *Ibid.*, 13:277, 315.

23. Bailey, *Jefferson and Executive Power*, 72; Michael J. Faber, *An Anti-Federalist Constitution: The Development of Dissent in the Ratification Debates* (Lawrence, Kans., 2019), 112.

24. Boyd et al., eds., *Papers of Jefferson*, 12:476.

25. Kaminski et al., eds., *Documentary History*, 9:1052, 1097.

26. *Ibid.*, 10:1202.

27. *Ibid.*, 10:1210–11.

28. *Ibid.*, 10:1223; Jeff Broadwater, *Jefferson, Madison, and the Making of the Constitution* (Chapel Hill, 2019), 176. Madison was apparently uncomfortable even with having gone as far as he did.

In a letter to Jefferson in July, in which he described the convention proceedings, he was apologetic almost to the point of obsequiousness when he recounted his part in the discussion of Jefferson's views. He need not have worried; Jefferson no doubt appreciated Madison's efforts to set the record straight, as Jefferson clearly favored adoption of the Constitution by Virginia (Boyd et al., eds., *Papers of Jefferson*, 13:412).

29. Boyd et al., eds., *Papers of Jefferson*, 13:353.

30. Malone, *Jefferson and the Rights of Man*, 170.

31. Boyd et al., eds., *Papers of Jefferson*, 13:378, 436, 438, 466–67. George Wythe sent Jefferson a copy of Virginia's ratification on 10 July, though it had not yet arrived (*ibid.*, 13:329).

32. *Ibid.*, 13:489–90. Jefferson's information was not all good, however. On 12 August he wrote to William Carmichael that there was "no doubt" that North Carolina would ratify the Constitution "because there was no opposition there." In this he could not have been more mistaken. Despite eleven prior ratifications, North Carolina declined to ratify in its first convention, though it also did not vote to reject the Constitution. Jefferson had previously expressed similar optimism in a letter to Thomas Lee Shippen in July; by late September, still having no news, Jefferson wrote to Shippen that "in such a case no news is good news, as an unfavorable decision of the 12th. state would have flown like an electric shock through America and Europe" (*ibid.*, 13:359, 502, 642).

33. Broadwater, *Jefferson, Madison, and the Making of the Constitution*, 178.

34. Jefferson's correspondence with Madison is well known and has been extensively studied. Historian Pauline Maier offers an excellent short discussion of these letters. Jeff Broadwater discusses them at somewhat more length, contending that Madison was more than a little apprehensive because he expected opposition from Jefferson. He also portrays Jefferson as initially more hostile to the Constitution than his letters warrant (Pauline Maier, *Ratification: The People Debate the Constitution 1787–1788* [New York, 2010], 443–46; Broadwater, *Jefferson, Madison, and the Making of the Constitution*, 154–66).

35. Willard Sterne Randall, *Thomas Jefferson: A Life* (New York, 1993), 480; Malone, *Jefferson and the Rights of Man*, 162.

36. Boyd et al., eds., *Papers of Jefferson*, 12:102–3, 270–84, 440, 441–42.

37. *Ibid.*, 12:408–12, 608–9, 13:98.

38. Malone, *Jefferson and the Rights of Man*, 164; Boyd et al., eds., *Papers of Jefferson*, 13:412–13, 497–98, 539–41, 624–26. Jefferson's letters to Madison during this time addressed topics other than the Constitution; he seemed to have been waiting for Madison to address his earlier arguments.

39. Boyd et al., eds., *Papers of Jefferson*, 13:442–43. Bailey argues that Jefferson never fully gave up on the idea that presidents should be limited in how long they could hold the office. Even though he said he had been persuaded to drop his objections, "He found nothing persuasive enough to concede his point against the reeligibility of the president." Washington's example, stepping down after two terms, was potentially helpful, but Jefferson felt that it was important to emphasize this precedent. In his own retirement announcement, his decision is explained "in terms of the presidential office, not his longing for private life." In his autobiography, Jefferson raised the point again, claiming (unconvincingly) that he believed the two-term precedent established by

Washington was a suitable alternative (Bailey, *Jefferson and Executive Power*, 120, 124; Ford, ed., *Autobiography of Thomas Jefferson*, 119–20).

40. Max Lerner, *Thomas Jefferson: America's Philosopher-King* (New Brunswick, N.J., 1996), 31; Koch, *Jefferson and Madison*, 44–45; Malone, *Jefferson and the Rights of Man*, 167.

41. Maier, *Ratification*, 446; Jürgen Heideking, *The Constitution before the Judgment Seat: The Prehistory and Ratification of the American Constitution, 1787–1791* (Charlottesville, 2012), 406.

42. Faber, *Federal Union Paradigm*, 541–46; Kaminski et al., eds., *Documentary History*, 9:933. Historian Brian Steele makes a compelling case for the importance of union in Jefferson's thought, albeit focusing more on Jefferson's presidency. Jefferson saw great value in stability. "Indeed," Bailey, writes, "Jefferson's entire public career—from the Declaration to the Bill of Rights, from forming an opposition party to running for president—might be read as a coherent project to close the constitutional pathways for stability" (Brian Steele, "Thomas Jefferson, Coercion, and the Limits of Harmonious Union," *Journal of Southern History* 74 [2008]: 823–54; Bailey, *Jefferson and Executive Power*, 273).

43. Kaminski et al., eds., *Documentary History*, 10:1201, 1623, 1770–75.

44. Boyd et al., eds., *Papers of Jefferson*, 14:650.

