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Liberality

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Articles

Liberality

Philip Hamburger*

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All quotations conform to the originals, except that any periods at the end of abbreviated or contracted words are omitted where the missing letters are printed here within brackets. References to "Evans" are to the Evans numbers in CLIFFORD K. SHIPTON & JAMES E. MOONEY, NATIONAL INDEX OF AMERICAN IMPRINTS THROUGH 1800: THE SHORT-TITLE EVANS (1969).

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I. Introduction

Did late eighteenth-century Americans ever consider themselves liberal? To many historians, this will seem a strange question. The concept of liberalism is widely held to be a nineteenth-century innovation, and therefore to inquire whether Americans in the previous century thought of themselves as liberal seems anachronistic.

Yet precisely because so many scholars take for granted the late evolution of liberal ideas, it may be all the more valuable to reexamine this assumption. Is there really no evidence that eighteenth-century Americans considered themselves liberal? Although they may not have embraced later concepts of liberalism, is it not at least possible that they had their own, earlier version of liberal thought?

Abundant evidence reveals that numerous late eighteenth-century Americans often conceived of themselves, their society and their institutions as liberal. Many congratulated themselves on what they called their "liberal sentiments" and believed that such sentiments underlay what they considered their "enlightened and liberal policy."¹ Some Americans claimed their new nation was unusually liberal, declaring that American constitutions were "still more liberal" than England's and that "the citizens of America" were "distinguished for their . . . liberality of sentiment."²

1. Letter from George Washington to Sir Edward Newenham (Oct. 20, 1792), in 32 THE WRITINGS OF GEORGE WASHINGTON FROM THE ORIGINAL MANUSCRIPT SOURCES 1745-1799, at 190 (John C. Fitzpatrick ed., 1939) [hereinafter WRITINGS OF GEORGE WASHINGTON].

2. *Portsmouth July Fourth Toast*, in N.Y. INDEP. J., July 24, 1784, No. 68 Joseph Lathrop, A Sermon, Preached in the First Parish in West-Springfield, mdccclxxxvi (1787), in *American Political Sermons 1730-1805*, at 871 (Ellis Sandoz ed., 1991); see also, e.g., Memorial of Rabbi Seixas in *infra* note 58 (concerning Pennsylvania); Letter of George Washington to the Hebrew Congregations in *infra*

More generally, on both sides of the Atlantic, liberality was recognized to transcend nations and to be characteristic of the era. Americans spoke of “the liberal sentiments of the present age” and, as one American observed in 1776, “the liberal way of thinking . . . is daily more and more predominant in the present age.”³ Today, in a very different period, the liberal thought of the eighteenth century can reveal much about the world in which it flourished.

A. *The Historians*

The liberality that once, in the eighteenth century, was so familiar to many Englishmen and Americans has not fared well at the hands of historians. This liberality has the potential to escape the highly exaggerated conceptual deadlock created by what historians call “liberalism” and “republicanism.” Thus far, however, rather than elude this overstated dichotomy, eighteenth-century liberality has only been obscured by it.

Eighteenth-century liberality can avoid the dichotomy between “republicanism” and “liberalism” because it differed from each of these concepts. Republicanism has been described as an attachment to government—an intense identification with the state that has seemed to thrive mostly in small, homogenous societies. In contrast, liberalism has been treated by historians as the individualistic pursuit of self-interest—as the sort of selfishness common in large, diverse and individuated populations. Thus, the concepts of republicanism and liberalism seem to define two opposite types of society, and they thereby offer modern scholars a bold dichotomy within which to understand the late eighteenth century. Yet these ideas, whether considered alone or coupled together, tend to reduce eighteenth-century political thought to a pair of extremes or some muddled compromise between them—a vision not made more appealing by the realization that, all too often, it is framed by an unabashedly modern liberalism and an exaggeration of eighteenth-century republicanism. Historians increasingly recognize that eighteenth-century American thought was not so simple and, accordingly, point to varied eighteenth-century ideals, including Christianity and natural law.⁴ In so doing, however, the

note 65 (concerning America). Of course, some Englishmen made such claims about England, as when, for example, Granville Sharp’s anti-slavery society appealed to “that liberality which has hitherto so honourably distinguished this nation.” A LIST OF THE SOCIETY, INSTITUTED IN 1787, FOR THE PURPOSE OF EFFECTING THE ABOLITION OF THE SLAVE TRADE (preface) (London: 1788).

3. Letter of Robert Pleasants to Captain Robert Mitchel (12, 5, 1787), in *Letter Book of Robert Pleasants*, in 4 TYPED TRANSCRIPT OF PAPERS OF ROBERT PLEASANTS 190, in Valentine Museum, Richmond, Va., Shelf-Mark 289.6, F912, v.4; “Christianus,” *To the Printers of the Pennsylvania Gazette*, PA. GAZETTE, May 15, 1776, No. 2473.

4. For varied attempts to restore an understanding of the role of Christianity, see generally ALAN HEIMERT, *RELIGION AND THE AMERICAN MIND: FROM THE GREAT AWAKENING TO THE REVOLUTION* (1966); JAMES T. KLOPPENBERG, *THE VIRTUES OF LIBERALISM* (1998); ELLIS SANDOZ, *A GOVERNMENT OF LAWS: POLITICAL THEORY, RELIGION, AND THE AMERICAN FOUNDING* (1990); BARRY ALAN SHAIN, *THE MYTH OF AMERICAN INDIVIDUALISM: THE PROTESTANT ORIGINS OF AMERICAN THOUGHT* (1994); Stephen A. Marini, *Religion, Politics, and Ratification*, in *RELIGION IN*

historians have not displaced the dichotomy of republicanism and modern liberalism, which still dominates the study of eighteenth-century political culture. Hence, the capacity of a different sort of liberal thought—the liberality actually discussed by eighteenth-century Americans—to be so revealing. Corresponding to neither of the concepts that prevail in scholarly discussion, liberality opens up opportunities to observe much that the dominance of these conventional categories leaves obscure.

Yet liberality has little chance of suggesting anything beyond these usual categories while it remains so thoroughly eclipsed by them. These standard concepts—republicanism and modern liberalism—have left scholars largely unfamiliar with eighteenth-century liberal thought.

The scholars of “republicanism” self-consciously seek to deflate the significance of liberal ideas for the eighteenth century. There once was a time when historians too easily and casually assumed the liberal character of late eighteenth-century America, its ideals and its constitutions.⁵ In response, during the last four decades, Bernard Bailyn, Gordon S. Wood, J.G.A. Pocock and their followers have challenged the liberal character of Revolutionary America by pointing out that many eighteenth-century

A REVOLUTIONARY AGE 184 (Ronald Hoffman & Peter J. Albert eds., 1994). Perry Miller, *From the Covenant to the Revival*, in 1 RELIGION IN AMERICAN LIFE: THE SHAPING OF AMERICAN RELIGION 322 (James Ward Smith & A. Leland Janison eds., 1961); James T. Kloppenberg, *The Virtues of Liberalism: Christianity, Republicanism, and Ethics in Early American Political Discourse*, 74 J. AM. HIST. 9 (1987).

For the role of natural law in England and America, see ALAN C. HOUSTON, ALGERNON SIDNEY AND THE REPUBLICAN HERITAGE IN ENGLAND AND AMERICA 3-8 & *passim* (1991); Richard Ashcraft & M.M. Goldsmith, *Locke Revolution Principles, and the Formation of Whig Ideology*, 26 HIST. J. 773 (1983); Isaac Kramnick, *Republican Revisionism Revisited*, 87 AM. HIST. REV. 629 (1982); Philip A. Hamburger, *Equality and Diversity: The Eighteenth Century Debate about Equal Protection and Equal Civil Rights*, 1992 SUP. CT. REV. 295; Philip A. Hamburger, *Natural Rights, Natural Law, and American Constitutions*, 102 YALE L.J. 907 (1993); Philip A. Hamburger, *Revolution and Judicial Review: Chief Justice Holt's Opinion in City of London v. Wood*, 94 COLUM. L. REV. 2091, 2148-49 (1994); Helen K. Michael, *The Role of Natural Law in Early American Constitutionalism: Did the Founders Contemplate Judicial Enforcement of "Unwritten" Individual Rights?*, 69 N.C. L. REV. 421 (1991); Rozann Rothman, *The Impact of Covenant and Contract Theories in Conceptions of the U.S. Constitution*, PUBLIUS 149 (Fall 1980); Lois G. Schworer, *Locke, Lockean Ideas, and the Glorious Revolution*, 52 J. HIST. IDEAS 531 (1990).

5. The best known exposition of this theme is LOUIS HARTZ, *THE LIBERAL TRADITION IN AMERICA: AN INTERPRETATION OF AMERICAN POLITICAL THOUGHT SINCE THE REVOLUTION* (1955); see also Louis Hartz, *American Political Thought and the American Revolution*, 46 AM. POL. SCI. REV. 321 (1952). Already preceding Hartz, however, the liberal characteristics of late eighteenth-century America were widely acknowledged. See, e.g., 1 VERNON L. PARRINGTON, *MAIN CURRENTS IN AMERICAN THOUGHT* 118-29, 185, 267-98 (1927) (describing the liberalism of both colonial and post-Revolutionary America); RICHARD FRANCIS UPTON, *REVOLUTIONARY NEW HAMPSHIRE* 207-18 (Octagon Books 1971) (1936); see also ALLEN OSCAR HANSEN, *LIBERALISM AND AMERICAN EDUCATION IN THE EIGHTEENTH CENTURY* *passim* (1977). As Steven Watts observes: “The liberal tradition in America used to be taken for granted.” STEVEN WATTS, *THE REPUBLIC REBORN, WAR AND THE MAKING OF LIBERAL AMERICA, 1790-1820*, at xv (1987).

Englishmen and Americans often argued on “republican” assumptions.⁶ As shown by these historians, it was frequently assumed that freedom could be preserved only if a people were willing to sacrifice their individual interests for the sake of their republic as a whole and that this “civic virtue” or devotion to the commonwealth was unlikely beyond the relatively cohesive circumstances of small, homogenous societies. Initially, the historians emphasized a particularly severe, classical version of “virtue” and so gave the impression that liberal ideas could not have flourished alongside it, and they reinforced this conclusion by depicting virtue as part of a dominant “ideology.”⁷ Accordingly, republicanism and the associated concept of virtue often seem to preclude the possibility of a substantial role for liberal thought.⁸

6. See BERNARD BAILYN, *THE IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION* (1967); J.G.A. POCOCK, *THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION* (1975); GORDON S. WOOD, *THE CREATION OF THE AMERICAN REPUBLIC 1776-1787* (1969) [hereinafter WOOD, CREATION]; Gordon S. Wood, *Ideology and the Origins of Liberal America*, 44 WM. & MARY Q. 629, 634 (1987) [hereinafter Wood, *Ideology*]. See also LANCE BANNING, *THE JEFFERSONIAN PERSUASION: EVOLUTION OF A PARTY IDEOLOGY* (1978); DREW R. MCCOY, *THE ELUSIVE REPUBLIC: POLITICAL ECONOMY IN JEFFERSONIAN AMERICA* (1980); Lance G. Banning, *Jeffersonian Ideology Revisited: Liberal and Classical Ideas in the New American Republic*, 43 WM. & MARY Q. 4, 12-14 (1986).

Of course, many others have contributed to this historiographical tradition. Among the earliest and least overstated works was CAROLINE ROBBINS, *THE EIGHTEENTH-CENTURY COMMONWEALTHMAN: STUDIES IN THE TRANSMISSION, DEVELOPMENT AND CIRCUMSTANCE OF ENGLISH LIBERAL THOUGHT FROM THE RESTORATION OF CHARLES II UNTIL THE WAR WITH THE THIRTEEN COLONIES* (1959). Obviously, in 1959, it was still possible to take for granted that this republicanism was not opposed to liberal thought—indeed, that they were compatible and even intimately connected.

One of the ironies of some of the most prominent scholarship on “republicanism” is the emphasis upon the classical, especially the Roman character of republican thought and the liberty it posited. See, e.g., BAILYN, *supra*, at 273, 285; POCOCK, *supra*, at 523; QUENTIN R.D. SKINNER, *LIBERTY BEFORE LIBERALISM* 55 (1998). As will be seen, concepts of liberality were also derived from Roman ideals. For critiques of the Roman interpretation of American republicanism, see MICHAEL P. ZUCKERT, *NATURAL RIGHTS AND THE NEW REPUBLICANISM* 310 (1994); THOMAS PANGLE, *THE SPIRIT OF MODERN REPUBLICANISM: THE MORAL VISION OF THE AMERICAN FOUNDERS AND THE PHILOSOPHY OF JOHN LOCKE* (1988).

7. Incidentally, Jack Rakove explains that, “by deploying the social scientists’ concept of ideology to mediate the longstanding conflict between historians who regarded formal ideas as sufficient explanations of behavior and those who saw them as ‘only epiphenomal, superstructural,’ Bailyn set an exemplary precedent that numerous historians have followed since.” Jack N. Rakove, “*How Else Could It End?*”: *Bernard Bailyn and the Problem of Authority in Early America*, in *THE TRANSFORMATION OF EARLY AMERICAN HISTORY: SOCIETY, AUTHORITY, AND IDEOLOGY* 52-53 (James A. Henretta et al. eds., 1991).

8. They also have distracted many historians from the political role of Christianity, natural law and, more loosely, morality, leading to varied attempts to restore a balance. See *supra* note 4. Incidentally, when eighteenth-century Americans discussed republican ideas, they did not speak of “civic humanist” or “civic republican” principles or of “civic virtue”—modern phrases that can be quite misleading in suggesting that Americans consistently had a narrow, merely civic conception of virtue. Much and, indeed, most republican thought did not so sharply segregate the political implications of Christianity, natural law, and, more generally, morals.

In discounting the importance of liberal thought, the historians of eighteenth-century republicanism take for granted that "liberalism" was a later, nineteenth-century concept that it is anachronistic to attribute to an earlier period. In this, they have good company. For example, in his account of late eighteenth-century moral and political theory, the historian of ideas, Knud Haakonssen, cautions: "[L]iberalism is a nineteenth-century construct that is best kept out of these discussions."⁹ Less directly, but not less clearly, Bernard Bailyn speaks of "something modern scholars would call liberalism."¹⁰ Gordon Wood protests: "[T]he Founding Fathers . . . at least talked about 'republicanism' and invoked 'republican principles' in their polemics. But none of them ever referred to 'liberalism' as we now use the term."¹¹ As this locution suggests, Wood is cognizant of eighteenth-century allusions to liberality, but he does not ascribe to them a very expansive significance.¹²

Accordingly, although it has remained respectable to speak loosely of liberal Christianity in eighteenth-century America and even, *sotto voce*, of liberal economic ideas, it has become suspect to talk much about what was liberal in a broader sense, let alone to frame a wider analysis of the period in such terms. In the best-known account of American Revolutionary ideas, Bernard Bailyn briefly notes the significance of English "liberal thought" for republican writers but emphasizes that they transformed it.¹³ Returning to his influential volume twenty-five years later, he describes late eighteenth-century Americans as "both 'civic humanists' and 'liberals,'" but he otherwise mentions "liberalism" only on two occasions and each time scathingly distances himself from any suggestion that eighteenth-century Americans would have described themselves in such terms.¹⁴ Bailyn reenforces his rejection of liberal analysis by insisting that the United States Constitution was the "fulfillment" of the republican ideals he

9. KNUD HAAKONSSON, *NATURAL LAW AND MORAL PHILOSOPHY FROM GROTIUS TO THE SCOTTISH ENLIGHTENMENT* 327 (1996); *see also* M.N.S. SELLERS, *THE SACRED FIRE OF LIBERTY: REPUBLICANISM, LIBERALISM AND THE LAW* 101 (1998); Donald Winch, *Adam Smith and the Liberal Tradition*, in *TRADITIONS OF LIBERALISM* 87-88, 93 (Knud Haakonssen ed., 1988).

10. BERNARD BAILYN, *THE IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION*, ENLARGED EDITION 367, 352 (1992).

11. Wood, *Ideology*, *supra* note 6, at 634.

12. Wood also writes: "No American in 1787-88 set about to create something modern scholars call 'liberalism,' but nonetheless a liberal democratic world soon emerged as a consequence at least in part of what Americans in 1787-88 did and thought." Gordon S. Wood, *The Creative Imagination of Bernard Bailyn*, in *THE TRANSFORMATION OF EARLY AMERICAN HISTORY—SOCIETY, AUTHORITY, AND IDEOLOGY* 41 (James A. Henretta et al. eds., 1991). Michael Zuckerman more broadly states: "Concepts such as republicanism and liberalism are willful simplifications, constructed by historians to afford us an orientation amid dense thickets of incomplete and ambiguous evidence." Michael Zuckerman, *A Different Thermidor: The Revolution Beyond the American Revolution*, in *THE TRANSFORMATION OF EARLY AMERICAN HISTORY—SOCIETY, AUTHORITY, AND IDEOLOGY* 206 (James A. Henretta et al. eds., 1991).

13. *See* BAILYN, *supra* note 6, at 45.

14. *See* BAILYN, *supra* note 10, at vi, 352, 367.

elevates in his account of the Revolution.¹⁵ In the other standard history, Gordon S. Wood similarly focuses on republican thought. Toward the end of his account, he discusses developments that could be called “liberal,” but he does not apply this label to them.¹⁶ Indeed, Wood apparently assumes it would be a mistake to describe these developments in liberal terms, for, when briefly acknowledging the contribution of Federalists to a “liberal” intellectual tradition, he observes that the “encompassing liberal tradition . . . has mitigated and often obscured the real social antagonisms of American politics.”¹⁷

At the same time that Bailyn, Wood and other scholars of civic republicanism reject any broad understanding of the period in terms of liberal thought, they envision liberalism as the material reality of selfishness. Rather than an idea or ideal, liberalism was the selfishness that eroded or at least qualified the civic ideals and ideology of the Revolution. Bailyn follows this analysis so far as to deny the role of belief and sensibility in the formation of the American union:

In the 1780s and 1790s, the essential themes of American history . . . cannot be understood in essentially ideological terms. The creation of the American republic in the period between 1776 and the end of Washington’s administration is not a story primarily of developments in the inner lives of people’s minds, beliefs, and sensibilities, nor is it simply the working out of the ideas and aims that had earlier accounted for the break with England. It is the product of a complicated interplay between the meaning of Revolutionary ideas and ideals and the involvements of everyday life—in politics, in business, and in the whole range of social activities.¹⁸

Revolutionary ideology and ideals now were intertwined with “everyday life,” and it was this pursuit of interest to which Bailyn alludes when he makes his rare acknowledgment that Americans were becoming more

15. *Id.* at 321.

16. See WOOD, *CREATION*, *supra* note 6, at 466-67, 562. His other allusions in the book to what was “liberal” concern the development of a “rational” theology in opposition to Calvinism. *Id.* at 8, 9 n.16, 118, 428. For his further account of some developments that could be called “liberal,” although, again, not in terms of what was “liberal,” see GORDON S. WOOD, *THE RADICALISM OF THE AMERICAN REVOLUTION* (1992) [hereinafter WOOD, *RADICALISM*]. Of course, his reticence has not stood in the way of others. See, e.g., POCOCK, *supra* note 6, at 523.

17. WOOD, *CREATION*, *supra* note 6, at 562. Suggesting that there was “something decidedly disingenuous” about the radical quality of Federalist arguments, Wood asserts that the liberal tradition was largely an “intellectual tradition” that was not “intimately and genuinely related to differing social interests” and that thereby initiated “a hiatus in American politics between ideology and motives that was never again closed.” *Id.*

18. Bernard Bailyn, *The Central Themes of the American Revolution: An Interpretation*, in *ESSAYS ON THE AMERICAN REVOLUTION* 3, 18-19 (Stephen G. Kurtz & James H. Hutson eds., 1973); see also BAILYN, *supra* note 10, at 351-52, 367, 371-72.

"liberal."¹⁹ Wood has a less republican vision of the founding, arguing that, by 1787, the ideology of the Revolution had been much diminished. Yet Wood adheres to Bailyn's underlying assumptions and, as Ruth Bloch points out, treats liberalism as the intrusion of interest upon ideology.²⁰ Wood concedes: "I did not, in Ruth Bloch's words, 'accord liberalism itself the status of an intellectual tradition' but instead treated it 'as the voice of concrete reality (human competitiveness, self-interestedness, the absence of American social estates).'"²¹ In Wood's own words: "The new liberal reality" was "selfishness."²² From this perspective, what was liberal in the eighteenth century hardly appears to be thought at all.

In contrast to this prevalent understanding of liberalism as the self-interest that undermined civic ideals is an older but still persistent conception of liberalism as theory, but even this liberalism, on account of its theoretical emphasis, distracts attention from the non-theoretical liberality of the eighteenth century. Not surprisingly, this conception of liberalism as theory remains popular among political theorists, who rely upon its assumptions about individual liberty to link eighteenth-century Americans to varied philosophers, such as John Locke. In this respect, numerous scholars still follow the approach of Louis Hartz, who discussed the liberalism of the founders with an astonishing casualness and breadth,

19. He writes: "They were both 'civic humanists' and 'liberals,' though with different emphasis at different times and in different circumstances." BAILYN, *supra* note 10, at vi.

20. See Ruth H. Bloch, *The Constitution and Culture*, 44 WM. & MARY Q. 550, 555 (1987).

21. Wood, *Ideology*, *supra* note 6, at 634.

22. *Id.* at 635. Therefore, the question of how a republican America became liberal leads him to ask: "How Americans moved into this liberal world of business, money-making, and the open promotion of interests . . ." *Id.* Similarly, Robert E. Shalhope writes of "the conflict between traditional republican values and newly emerging liberal behavioral patterns" and of the "tension between republican ideology and liberal behavior." ROBERT E. SHALHOPE, *THE ROOTS OF DEMOCRACY: AMERICAN THOUGHT AND CULTURE, 1760-1800*, at 51 (1990); see also *id.* at 110-11. When, later, he seems to acknowledge liberal thought, he writes of the "Republican fusion of liberalism (individual needs) and republicanism (communal values) into a well-integrated cultural system . . ." *Id.* at 158. Steven Watts adopts the model of "[a] struggle between 'virtue and commerce.'" Steven Watts, *Ministers, Misanthropes, and Mandarins: The Federalists and the Culture of Capitalism, 1790-1820*, in *FEDERALISTS RECONSIDERED* 157, 161 (Doron Ben-Atar & Barbara B. Oberg eds., 1999); see also WATTS, *supra* note ?, at xvi, xvii; JEAN V. MATTHEWS, *TOWARD A NEW SOCIETY: AMERICAN THOUGHT AND CULTURE, 1800-1830* (1991); Michael Zuckerman, *A Different Thermidor: The Revolution Beyond the American Revolution*, in *THE TRANSFORMATION OF EARLY AMERICAN HISTORY—SOCIETY, AUTHORITY, AND IDEOLOGY* 170, at 182 (James A. Henretta et al. eds., 1991).

This vision of a liberal America without a liberal ideology has been sufficiently pervasive to lead at least one distinguished historian to see problems that do not exist. According to John Murrin, Wood's scholarship creates "a striking paradox that we have yet to face"—namely that: "The United States became more liberal than any other society in the world, but it did so, on the whole, without a sustaining liberal ideology." John M. Murrin, *Gordon S. Wood and the Search for Liberal America*, 44 WM. & MARY Q. 597, 600 (1987). For Murrin, this is not a criticism, for he agrees that liberal ideas developed in America in the "post-Constitution period." *Id.* Had Murrin been familiar with the ways in which Americans already considered themselves liberal, he surely would not have worried about this "paradox."

as if it were the lively ghost of John Locke walking among Americans.²³ Many of the Revolutionary generation venerated Locke, and some of them considered his ideas on government to be "liberal."²⁴ Nonetheless, the scholarly discussions of Locke and his American admirers in terms of a later, theoretical liberalism tends to conceal what was distinctive about the liberality of the eighteenth century.²⁵ Whether understood as selfishness or as theory, modern liberalism has left the eighteenth-century liberality largely unrecognized.

Amid strong scholarly assumptions about republicanism and about liberalism, a growing number of scholars, including the historians of republicanism, have compromised and have rejected any sharp dichotomy, but, even so, republicanism and a modern liberalism remain the dominant features of the prevailing synthesis.²⁶ For example, historians increasingly recognize that much republicanism was not as severe or ideological as they once imagined, that it was not entirely distinguishable from other intellectual traditions, and that it was not always incompatible with what is called "liberalism." As already noted, moreover, some scholars have reintegrated Christianity and natural law into the history of eighteenth-century political ideas.²⁷ Yet republicanism and a modern liberalism still

23. See LOUIS HARTZ, *THE LIBERAL TRADITION IN AMERICA: AN INTERPRETATION OF AMERICAN POLITICAL THOUGHT SINCE THE REVOLUTION* (1955); Louis Hartz, *supra* note 5, at 321. Hartz was preceded by VERNON L. PARRINGTON, *MAIN CURRENTS IN AMERICAN THOUGHT* 118-28, 184-85, 267-98 (1927). For my own views on the reception of Locke's political thought, see Philip A. Hamburger, *Revolution and Judicial Review: Chief Justice Holt's Opinion in City of London v. Wood*, 94 COLUM. L. REV. 2091, 2093-95, 2148-49 & *passim* (1994).

For some of the scholars who, often much more carefully than Hartz, suggest that Locke and Americans shared a liberal theory, see JOYCE APPLEBY, *CAPITALISM AND A NEW SOCIAL ORDER: THE REPUBLICAN VISION OF THE 1790S*, at 22 (1984); GOTTFRIED DIETZE, *LIBERALISM PROPER AND PROPER LIBERALISM* (1985); JOHN PATRICK DIGGINS, *THE LOST SOUL OF AMERICAN POLITICS: VIRTUE, SELF-INTEREST, AND THE FOUNDATIONS OF LIBERALISM* 5 (1984); DAVID F. ERICSON, *THE SHAPING OF AMERICAN LIBERALISM: THE DEBATES OVER RATIFICATION, NULLIFICATION AND SLAVERY* 19-20 (1993); JAMES T. KLOPPENBERG, *THE VIRTUES OF LIBERALISM* (1998); M.N.S. SELLERS, *THE SACRED FIRE OF LIBERTY: REPUBLICANISM, LIBERALISM AND THE LAW* 101-02 (1998); JUDITH SHKLAR, *THE BILL OF RIGHTS AND THE LIBERAL TRADITION* (1992); RICHARD C. SINOPOLI, *THE FOUNDATIONS OF AMERICAN CITIZENSHIP: LIBERALISM, THE CONSTITUTION, AND CIVIC VIRTUE* 12-15 (1992); ROGERS M. SMITH, *CIVIC IDEALS: CONFLICTING VISIONS OF CITIZENSHIP IN U.S. HISTORY* (1997); O.H. TAYLOR, *ECONOMICS AND LIBERALISM* 3 (1955); MICHAEL P. ZUCKERT, *THE NATURAL RIGHTS REPUBLIC: STUDIES IN THE FOUNDATION OF THE AMERICAN POLITICAL TRADITION* 6-7 (1996); MICHAEL P. ZUCKERT, *NATURAL RIGHTS AND THE NEW REPUBLICANISM* 25 (1994); James T. Kloppenberg, *The Virtues of Liberalism: Christianity, Republicanism, and Ethics in Early American Political Discourse*, 74 J. AM. HIST. 1, 15-16 (1987); Isaac Kramnick, *supra* note 4, at 629-30. Some scholars include Hobbes as a liberal on account of his individualistic assumptions. See, e.g., FRANK M. COLEMAN, *HOBBS AND AMERICA: EXPLORING THE CONSTITUTIONAL FOUNDATIONS* 75 (1977).

24. See, e.g., *infra* note 47 and accompanying text.

25. The objection here is not to the application of later ideas, for this sometimes can be useful, if pursued with caution. What is regrettable is that modern conceptions of liberalism have obscured the history of earlier versions of such thought.

26. See *supra* notes 6, 22.

27. See *supra* note 4.

dominate the current synthesis, leaving eighteenth-century political thought to be framed along a continuum defined by these concepts. As a result, the liberality of the eighteenth century remains hidden from view.

The extent to which eighteenth-century liberal thought has been obscured by the prevailing dichotomy is clear from the rare acknowledgments by historians that eighteenth-century Americans used the word "liberal" to refer to some of their ideals. Several scholars, including Gordon Wood, recognize that, in the eighteenth century, gentlemen were expected to be "liberal." These scholars, however, do not take this sort of observation much further.²⁸ The exception is Wood, who explains that "[t]o be free of local prejudices and parochial ties defined a liberally educated gentleman" and that "[o]ne's liberalism . . . was determined by the distance one was able to extend one's love outward."²⁹ This hints at liberality's scope and significance. After coming so close, however, to the breadth and importance of eighteenth-century liberality, Wood confines liberal thought to a matter of gentlemanly "education and refinement."³⁰ He treats it as the high-toned product of a "liberal arts education" and does not pursue other possibilities.³¹ Thus, even when eighteenth-century allusions to liberality are acknowledged, they are denied much of their broader character and significance. In the shadow of republicanism and modern liberalism, the liberality of the eighteenth century remains largely unknown.

B. *Liberality on Its Own Terms*

To understand eighteenth-century liberality, it is necessary to put aside scholarly assumptions about republicanism and liberalism. It is necessary to examine liberality, at least initially, on its own terms.

Eighteenth-century Americans viewed liberality as founded in sentiment rather than theory, and they understood it as a sentiment of generosity rather than of selfishness. According to long tradition, passions were turbulent threats to morality and therefore needed to be repressed.³² Increasingly, however, lighter, more benign dispositions—vaguely described as sentiments or feelings—were perceived and carefully cultivated as enlightened foundations of morality and even politics, and prominent

28. See *infra* text accompanying note 36.

29. WOOD, *supra* note 16, 220.

30. *Id.* at 221.

31. *Id.* at 195, 202. He even conflates it with genteel "deportment," "politeness" and "manners." *Id.* at 223, 202, 203. He thereby concludes that "Jefferson was probably the revolutionary leader most taken with the new enlightened and liberal prescriptions for gentility." *Id.* at 202. But see *infra* text accompanying note 190.

32. On the repression of passions (and the substitution of an analysis based on interests), see ALBERT O. HIRSHMAN, *THE PASSIONS AND THE INTERESTS: POLITICAL ARGUMENTS FOR CAPITALISM BEFORE ITS TRIUMPH* (1977). Of course, it was not always assumed that this repression should be complete. For example, Thomas Wright hinted as to how passions could be "*well directed and made profitable*" even as he more generally recommended that passions should be restrained and moderated. TH. W. [THOMAS WRIGHT], *THE PASSIONS OF THE MIND* 27 (London 1601).

among these were liberal sentiments of freedom and generosity.³³ The freedom was that of a man who was candid, casual, unconstrained and open, and the generosity was that of one who was benevolent and gracious. Such liberality was considered a matter of sentiment rather than system, of feeling rather than reason, and it flourished in the eighteenth-century with the widespread elevation of sentiment or feeling as a foundation for moral order.

These liberal sentiments were assumed to underlie liberal behavior and policy. Contrary to what may be supposed from some modern academic ideas about the primacy of societal context and the subordinate character of thought, eighteenth-century Americans appear to have responded to their circumstances as perceived and understood by them. They responded to their circumstances as refracted through their ideas, opinions, sentiments, attitudes, perceptions and impressions, and they thereby altered their world. Touching upon aspects of this role of liberal sentiments, some Americans said that their sentiments were liberal and that liberal sentiments were a foundation of liberal conduct. Two hundred years later, such discussions of liberal sentiments remain suggestive of a psychology or pattern of feelings that often suffused the full range of an individual's ideas, identification and behavior.

In particular, liberality often thrived in America as a response to fragmentation and as a means of overcoming it. Growing numbers of Americans self-consciously adopted liberal sentiments and conduct at the time of the Revolution, but they did so not so much on account of their desire for independence from Britain as on account of their increasing sense of the need to cooperate and unite across local and other boundaries—on account of their desire to participate in, and identify with, their more expansive society. In response to the narrow interests and prejudices of the states, many Americans considered themselves liberal in their formation and adoption of the Constitution. In response to religious

33. See FRANCIS HUTCHESON, AN ESSAY ON THE NATURE AND CONDUCT OF THE PASSIONS AND AFFECTIONS (3rd ed., 1743); [FRANCIS HUTCHESON], AN INQUIRY INTO THE ORIGINAL OF OUR IDEAS OF BEAUTY AND VIRTUE (5th ed., 1753); DAVID HUME, A TREATISE OF HUMAN NATURE 470 (L. A. Selby-Bige ed., 2d ed. 1978); ADAM SMITH, THE THEORY OF MORAL SENTIMENTS, Introduction, 12-13 (D. D. Raphael & A. L. Macfie eds., 1982). Incidentally, Donald Winch objects to inquiry as to whether Smith was a liberal on the ground that the category evolved in a later century, and therefore Winch prefers to consider Smith a Whig. See Donald Winch, *Adam Smith and the Liberal Tradition*, in TRADITIONS OF LIBERALISM 83 (Knud Haakensson ed., 1988). To this, William Letwin protests that the question is not as anachronistic as Winch's perhaps misplaced fastidiousness would suggest. See William Letwin, *Was Adam Smith a Liberal?*, in *id.* at 65.

The scholarship on philosophical accounts of sentiments and on sentimental literature is extensive. More directly pertinent here are the studies of sentiment in English and American politics. See, e.g., ANDREW BURSTEIN, SENTIMENTAL DEMOCRACY: THE EVOLUTION OF AMERICA'S ROMANTIC SELF-IMAGE (1999); David Paul Nord, *A Republican Literature: A Study of Magazine Reading and Readers in Late Eighteenth-Century New York*, 40 AM. Q. 42 (1988); Paul Langford, *Thomas Day and the Politics of Sentiment*, 12 J. IMPERIAL & COMMONWEALTH HIST. 57 (1984).

and other divisions, many also thought themselves liberal in their changing beliefs and mores. Transcending their fragmented situation, these Americans adopted liberal perceptions and inclinations, liberal institutions and even a liberal culture, and, already in the eighteenth century, this liberality was becoming a recognized (if hardly consistent) feature of American life.

C. *Beyond the History*

Although liberality is examined here as an eighteenth-century phenomenon, it is of interest for reasons that extend beyond historical inquiry, and two of these reasons need to be mentioned.

Eighteenth-century liberality has consequences for the conceptions Americans have of their founding and of themselves. Almost all societies look back to their origins to understand themselves. Even if not explicitly part of myth, accounts of a nation's founding and its founders can seem to explain national traits and can affect a people's sense of their identity. Especially in a nation said to be created by the people, the founding appears to have profound significance. Not surprisingly, therefore, Americans, at least as much as other peoples, have sought in their founding a legacy of ideas and ideals with which to address pressing moral, political and constitutional issues. For example, a host of legal scholars (including Bruce Ackerman, Frank Michelman, Suzanna Sherry, Cass Sunstein, and Mark Tushnet) challenge liberal conceptions of the founding by emphasizing the relatively "republican" character of the United States Constitution, and they thereby suggest the communal functions of the government it created.³⁴ Clearly, these scholars assume that historical ideas such as "republicanism" or "liberalism"—or, for that matter, "liberality"—can have substantial moral and legal implications.³⁵ Therefore, it is important for more than merely historical reasons to recognize that any one such generalization captures only a small portion of

34. See, e.g., 1 BRUCE ACKERMAN, *WE THE PEOPLE: FOUNDATIONS* 29 (1991); MARK TUSHNET, *RED, WHITE, AND BLUE: A CRITICAL ANALYSIS OF CONSTITUTIONAL LAW* (1988); Frank Michelman, *Law's Republic*, 97 *YALE L.J.* 1493 (1988); Frank Michelman, *The Supreme Court, 1985 Term—Foreword: Traces of Self-Government*, 100 *HARV. L. REV.* 4 (1986); Suzanna Sherry, *Civic Virtue and the Feminine Voice in Constitutional Adjudication*, 72 *VA. L. REV.* 543 (1986); Cass R. Sunstein, *Beyond the Republican Revival*, 97 *YALE L.J.* 1539 (1988); Cass R. Sunstein, *Interest Groups in American Public Law*, 38 *STAN. L. REV.* 29 (1985). Some of these authors, notably Bruce Ackerman and Cass Sunstein, adopt republicanism without jettisoning liberalism. In contrast, Richard Fallon questions the utility of republican theory. See RICHARD H. FALLON, *What is Republicanism, and Is It Worth Reviving?*, 102 *HARV. L. REV.* 1695, 1735 (1989); see also Larry G. Simon, *The New Republicanism: Generosity of Spirit in Search of Something to Say*, 29 *WM. & MARY L. REV.* 83, 92 (1987).

35. As Steven M. Dworkin puts it: "The stakes are high, for both citizens and scholars. The historiographic revolution has changed America's historical self-understanding and thus deeply affects the republic as a whole." STEVEN M. DWORETZ, *THE UNVARNISHED DOCTRINE: LOCKE, LIBERALISM, AND THE AMERICAN REVOLUTION* 8 (1994). As Colin Kidd puts it, Bailyn and Wood "[d]isplac[ed] the Lockean liberal tradition which had hitherto underpinned America's myth of origins . . ." Colin Kidd, *Civil Theology and Church Establishments in Revolutionary America*, 42 *HIST. J.* 1007, 1008 (1999).

late eighteenth-century thought, and in this respect, liberality offers some help. "Liberality" and "liberal sentiments" were concepts with which many Americans came to perceive their other ideas and self-conceptions in a new light. In particular, liberal concepts and liberal modes of behavior provided Americans with opportunities to negotiate and transform their affiliations and identities along a path from the sectarian to the ecumenical, from the communal to the individualistic, and from the local to the national and beyond. Understood in this way, the liberality cultivated by many eighteenth-century Americans need not evolve into yet another over-generalization. Instead, it can and should become a means of reaching a more nuanced understanding of the founding and its significance.

More broadly, liberality may be revealing about the development of modern society. Few features of America are more extraordinary than the development of its expansive society. Very different from the traditional communities that still predominate elsewhere in the world, American society seems distinctively modern, and, for better or for worse, it provides a model for the growth of other nations. Therefore, if liberality had a role in the development of American society, it may suggest much not only about America but also, more broadly, about modernity and the transformation of human relationships in which America has taken a lead.

II. *Elevated Moral Sentiments*

It is no coincidence that liberality had its most profound appeal in a nation professedly without formal distinctions of status—in which gentility was not clearly conferred by birth—for to adopt liberal sentiments was to raise oneself above prejudice and interest and thus to assume an elevated moral position. Derived from more traditional assertions of genteel status, liberality offered Englishmen and Americans, whether or not born genteel, a sense of their superiority to narrow or partial concerns. Accordingly, liberality appealed to individuals eager to establish the elevated character of their sentiments or to make claims upon the elevated sentiments of others, and, through the uncoordinated responses of these varied people, liberality evolved into a popular sentiment.

A. *The Genteel Origins of Modern Liberality*

Exactly how modern liberality first developed remains somewhat elusive, but clearly it grew out of a different sort of liberality—a trait of those who were born genteel. From expectations in a traditional society about the free, open and generous characteristics of persons with elevated status, liberality developed into the free, open and generous characteristics of individuals in a more modern society who elevated themselves above narrow interest and prejudice.

Looking back to antiquity, Englishmen and Americans of the first half of the eighteenth century understood their liberality as a matter of status. Having the same Latin derivation as the word "liberty," the word "liberal" had long referred to that which might be expected from free persons—those whose status was free rather than servile. This liberality was associated with the liberal arts, liberal sciences and liberal education. Not mechanical and not adapted to a trade or profession, these liberal activities and studies were becoming for gentlemen. Similarly, although all persons in England had free status, liberality was considered typical of men with wealth and rank, who owned land, did not work for a living and had an elevated position in society. Such was the liberality Louis B. Wright, Rhys Isaac and Gordon S. Wood observe among eighteenth-century gentlemen, who were expected by their contemporaries to be "liberal" in their freedom from constraint, their elevated attitude and their generous disposition.³⁶

This gentlemanly status was the foundation of liberality. If freedom, openness and generosity could, in theory, be expected from men of superior wealth and rank, such traits could be considered liberal. The continued importance of this ancient connection to status was observed in 1783 by "Q.Q."—an anonymous reader of the *Gentleman's Magazine*, who wrote to the editor about the term "liberal." Quoting Samuel Johnson's *Dictionary*, he pointed out that "this adjective bears the three following senses":

Not mean; not low in birth;

Becoming a gentleman;

Munificent, generous, bountiful.

"These are," Q.Q. pointed out, "the senses it bears in the classic writers of antiquity."³⁷

36. See RHYS ISSACS, *THE TRANSFORMATION OF VIRGINIA, 1740-1970*, at 131-32 (1982); WOOD, *RADICALISM*, *supra* note 16, at 220; LOUIS B. WRIGHT, *THE FIRST GENTLEMEN OF VIRGINIA: INTELLECTUAL QUALITIES OF THE EARLY COLONIAL RULING CLASS* 79 (1940); *see also* Lorena S. Walsh, *Urban Amenities and Rural Sufficiency: Living Standards and Consumer Behavior in the Colonial Chesapeake, 1643-1777*, 43 *J. ECON. HIST.* 109, 110 (1983). For England, *see* GEORGE C. BRAUER, JR., *THE EDUCATION OF A GENTLEMAN: THEORIES OF GENTLEMANLY EDUCATION IN ENGLAND, 1660-1775* (1959); Ruth Kelso, *The Doctrine of the English Gentleman in the Sixteenth Century*, 14 *U. ILL. STUD. LANGUAGE & LITERATURE* 1 (1929). More generally, for gentility in America, *see* RICHARD L. BUSHMAN, *THE REFINEMENT OF AMERICA: PERSONS, HOUSES, CITIES* (1992).

37. "Q.Q," *Letter to Mr. Urban (Nov. 8, 1783)*, 53 *GENTLEMAN'S MAG.* (part 2, No. 5), Nov., 1783, at 938. This constellation of status, wealth and education remained apparent even in the last half of the eighteenth century, as revealed by quotations that are also suggestive of more modern uses of liberal ideas. In 1769, an obituary for Governor Henry Moore of New York observed that:

Inheriting an unusual Share of Affluence from his Ancestors, his Education was *liberal*, and so were his Principles.—He countenanced Merit, regardless of all narrow, party Distinctions, whether of a civil or religious Nature; and was thereby eminently qualified to govern a Colony, consisting of Protestants of various Denominations.—He has

Yet these older senses of what was liberal were coming to be used in a modern way, and it was this change that prompted Q.Q.'s letter. As he observed, Ainsworth's *Dictionary*—published in 1749—had added a fourth definition, “implying Liberty or Freedom,” which the *Dictionary* claimed to draw “from Plautus, Pen. V. ii. 4. *Eas liberali causa asseres manu;* i.e. ‘You shall assert their freedom,’ or ‘prove them free.’” Ainsworth had illustrated this fourth definition of “liberal” with an ancient quotation, but, as the Constant Reader was quick to point out, this fourth definition had less connection to traditional classical and English usages than to those that were replacing them.³⁸ The evolution of the traditional usage into the newer was also evident in discussions of liberal education and the liberal arts. For example, at the 1781 commencement in New Haven, shortly before Joel Barlow received his M.A., he recited before the assembled graduates and students:

Ye patriot worthies, whom these strains assail,
Ye Reverend Sires, and all ye sons of Yale,
Behold our seat, by former bounty given,
Pride of our land and favorite child of heaven,
Whence liberal arts and liberal thoughts ye drew.³⁹

At Yale, students learned not only liberal arts but also liberal thoughts.

Although modern liberality evolved most clearly from the classical conception of free or elevated status (and from associated conceptions of education and the arts), it also grew out of other traditions, including the

attended Divine Worship at most of our Churches, and in no Part of his Conduct discovered an illiberal Partiality to any Sect, or that contempt of all, so often the Foible of Men in elevated Stations.

Obituary for Gov. Henry Moore of New York, PA. GAZETTE, Sept. 21, 1769. When Congress tabled a petition “from a number of families who lost nearly their ALL by a sudden irruption of an Indian war,” as a result of which tabling “near a thousand persons now suffer by your delay of justice,” a commentator complained to Congress: “Think, Sir, of the distresses of penury in persons educated above it—of liberal minds and manners, being exposed to the pangs of the mancontumely, the insolence of office, and the delays, the long, long delays of justice.” “A Speech which ought to have been spoken in Congress upon reading of the last memorial from the Indiana Company,” PA GAZETTE, Aug. 15, 1781. A plea for the liberal minds and manners educated above such misfortune, it suggests much about the elevated education and position long associated with what was liberal.

That liberality developed from the self-flattering ideas of an elite should not come as a surprise. It may be doubted whether so generous, gracious and adaptable a mode of accommodation could have initially evolved outside of groups as eager to demonstrate their elevation above mundane prejudice and interest as the eighteenth-century English gentry and their colonial imitators.

38. He explained Plautus: “He is speaking of two young women, the daughters of Hanno the Carthaginian, who had been stolen and sold for slaves. *Liberali* may even here be understood in the two last of the former senses. *Liberalitas* as a substantive is never applied in the sense of *Liberty* by the Antients.” “Q.Q.,” Letter to Mr. Urban (Nov. 8, 1783), in GENTLEMAN'S MAGAZINE, LIII (part 2, No.5), 938 (Nov. 1783).

39. [JOEL BARLOW], A POEM, SPOKEN AT THE PUBLIC COMMENCEMENT AT YALE COLLEGE, IN NEW HAVEN, SEPTEMBER 12, 1781, at 4. For details concerning the ceremony, see THEODORE ALBERT ZUNDER, THE EARLY DAYS OF JOEL BARLOW: A CONNECTICUT WIT 130-34 (1934). For other examples of the change of usage, see *supra* note 37.

Christian *caritas* that increasingly was secularized as “benevolence.” This benevolence was allied to the universality of Jesus’ message and had the potential to transcend differences of wealth, rank, ethnicity, and race. Accordingly, it often appealed to those eager to identify themselves with more elevated distinctions—those who could conveniently describe as “liberal” both the education and the status they hoped to attain. Such were the students in the first graduating class of the College of Philadelphia in 1757, to whom the Provost, William Smith, recommended the liberal sentiments of Christian benevolence:

With Regard to Benevolence, that great Law of CHRIST, and fruitful Source of all social Virtue, why should I recommend it? If you truly love God, you must necessarily love all his Creatures for his Sake, and disdain a narrow unfeeling Heart, coiled up within its own scanty Orb. Your Charity will be of the most exalted and fervent Kind, extending itself beyond the vulgar Attachments of Family and Friends, embracing the whole human Species, and ready to sacrifice every temporal Consideration to their Good.

Actuated by such liberal Sentiments as these, you will always be ready to oblige others by unaffected, free and generous Communication of your superior Knowledge. Your Council and your Assistance, your Hand and your Heart, they will never be refused, when demanded for the Benefit of others; and in a virtuous Cause.⁴⁰

Christian benevolence extended beyond the “vulgar Attachments of Family and Friends” to embrace “the whole human Species,” and, actuated by such “liberal sentiments,” Smith’s students were to communicate their superior knowledge to those who were less learned. It must have been a gratifying thought, at least to those possessing the superior knowledge, and it seems to have appealed to students eager to look beyond the horizons of their homes and pleased to have their broad aspirations confirmed with hints of elevated social and moral status. In such ways, the universality of Christian benevolence blended with notions of liberal education and status to evolve into the sentiments of modern liberality.

In eighteenth-century England, liberality most clearly acquired overt political significance when religious dissenters made claims upon the liberality of Anglicans.⁴¹ Dissenters from the Anglican Church complained of

40. *A Charge Delivered May 17, 1757, at the First Anniversary Commencement in the College and Academy of Philadelphia, by the Reverend Mr. Smith, Provost*, in PA. GAZETTE, Aug. 11, 1757.

41. Even earlier, a less political usage developed among exponents of “liberal” theology, who employed the word to suggest the free use of reason by a man elevated above narrow fears or interests. For example, in Britain, in 1732, the Scottish Presbyterian minister, William Wishart, contrasted the unreasoned authority and constraint of sectarian religion to liberal piety.

The care of Parents, or Instructors, about the religious part of Education, is almost wholly spent in inculcating upon young ones the *Shibboleth* of a Party; making them acquainted

the civil disabilities they suffered on account of their nonconformity. Most significantly, they protested their exclusion from civil office and from the liberal education that was available to Anglicans at the two Universities. Seeking a relaxation of these inequalities, the dissenters appealed to the liberality of their fellow Englishmen, especially the genteel men who dominated the nation's politics. For example, in 1773, Andrew Kippis encouraged his countrymen to share his vision of "a generous prince of the Brunswick line: a seemingly equitable administration: moderate and wise members of both houses: candid bishops: a liberal spirit in all ranks of men and Toleration lifting her voice loudly in Europe."⁴² Observing that

with, and instilling into them a regard for, the particular doctrines or peculiar forms of their own Sect; . . . while great pains are taken to inspire in them at the same time a strong aversion to those of another way of thinking, . . . and instead of forming their minds to a rational sense of Good and Evil . . . any instances of good practice they are taught, are recommended and enforced by mere authority; which, as they are made use of without ever explaining the nature and justice of them, can contribute no more to promote a liberal piety and virtue, a relish for true goodness and savour of honesty in the mind, than Whips and Sugar-plumbs.

WILLIAM WISHART, THAT CERTAIN AND UNCHANGEABLE DIFFERENCE BETWIXT MORAL GOOD AND EVIL: A SERMON PREACH'D BEFORE THE SOCIETIES FOR THE REFORMATION OF MANNERS, AT SALTERS-HALL, ON MONDAY THE 3D OF JULY, 1732, at 33-34 (London, 1732). The practices enforced by "mere authority" did not promote "a liberal piety and virtue." Indeed, in sectarian religion, individuals were "*detained before the Lord** [1 Sam.21.7.] against their will; forced to run the round of certain forms, they know no good in." This was little more than a matter of "awe and constraint" and therefore was the sort of education a child "longs to be delivered from." *Id.* at 34. Incidentally, five years later, when Wishart was called by the City of Edinburgh to be one of their ministers, the Presbytery of Edinburgh objected on the ground that in this and another sermon Wishart had expressed opinions contrary to the doctrines of the Church. In particular, in their Articles of Error submitted to the Synod of Lothian and Tweeddale, the Presbytery defended its decision by reciting varied passages in the sermons, including the passage quoted above, which "prophanely" diminished "the due Weight and Influence of Arguments taken from the Awe of future Rewards and Punishments." ANSWERS FOR WILLIAM WISHART, PRINCIPLE OF THE COLLEGE OF EDINBURGH, TO THE CHARGE EXHIBITED AGAINST HIM, 43 (Edinburgh: 1738). In his response, Wishart backed down from the language about "Whips and Sugar-plumbs" but adhered to the importance of "*liberal Piety and Virtue*," in contrast to "*a servile and mercenary Religion*." *Id.* at 44; see also THE CASE OF DR. WISHART, PRINCIPLE OF THE COLLEGE OF EDINBURGH, HUMBLY SUBMITTED TO THE VENERABLE ASSEMBLY OF THE CHURCH OF SCOTLAND (May 13, 1738). For the influence of Wishart and his friends in disseminating liberal sentiments, see Caroline Robbins, "*When It Is That Colonies May Turn Independent*": *An Analysis of the Environment and Politics of Francis Hutcheson (1694-1746)*, WM. & MARY Q. 214, 235 (1954). For liberal Christianity in America, see ALAN HEIMERT, RELIGION AND THE AMERICAN MIND: FROM THE GREAT AWAKENING TO THE REVOLUTION (1966). More generally, in 1773, the English poet, Percival Stockdale, praised liberal Christianity in rhyme:

Within the hallowed space of Christian ground,
Candid and liberal priests there can be found;
Who strive to keep their simple flock in awe,
Of Christ's example, of his moral law;
Who urges morals, and relaxes creeds;
Who makes the cause of human kind his own.

THE POETICAL WORKS OF PERCIVAL STOCKDALE 31 (1810).

42. ANDREW KIPPIS, VINDICATION OF THE DISSENTING MINISTERS 11 (1773), quoted in ANTHONY LINCOLN, SOME SOCIAL AND POLITICAL IDEA OF ENGLISH DISSENT, 1763-1800, at 210 (1938). Of course, advocates of establishments were "angry, because they have so much at stake, when men of

religious dissenters had been particularly apt to make claims upon the liberality of other Englishmen, the anonymous Q.Q., who wrote to the *Gentleman's Magazine*, believed that "the term LIBERAL in its fullest extent, as understood among us at present" was "first introduced by writers of the dissenting persuasion."⁴³ Certainly, the dissenters who sought equality did much to transform liberality beyond the normal realms of what was genteel. They developed liberality into a moral standard for judging how the powerful accommodated demands for freedom and equality, and they thereby made it, not merely a characteristic of gentility, but also a demand.

Although the English first developed this liberality of the modern sort, Americans provided the most fertile environment for the new, no longer entirely genteel liberality. As already observed, Americans lacked any inherited rank, other than their freedom, and they therefore had to distinguish themselves in other ways—among others, by adopting liberal views elevated above what was narrow or mean. This manner of achieving status seemed especially necessary in America, where a broad, societal cohesion of the sort sometimes achieved in Europe through religious, cultural, national, or ethnic ties could not be expected beyond localities, leaving unusual opportunities for selfish interest, local and parochial prejudice and other confined perspectives. In these circumstances, those who aspired to a more elevated existence had all the more reason to take elevated, disinterested, gracious and generous views and to find liberality attractive. In a less elevated manner, they were joined by those who needed to elicit graciousness and generosity and those who hoped to accommodate differences. Thus, liberality could appeal to many Americans, including both the oppressed and the genteel, the importunate and the conciliatory.⁴⁴ A self-image with which Englishmen of genteel status had flattered themselves, it was becoming an attitude with which many others, including many Americans, also identified.

more honest and liberal spirits point out to others the *shallow foundation* upon which . . . establishments are built." *The Controversy About Subscription Fully Stated*, GENTLEMAN'S MAG., July 1772, at 317. It was a rhetoric copied by Catholics. See, e.g., [ALEXANDER GEDDES], CURSORY REMARKS ON A LATE FANATICAL PUBLICATION ENTITLED, A FULL DETECTION OF POPY, & C. SUBMITTED TO THE CANDID PERUSAL OF THE LIBERAL MINDED, OF EVERY DENOMINATION (London: 1783). Note also the wonderful Scottish title: *A Plea for Persecution: Ay (do not stare) Downright Genuine Persecution. In a letter From a Gentleman Who Scorns to Dissemble his Infidelity, To a Friend of the Same Liberal Sentiments . . . Recommended to the Perusal Especially of All the Free-Thinking Members of the Assembly* (Edinburgh, 1774).

43. "Q.Q.," *Letter to Mr. Urban* (Nov. 8, 1783), 53 GENTLEMAN'S MAG. (part 2, No. 5), Nov., 1783, at 938.

44. On the desire of many Americans for gentility, see RICHARD L. BUSHMAN, *THE REFINEMENT OF AMERICA* (1992).

B. *The Non-Theoretical Character of Liberality*

In contrast to what is usually assumed about modern concepts of liberalism, liberal sentiments seem to have developed into political theory rather than from it, and the origin of liberal thought in sentiment rather than abstract theory may be one of the reasons liberality is so suggestive about the relationship between thought and social development in America.

Eighteenth-century moral and political theorists apparently did not develop the concept of liberality. Some philosophers found a basis for morals in feelings of benevolence, and varied later Englishmen and Americans assumed that benevolence was a liberal sentiment, but eighteenth-century philosophers of benevolence do not seem to have enunciated a theoretical account of liberality.⁴⁵ Moreover, although British philosophers contributed to the understanding of sentiments that quickly came to be associated with liberality, giving rise to the self-conscious use of the phrase "liberal sentiments," it is not apparent that liberality, as a measure of morals and politics, developed from any philosophical theory about sentiments.⁴⁶ Instead, modern liberality seems to have evolved gradually from the genteel version, such as when

45. When discussing benevolence, William Godwin briefly alluded to its liberality. He claimed that Shaftesbury, Butler, Hutcheson and Hume had "undertaken to support the practicability of disinterested action" and added: "The active and ardent spirit of the founders of religion, has perhaps carried them into the liberal system." 1 WILLIAM GODWIN, ENQUIRY CONCERNING POLITICAL JUSTICE AND ITS INFLUENCE ON MORALS AND HAPPINESS 422 & note (3d ed. 1798). Locke discussed "liberality" in connection with education but only as generosity. See JOHN LOCKE, SOME THOUGHTS CONCERNING EDUCATION 169-71 (John W. & Jean S. Yolton eds., 1989).

46. In contrast, liberal sentiments had a niche in the sentimental literature of the period. The leading exponent of this literary, sentimental liberality was Samuel Jackson Pratt, who also specialized in unreadable novels about America. His liberality and his sympathetic view of Americans coincided in his 1785 epistolary novel: *The Liberal American*. Pratt's understanding of his liberality is most clearly apparent from his *Liberal Opinions*, a digression in six volumes. As he explained: "I have called this treatise in the general running title, LIBERAL OPINIONS . . . to give myself freer scope, and to receive sanction for indulging speculations, not absolutely tied down to the rules of systematic writing." COURTNEY MELMOTH [SAMUEL JACKSON PRATT], 1 LIBERAL OPINIONS, OR THE HISTORY OF BENIGNUS, 3-4 (2nd ed., London, 1777). He believed: "There is a deplorable illiberality in the affections of the vulgar: narrowly bigoted to one mean set of notions, which have been confirmed by maxims that have been inculcated in the early periods of life, they seldom rise to a single sentiment, which reflects dignity, either on the head or heart; and thus the feelings of above half mankind are totally guided by contracted, and partial prejudices." *Id.* at 2. A "well-wisher of every living thing," he declared himself "the friend of all the inhabitants that either wing the air, or crawl upon the earth," including "the insect, or reptile"—although he had the good humor to add that "of all creatures whom nature hath accommodated with four feet, I am *most* enamoured of lap-dogs." *Id.* at 3, 13. Incidentally, for the dispute over the sentimental objections to killing insects, see *Of the Criminality of Killing Insects*, 42 GENTLEMAN'S MAG., Feb., 1772, at 75; note also the conduct of Uncle Toby in Lawrence Sterne's *Tristram Shandy* (1760-1767).

The leading American purveyor of sentimental literature, who considered himself "PROVEDORE to the SENTIMENTALISTS IN AMERICA," advocated free trade (especially in book-selling) and associated this with liberal government. See *infra* note 119. For his self-characterization, see, for example, ILLUMINATIONS FOR LEGISLATORS AND FOR SENTIMENTALISTS (final advertisements) (Phila., 1774) (Evans 18352).

dissenters made claims upon the liberality of their fellow countrymen. Accordingly, the closest that "liberal sentiments" came to philosophy was as a characterization of some philosophical ideas. Thus, even though Locke and Hume, for example, said little, if anything, about liberality in its newer sense, they were assumed to be exponents of liberal philosophy. They were considered liberal long before liberality became the subject of philosophic thought.⁴⁷

Toward the end of the century, at least one American apparently went so far as to speculate about a systematic exposition of liberal ideas. In early 1792, the openly deist preacher, Elihu Palmer, could find no better place to preach his unpopular religious beliefs than in a Philadelphia dance hall. Yet when he advertised a discourse "against the Divinity of Jesus Christ," the owner asked him to share his opinions elsewhere.⁴⁸ Indignant that he was not wanted even in a dance hall, he complained in a newspaper about a spirit of persecution, and he apparently argued in his sermons that his fellow citizens should have been more liberal.⁴⁹ Allegedly, he espoused a "system" of liberality and suggested that his "system of sentiments is almost, or entirely novel."⁵⁰ In response, a stalwart Presbyterian, Ashbel Green—under the pseudonym, Eliphaz Liberalissimus—wrote an acid parody, *A Letter to the Preacher of Liberal Sentiments, Containing Among Other Important Matters, A Liberal Man's Confession of Faith*, which sarcastically purported to present an improved system of liberality.⁵¹ In fact, Green approved of a "liberality of

47. See, e.g., Godwin's comments in *supra* note 45; Articles 6 & 27 of Green's liberal creed in *infra* note 53; Palmer's remarks in text accompanying *infra* note 54; the letter from a correspondent in Albany in text accompanying *infra* note 77. Similarly, in 1772, Ezra Stiles observed that Lord Kames "seems to have liberal Views." 1 THE LITERARY DIARY OF EZRA STILES 309 (entry for Nov. 6, 1772) (1901).

48. Elihu Palmer, "To the Public" (*Phila.*, March 16, 1792), in GENERAL ADVERTISER 3 (Mar. 17, 1792) (No. 459).

49. *Id.* He explained:

The subscriber is likewise sorry to observe, that notwithstanding the legal and nominal freedom that obtains in this country, the law of opinion, and the internal spirit of persecution, bear here upon the rights of conscience. But he does not despair; if his life is spared, he is determined to exert his feeble abilities to demolish the ancient fabric of superstition, and erect on its ruins an immortal building, guarded by the engines of truth, and on its front engraved in letters of gold—"Virtue is the dignity of man."

Id.

50. ELIPHAZ LIBERALISSIMUS [ASHBEL GREEN], A LETTER TO THE PREACHER OF LIBERAL SENTIMENTS, CONTAINING AMONG OTHER IMPORTANT MATTERS, A LIBERAL MAN'S CONFESSION OF FAITH 14 (1792) (Evans 24365).

51. *Id.* It probably was published in March 1792, as Green read the proofs on April 6, 1792. TYPED TRANSCRIPT OF DIARY OF ASHBEL GREEN 197 (entry for April 6, 1792), in Manuscripts Division, Dept. of Rare Books and Special Collections, Princeton Univ. Library, Shelf No. C0257 (Ashbel Green Collection), Box 8 (series V). He referred to it as his "ludicrous" response to Palmer. *Id.* at 194 (entry for March 22 & 24, 1792). Green wrote this pamphlet in his role as a member of a group of Philadelphia clergy formed to discountenance infidelity, and he took pleasure in observing that his efforts not only earned the applause of Nesbit and Witherspoon but also had the effect of

sentiment," but he confined it to a conventional generosity of spirit in theological disputes and was horrified by the suggestion that liberal sentiments might undermine religious doctrine or morals.⁵² Adopting the posture of one who was more consistent than Palmer "in conducting the cause of liberality," Green blasted Palmer's "scheme of liberal sentiments" and satirically proposed a more accurate one. In particular, Green mocked the deist's liberal rejection of creeds by presenting "A liberal man's confession of faith," which was "an opportunity of laying before the eye of the public, a true and genuine epitome of the scheme of liberal sentiments"—in other words, an opportunity to attribute every excess of moral laxity to his opponent and to liberality.⁵³ After Green's critique,

encouraging Palmer to leave town. Another member of the clerical alliance, the Rev. John Smith, had already attacked Palmer and his fellow "friends of liberal sentiments." "A.B.," *Letter to Mr. Brown* (*Phila.*, March 17, 1792) (from the FEDERAL GAZETTE), in GEN. ADVERTISER, Mar. 20, 1792, No. 460, at 3. For Palmer's response and the rejoinder, see Elihu Palmer, *Letter to Mr. Brown* (*Phila.*, March 20, 1792) (from the FEDERAL GAZETTE), GEN. ADVERTISER, Mar. 24, 1792, No. 464, at 2; A.B., *To the Editor of the General Advertiser* (March 23, 1792), GEN. ADVERTISER, Mar. 28, 1792, No. 467, at 2. For Green's account of this episode, see JOSEPH H. JONES ED., THE LIFE OF ASHBEL GREEN, 319-20 (diary entry for June 20, 1791) (1849).

52. See LIBERALISSIMUS, *supra* note 50, at 4. In his diary, he revealed his admiration for liberality if not pursued in opposition to doctrinal orthodoxy. For example, in 1791, after meeting Theodore Dwight, Green wrote: "He is . . . very benevolent, liberal and generous in his sentiments, while, at the same time, he is a strenuous stickler for what he esteems the truth." JONES, *supra* note 51, at 211 (diary entry for June 20, 1791). After meeting Hopkins, he wrote: "He is considered as the author and champion of the new divinity by some; but he is certainly a man of much more candour, liberality and catholicism, than most of his disciples." *Id.* at 240 (entry for July 24, 1791).

53. See LIBERALISSIMUS, *supra* note 50, at 13, 17, 30. He acknowledged that "[a]ll confessions of faith . . . are what liberal men openly, professedly, and entirely reject and abominate," but there was no harm in calling his "liberal system" a confession of faith, for "[t]erms and expressions being entirely arbitrary, we are permitted, when their meaning is explained, to use them as we please." *Id.* at 17, 16. The creed was as follows:

A liberal man's confession of faith.

Article 1. I believe there is only one thing in religion essential; and that is to believe that nothing is essential. Hence—

2. I believe that all religions are equally good. Except—

3. That I believe that my religion is the best.

4. I believe that no man ought to be zealous for any thing except it be for indifference.

5. I believe there is no devil.

6. I believe Dr. Priesdy to be a wiser and better teacher than Jesus Christ.

7. I believe the said Jesus Christ was the natural son of Joseph and more fallible than myself.

8. I believe that I shall not go to hell. Because,

9. I believe that all the world shall go to heaven whether they will or not.

10. I believe that "virtue is the glory of man." And yet—

11. I believe that no one has a right to say or think what virtue is nor is not: because this would imply that there is "a power on earth to determine what heresy is," which is the most heretical opinion that can possibly be held.

12. I believe that the Koran is a better book than the Bible.

13. I believe that I ought to exercise the most charity for those who need it the most. And hence—

Palmer left Philadelphia. Although he would go on to publish theories that reflected his liberality (such as a deist “*creed*” based on an “attentive perusal of such liberal, enlightened writers as Pope, Locke, Hume, &c.”), he apparently did not again claim to espouse a system of liberality.⁵⁴ Clearly, a systematic approach to liberal sentiments was a late development and would have to wait until the nineteenth century for much prominence, let alone popularity.

14. I believe that I ought to have no doubt of the goodness of those who are the most abandoned profligates; but may entertain some scruples in regard to those who are very sober, strict, and scrupulous themselves.

15. I believe that every man ought to exercise a great many rights but is under no obligation to any duties.

16. I believe that God has no rights at all: having given them all away to his creatures. Except

17. That he has a right to receive just as much respect and no more as any man may choose to show him. Hence

18. I believe every man should do just as he pleases.

19. I believe that every opinion which is common, or which we have not examined is for that reason false, and ought to be rejected without any examination. Hence—

20. I believe that I ought not to believe that two and two make four, because this is the effect of prejudice and education. [to which a reader of the Harvard College copy, suspicious of Green’s Trinitarianism, added in manuscript: “or that 3 can be but one.”]

21. I believe that it is very wrong for people to impose their opinion upon children or others; or to use any influence to make them believe one thing rather than another—And hence,

22. I believe that I ought to urge and inculcate the foregoing article of my creed by every argument and artifice in my power.

23. I believe that the world would be much better and society much happier than it is, if there were no fixed principles of virtue—And—

24. I believe that the remarkable order and good conduct observable among the boys and apprentices of Philadelphia, is very much to be ascribed to their imbibing the aforesaid article from those who have lately taken pains to inculcate it.

25. I believe that I wish that there were no such principle as conscience among the human powers—And hence.

26. I believe that I ought to extinguish it as soon as possible.

27. I believe that the world will never be as it ought till the principles of Voltaire, Hume, and Rosseau take place of those contained in the bible.

28. I believe that it serves the cause of liberality very much to make the world believe as much as possible, that its principles are peculiarly favourable to a free government; and to get bigots themselves to countenance and favour it with this view. Hence—

29. I believe that liberal men should endeavour to make the public believe that all the honour of any exertions, lately made in favour of freedom, in this or other countries, belongs entirely to them and to their principles.

30. I believe that liberal sentiments should always be denominated philosophy, with a view to give the greater currency.

31. I believe that he who believes all the foregoing articles is a *clever fellow*; and just fit to go as far as a liberal man would wish, in many things which it is not convenient at present to mention.

Id. at 20-23.

54. [ELIHU PALMER], THE EXAMINERS EXAMINED: BEING A DEFENCE OF THE AGE OF REASON 19 (1794) (Evans 26954).

Thus, liberality developed into moral and political theory rather than from it. Scholars accustomed to studying the liberalism of nineteenth- and twentieth-century theorists have not considered the possibility that these propounders of high theory drew upon liberal sentiments already developed by a wider Anglo-American public. Cultivated by individuals with relatively untheoretical concerns, liberal sentiments developed well below the level of serious moral and political philosophy, and, in this sense, these sentiments were not only of, and for, but also by, a significant portion of the people.

C. *A Self-Conscious Expression of Moral Sentiment*

Liberality was a self-conscious expression of moral sentiment—of the sense individuals had of themselves as morally-elevated, enlightened individuals. Taking pride in their elevated attitudes and conduct, Englishmen and Americans who discussed their liberality raised what might otherwise have been mere instances of freedom and generosity into a recognized pattern of liberality. Just how self-consciously Americans perceived and portrayed themselves as liberal may be observed in varied levels or types of liberality.

At the most basic level, it was liberal to give to the poor, and even this generosity could be self-consciously understood as part of a broader development. For example, in February 1784, after noting the suffering of the poor from “the extreme severity of the season,” a New York newspaper hoped that New Yorkers would act in accord with “the humane and liberal spirit, for which this city has been distinguished.”⁵⁵ Not simply generous, New Yorkers who gave would participate in the city’s liberal spirit.

At another level, it was liberal to be open-minded, generous and candid in considering the viewpoints of others. This unprejudiced and candid approach was what one called “the liberal spirit of science and free enquiry.”⁵⁶ Similarly, a newspaper writer in Virginia regretted that “the word *Freethinking*” was typically understood to refer to atheists. Instead, he thought it “should convey the idea of a man of liberal and ingenuous disposition, free from vulgar prejudices and unmanly bigotry, and investigating truth with virtuous views, and a deep veneration for the Supreme Being.”⁵⁷ In Pennsylvania, a “Revolutionist” (who argued for the independence of western settlements from the eastern states) recognized that the

55. INDEP. J. (N.Y.), Feb. 14, 1784, No. 22.

56. *A Candid Examination of the Address of the Minority of the Council of Censors. Addressed to the Good Sense and Integrity of the People of Pennsylvania—by One Of The Majority*, PA. GAZETTE, Feb. 11, 1784. He claimed that the majority evinced this liberal spirit.

57. “Philalethes,” *Letter to Printers*, VA. GAZETTE, Nov. 27, 1784, No. 135 [sic for 153]; also published as *The Folly of Freethinking: An Anecdote*, N.Y. PACKET, Mar. 28, 1785, No. 475.

persuasiveness of his views depended upon the open mindedness of his readers, and he therefore addressed his arguments to the enlightened and unprejudiced—to “those who are liberal”—playfully adding: “Should our arguments be answered *with liberality*, we will *as liberally* reply.”⁵⁸

Through their open-minded, liberal inquiry, Americans might reach free, generous or otherwise liberal conclusions, and these were admired as “liberal sentiments.” Benjamin Rush, for example, praised John Adams for the “republican and liberal spirit” of his “sentiments.”⁵⁹ Moreover, when a Connecticut court freed a slave who had served in the Continental Army, a newspaper correspondent wrote:

It is to be hoped from the known liberality of sentiment, and attention to liberty which is so much the character of our judges, that negroes in similar situations in this state (and there are not a few) may be encouraged to apply in similar manner for that liberty to which they are entitled as a reward for their spirit and courage.⁶⁰

Slaves could expect liberty on account of the judges’ “known liberality of sentiment.”

Liberal sentiments were assumed to be the basis of liberal conduct. Grateful to Beaumarchais for his “exertions in their favour,” Congress wrote to him, praising his “liberal sentiments and extensive views which alone could dictate a conduct like yours.”⁶¹ Similarly, when the Virginia legislature repealed a duty imposed on varied documents not registered within six months, a correspondent noted that his “satisfaction on this

58. “A Revolutionist” [Eleazer Oswald?], *On the Principles of the American Revolution*, No. VIII, INDEP. GAZETTEER (Phila.), July 20, 1782, No. 15. He was quite self-conscious of the substantive implications of liberality, as when he wrote: “Minds narrow and illiberal will tell us; that our tenets lead too far.—Be it so! . . .” “A Revolutionist,” *On the Principles of the American Revolution*, No. IV, INDEP. GAZETTEER (Phila.), May 4, 1782, No. 4. In Philadelphia, Jews reminded the Council of Censors that “Pennsylvania has hitherto been distinguished for liberality of sentiment.” To the Honorable the Council of Censors . . . , *The Memorial of Rabbi Ger. Seixas of the Synagogue of the Jews at Philadelphia* (presented to the Council Dec. 23, 1783), INDEP. GAZETTEER (Phila.), Jan. 17, 1784, No. 116. Another American noted that France had “embraced the liberal doctorines [sic] of universal toleration.” Correspondence (Sept. 25) VA. INDEP. CHRON., Oct. 3, 1787, No. 63.

59. Letter from Benjamin Rush to John Adams (Jan. 21, 1781), in 1 THE CORRESPONDENCE OF BENJAMIN RUSH 260 (L.H. Butterfield ed., 1951).

60. INDEP. J. (N.Y.), Dec. 22, 1784, No. 111. On “being advised to sue out a bill of Habeas Corpus, he was in consequence thereof brought before the Supreme Court.” Although “his master . . . claimed him as his property, and slave for life,” it was made apparent to the Court that he had enlisted “with the consent, license, and permission of his master, who received the bounty given for his enlistment.” *Id.* On this information, the Court “resolved and decreed,—That, as at the time of the enlistment, no person but a freeman could by the resolutions of Congress be enlisted into the Continental Army, the consent of his master to the enlistment amounted in law to a complete emancipation; that he was no longer a slave, but had a right to his person liberty.” *Id.*

61. 13 JOURNALS OF THE CONTINENTAL CONGRESS 71 (Worthington Chauncey Ford ed., 1909) (Jan. 15, 1779).

event, arises from seeing the . . . Legislature thus attentive to relieve a class of citizens, on whom the law bore with a disproportionate weight, and from the liberality of the principles which dictated the measure.”⁶²

The prevalence of these elevated, liberal sentiments gave Americans hope that they would distinguish themselves by their liberal conduct. One observed “the liberality, humanity, and generosity of Congress, their Commander in Chief, and of the particular states of the union” whose civilized behavior in the Revolutionary War was in accord with “the usages of independent nations.”⁶³ The Commander in Chief himself—who rarely uttered a word beyond what was conventionally admirable—expressed the “hope ever to see America among the foremost nations in examples of justice and liberality.”⁶⁴

Liberal policy was especially a matter of pride in relation to religious liberty. Hearing of religious disputes in England, Washington regretted that Christians there had failed to adopt “the enlightened and liberal policy, which has marked the present age.”⁶⁵ In contrast, as he told the Jews of Newport in 1790: “The Citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy.”⁶⁶ A “Friend of Society and Liberty” wrote that: “The liberality and virtue of America in establishing perfect equality and freedom among all religious denominations and societies” would

62. Correspondence (Boston, March 24), Extract of a Letter from a Gentleman in Richmond, Virginia, to His Friend in this Town, Dated Feb. 25, 1788, VA. INDEP. CHRON., Apr. 16, 1788, No. 91. James Pemberton wrote to the leading Quaker opponent of slavery in Virginia, Robert Pleasants: “Its agreeable to observe that the assembly in your Government possess such Liberal sentiments as they have manifested in some of their late Laws; that against Slavery will I hope utterly Abolish the infamous African trade . . .” Letter of James Pemberton to Robert Pleasants (Phila., Mar. 3, 1778), in *A Bundle of Letters Addressed to Robert Pleasants*, in 3 TYPED TRANSCRIPTS OF PAPERS OF ROBERT PLEASANTS 192, in Valentine Museum, Richmond, Va., Shelf-Mark 289.6, F912, v.3. Richard Henry Lee wrote to James Madison: “I fully agree with the presbyterians, that true freedom embraces the Mahomitan and the Gentoo as well as the Christian religion. And upon this liberal ground I hope our Assembly will conduct themselves.” Letter of Richard Henry Lee to James Madison (Nov. 26, 1784), in 8 PAPERS OF JAMES MADISON 149-50 (Robert A. Rutland et al. eds, 1973).

63. Letter to “Mess. Nicolson & Prentis,” VA. GAZETTE (Nicolson & Prentis pub., Richmond), Dec. 13, 1783, No. 103.

64. Letter from George Washington to the Roman Catholics (Mar. 15, 1790), in GEORGE WASHINGTON: A COLLECTION 547 (W.B. Allen ed., 1988).

65. Letter to Edward Newenham (Oct. 20, 1792), in 32 WRITINGS OF GEORGE WASHINGTON 190 (J.C. Fitzpatrick ed., 1939). During the same year, to the Jews of Philadelphia, New York, Charleston and Richmond, Washington wrote: “The liberality of sentiment towards each other which marks every political and religious denomination of men in this Country, stands unrivalled in the history of nations.” Letter of George Washington to the Hebrew Congregations of Philadelphia, New York, Charleston, and Richmond (Dec. 13, 1790), in 7 THE PAPERS OF GEORGE WASHINGTON, PRESIDENTIAL SERIES 61 (Dorothy Twohig ed., 1998).

66. Letter of George Washington to the Hebrew Congregation in Newport, Rhode Island (Aug. 18, 1790), in 6 THE PAPERS OF GEORGE WASHINGTON, *supra* note 65, at 285.

prompt “oppressed dissenters” across Europe to cry out, “America is ‘the land of promise.’”⁶⁷ Certainly, American dissenters sought the benefit of such liberality. In 1776, an opponent of tax support for religious establishments expected that American states would soon conform to “the liberal way of thinking which is daily more and more predominant in the present age.”⁶⁸ Still struggling for religious liberty in 1784, the Presbytery of Hanover, Virginia, expressed their “hope . . . that the House of Delegates shares so large a portion of that philosophic and liberal discernment which prevails in America at present, as to see this matter in its proper light.”⁶⁹

An elevated, liberal way of thinking had much to offer the Englishmen and especially the Americans who sought a status that transcended the social and other boundaries of their societies. For those, such as Washington, who considered themselves gentlemen but who needed to establish their elevated standing in a republic, liberality was a distinction compatible with the equality of mankind.⁷⁰ For those who lacked the birth or wealth to become gentlemen, liberality provided a means with which they could distinguish themselves at no higher cost than by adopting an elevated attitude. Taking a similar approach, Unitarians and Universalists, who were beginning to challenge Calvinist orthodoxy, found in liberality a moral high ground—a piety upon a hill—from which to look down upon the elect. Asserting an undifferentiated Christianity, liberal

67. “A Friend of Society and Liberty,” *To the Inhabitants of the Western Counties of Pennsylvania*, PA. GAZETTE, July 23, 1788, at 2.

68. “Christianus,” *To the Printers of the Pennsylvania Gazer*, PA. GAZETTE, May 15, 1776, No. 2473.

69. Memorial of the Presbytery of Hanover to the General Assembly of Virginia (Oct., 1784), in AMERICAN STATE PAPERS BEARING ON SUNDAY LEGISLATION (1911). A Kentucky author wrote that the “just and liberal policy” of American states had “cut the sinews of ecclesiastic ambition, by abolishing all partial emoluments and invidious distinctions on the account of Religion.” “Catholicus” [C. Wallace], *Letter to Mr. Bradford*, KY. GAZETTE, Sept. 1, 1787, No. 4. A critic of Jefferson’s Act for Establishing Religious Freedom, John Stanwick, complained that it was “fashionable” to speak of public support for religion as “illiberal.” “A CITIZEN OF PHILADELPHIA” [JOHN STANWICK], CONSIDERATIONS ON AN ACT OF THE LEGISLATURE OF VIRGINIA 11 (1786) (Evans 20,017).

Of course, there was no one liberal position on religious liberty. On behalf of Quakers and others scrupulous of taking oaths, the urbane Governor Livingston of New Jersey urged the General Assembly to dispense with such requirements as possible, not because he considered such oaths unconstitutional—his correspondence at this period reveals otherwise—but rather for the sake of liberality that was evident in the spirit of the New Jersey Constitution: “Amidst that liberality of sentiment, and utter abhorrence of infringing upon the rights of conscience, which seems to mark the present area with peculiar lustre; can it be consistent with sound policy, or the generous spirit of our constitution, to debar an honest man for a religious scruple from the privileges of society, which the most profligate and abandoned are permitted to enjoy in the fullest latitude?” *Extracts from Governor Livingston’s Message to the General Assembly of the State of New Jersey (June 11, 1778)*, PA. PACKET, June 17, 1778. From a somewhat different perspective, in Massachusetts, the Rev. John Tucker denied that Massachusetts had refused liberty of conscience to all Protestants, and he praised “the mild, the liberal, and catholic spirit of this government,” even as he asserted its “right to provide for the support of a public ministry.” JOHN TUCKER, REMARKS ON A DISCOURSE 10, 14 (1774) (Evans 13,694).

70. For a discussion of gentility in American society, see generally RICHARD L. BUSHMAN, THE REFINEMENT OF AMERICA: PERSONS, HOUSES, CITIES (1993).

Christians could claim moral superiority over the illiberal particularism of traditional denominations.⁷¹

The growing appeal of liberality became evident in the words used to discuss it. For example, the adjective, “liberal,” began to turn into a noun—a process that would be complete by the early nineteenth century. Already in 1787, a Kentuckian sympathetic to non-denominational education hoped Transylvania University and other schools would be in the hands of “the liberal and disinterested”—which is not to say that anyone was consistently liberal or entirely disinterested.⁷² Moreover, what most observers called “liberality,” some, such as Noah Webster, contemptuously called “modern liberality.” In defense of religious establishments, the lexicographer—more liberal in his spelling than his politics—protested that, “whatever modern liberality may pretend, the regular preaching of the gospel, az a *civil* institution, is . . . necessary and useful.”⁷³ This “modern liberality”—as it was derisively labeled toward the end of the century—was an expression of moral sentiment Webster despised but could not ignore.⁷⁴ Elevated above the narrow and particular, liberality had become a salient feature of America’s moral landscape.

III. Government and the Nation

For many Americans, self-government was liberal, and the federal government was particularly liberal. The government of the United States

71. For liberal theology in England, *see supra* note 41.

72. “Transylvanian,” *Letter to Mr. Bradford*, KY. GAZETTE, Nov. 10, 1787, No. 14. He also wrote that “if any plan is ever proposed or espoused without the appearance of moderation and impartiality; no authority can prevent jealousies from arising, and when they have taken place it will require more than professions of liberality to remove them.” *Id.* In response, a “Sectarian” complained about “the *liberal* and *disinterested*.” “A Sectarian,” *A Letter to the Printer*, KY. GAZETTE, Dec. 22, 1787, No. 18. For the context of such sentiments in Kentucky, especially at a slightly later period, see NIELS HENRY SONNE, *LIBERAL KENTUCKY, 1780-1828* (Univ. of Kentucky, 1968). Already in the Middle Ages, the word “liberal” was used as a noun (in accord with the earlier meaning of the word), but it is doubtful whether this usage was very familiar to many late eighteenth-century Americans. *See, e.g.*, THOMAS HOCCKLEVE, 3 *HOCCKLEVE’S WORKS: THE REGIMENT OF PRINCES 1* (Frederick J. Furnivall ed., Early English Text Society 1897).

73. *Miscellaneous Remarks (Feb. 1790)*, in NOAH WEBSTER, *A COLLECTION OF ESSAYS AND FUGITIVE WRITINGS* 325, 345 (1790). After Jefferson’s arguments in his 1785 Act Establishing Religious Liberty contributed to the defeat for an established church in Virginia, Webster bitterly commented that “[t]he arguments used against any ecclesiastical establishments were splendid, *liberal* and efficacious.” *Id.* at 363.

74. Looking back, in 1801, Timothy Dwight complained that a commendable liberality had been taken too far: “The religion of this country has exhibited a very commendable spirit of catholicism and moderation during the past Century, a spirit extended perhaps as far, as can be reasonably expected from men. . . . In no country, it is presumed, can be found a more general decency and liberality of conduct in the various classes of religious toward each other. Indeed, the existing error appears to be a tendency, in many persons, towards what is emphatically called *modern liberality*; which is no other than mere indifference to truth and error, virtue and vice: a more dangerous and fatal character than the most contemptible enthusiasm, or the most odious bigotry.” TIMOTHY DWIGHT, *A DISCOURSE ON SOME EVENTS OF THE LAST CENTURY* 16 (1801).

had the potential to resist oppression, to overcome interest and prejudice, and to pursue the interest of the nation as a whole, and, in these ways, it gave Americans some of their highest hopes for liberality.

A. *Government*

Self-government was as liberal as it was popular, and therefore many Americans took for granted the value of liberal sentiments on government. In 1774, for example, the Continental Congress argued that the freedom of the press was important because of "its diffusion of liberal sentiments on the administration of Government."⁷⁵ No less enamoured of such sentiments, the very different assemblage at a July Fourth celebration in Portsmouth drank to the toast: "May the citizens of America be no less distinguished for their religious than for their politically liberal sentiment."⁷⁶

It was understood that a polity in which individuals governed themselves was liberal, but it was not clear whether liberal hopes for such a government could be met. Even before the French Revolution stimulated sharp divisions, Shays' Rebellion and the extended crisis that led to the adoption of the U.S. Constitution provoked fears that liberal expectations about individuals and their capacity for self-government were too optimistic. Such were the misgivings of a commentator who asked:

Is it not time . . . for politicians to begin to consider mankind *as they are*, and not *what they ought to be*?—If I mistake not, this is the rock upon which many of our best writers on Government have split.—Locke and many others have written very excellent treatises on this subject—almost everyone admires the theory, but experience shows it can only be reduced to practice in Eutopia.—Had mankind continued in the golden age, they would have been happy in systems of his kind, and men, like Locke, might have diffused their liberal, their noble sentiments with success.—But *we are what we are*, in the gross, blind and inconsistent naturally averse to government—born like *the wild asses' colt*.⁷⁷

75. A Letter to the Inhabitants of the Province of Quebec (Oct. 26, 1774), in A DECENT RESPECT FOR THE OPINIONS OF MANKIND, CONGRESSIONAL STATE PAPERS 1774-1776, at 63 (1975). Incidentally, that critic of liberal theology, Ashbel Green, argued that "it is a fundamental principle of the liberal system, that there ought to be a free circulation of all opinions, and that they should not be subject to the smallest restraint." LIBERALISSIMUS, *supra* note 50, at 16.

76. N.Y. INDEP. J., July 24, 1784, No. 68. Clearly, liberal sentiments in politics had become a measure for liberality in other matters. Worried about the consequences of this, particularly for religion, Ashbel Green complained about "liberal men" who aimed to serve "the cause of liberality" by attempting "to make the world believe . . . that its principles are peculiarly favourable to a free government." LIBERALISSIMUS, *supra* note 50, at 23. He added that "liberal men" wanted "to make the public believe that all the honour of any exertions, lately made in favour of freedom, in this or other countries, belongs entirely to them and to their principles." *Id.*

77. Correspondence from Albany (June 21), Extract of a Letter from a Gentleman in Washington County to His Friend in This City, VA. INDEP. CHRON., July 4, 1787, No. 50.

Americans had declined to pay their debts, had voted to abrogate private and public obligations and had even resisted their own state governments, and therefore Locke's liberal sentiments about human nature and government seemed as if they might be mistaken.

This illiberal skepticism increasingly seemed justified by events, but it was hardly likely to be popular. In private, many Americans were dubious about human nature and about the prospects for self-government. In public, however, they tended to express non-utopian but far from illiberal views of human nature, and they adopted cautiously liberal, Lockean constitutions. Particularly in front of popular audiences, Americans emphasized the liberal qualities of their constitutions. For example, when preaching in December 1786, in West Springfield, Massachusetts, amid the beginnings of Shays' Rebellion, a Congregationalist minister attempted to soothe local discontent by emphasizing the liberality of American governments rather than the need for severity. Unlike governments established by force, which "must, you know, in their very nature, be tyrannies," the "British constitution was settled in a more liberal manner, by an explicit compact between the king, the hereditary nobles and the representatives of the people; and it is undoubtedly more favourable to liberty, than most other forms of government in Europe." American constitutions, however, were especially liberal: "But the constitution of these states, and particularly of this, was framed and ratified in a manner still more liberal. It is not, in any sense whatever, a compact between the rulers and the people; but it is a solemn, explicit agreement of the people among themselves."⁷⁸ Contracting among themselves to form their governments, Americans had obtained their constitutions in an unusually liberal manner. This sort of perspective liberally took for granted the capacity of Americans to govern themselves and therefore was better calculated to appeal to popular vanity than querulous doubts about Locke's optimistic understanding of human nature.

The potential of liberality to be associated with ever-greater degrees of self-government is evident from the essays of the anonymous "Revolutionist." He held that "freemen are only free, *from the opinion of being so*," and therefore: "It matters not . . . on what ground Revolutions are formed; whether from a mere exertion of the will, or from grievances

78. Joseph Lathrop, *supra* note 2, at 871. Looking back at the earliest English settlers in Connecticut, Zephaniah Swift observed:

Too remote from their native country to be governed by their laws, they were under a necessity of framing a constitution and laws for themselves. In this respect, they were in a state of nature, and had the right, as well as the power of pursuing those liberal ideas of civil liberty, which had impelled them to undertake such a hazardous enterprise.

1 ZEPHANIAH SWIFT, A SYSTEM OF THE LAWS OF CONNECTICUT 55 (1795).

real or imaginary.”⁷⁹ From this radical perspective, which founded revolution upon mere subjective opinion, the Revolutionist argued that western settlers had a right to form new governments of their own whenever they were so inclined and whatever the extent of their liberty or their obligation under eastern constitutions. In claiming a right of self-government independent of existing American constitutions, he rejected the positions of “[m]en, *illiterate, illiberal, and circumscribed* in the lore of *policy*, and who, uninspired themselves by a single beam from the *sun of liberty*, deal out their crude opinions *on the rights of mankind*.”⁸⁰ Such men, whether “*illiterate or illiberal*,” were “foes to the *general spread* of freedom’s empire, or foes to reason.” The rights of mankind and the general spread of freedom could not be entrusted to these “[n]arrow minds” that were “strangers to liberality.”⁸¹

B. *The Nation*

Although self-government seemed liberal, the nation appeared especially liberal, for the nation more than the states could resist oppression and rise above narrow interest and prejudice.

When Americans struggled against Britain, their national sentiments were liberal. At the end of the colonies’ struggle against the illiberality of the old world, George Washington wrote that their cause was “a theme that will afford infinite delight to every benevolent and liberal mind.”⁸² An

79. “A Revolutionist” [Eleazer Oswald?], *On the Principles of the American Revolution*, No. II, INDEP. GAZETTEER (Phila.), April 20, 1782, No. 2.

80. “A Revolutionist” [Eleazer Oswald?], *On the Principles of the American Revolution*, No. V, INDEP. GAZETTEER (Phila.), May 25, 1782, No. 7.

81. “A Revolutionist” [Eleazer Oswald?], *On the Principles of the American Revolution*, No. VIII, INDEP. GAZETTEER (Phila.), July 20, 1782, No. 15.

82. *Circular to the States (June 14, 1783)*, in GEORGE WASHINGTON: A COLLECTION 239, 240 (W.B. Allen ed., 1998) [hereinafter *Circular to the States*]. Of course, the liberality of a nation depended on one’s point of view. The British expected their governance of America to be liberal. As Shelburne informed Governor William Franklin of New York in 1766, after the repeal of the Stamp Act, “A Conduct regulated by just and liberal Principles, suffering no Encroachment, on the one Hand, on His Majesty’s just and lawful Prerogative, and, on the other, beholding, with Pleasure, the prudent and decent Exercise of that Freedom, which belongs to the People, cannot fail of engaging the Hearts of His Majesty’s American Subjects.” Earl of Shelburne, *Letter to Governor Franklin (Sept. 13, 1766)*, PA. GAZETTE, June 18, 1767, No. 2008. Similarly, in the next decade, the British appreciated the liberal sentiments of loyalists toward their traditional rulers. Thus, upon receiving expressions of loyalty from Presbyterians in New York City, the Governor of New York, William Tryon, told them: “Your liberal Sentiments of Loyalty to our most gracious Sovereign, afford me real Satisfaction.” William Tryon, *To the Ministers, Elders and Deacons, of the United Presbyterian Churches in the City of New York, in Communion with the Established Church of Scotland*, PA. GAZETTE, July 25, 1771. The Governor of New Jersey praised the county committees in Pennsylvania whose instructions to their representatives manifested “a candour and liberality of sentiment” and “just ideas of the importance of our connexion with Great Britain.” *Speech of . . . William Franklin . . . Governor . . . of New Jersey . . . to the General Assembly of the Said Province (May 16, 1775)*, PA. GAZETTE, May 24,

essayist observed: "It has often been predicted that our emancipation from the yoke of Britain would deliver us all from European prejudice, that liberal and new ideas would characterize the American revolution."⁸³ Less prosaically, Joel Barlow imagined American events from the perspective of King Louis XVI of France:

He sees the liberal, universal cause,
That wondering worlds in still attention draws;
And marks, beyond, through western walks of day,
Where midnight suns their happier beams display,
What fires of unborn nations claim their birth,
And ask their empires in that waste of earth.⁸⁴

In America, Europeans could see the progress of "the liberal, universal cause."

The nation was liberal in its opposition not only to British tyranny but also to local interest and prejudice. In 1783, in the aftermath of the Revolution, George Washington worried that national liberality would not prevail against the more confined views of the states: "[I]t is much to be wished (but I think a good deal to be doubted) that the States would adopt a liberal and proper line of Conduct for the Government of this Country. It should be founded in justice. Prejudices, unreasonable jealousies, and narrow policy should be done away."⁸⁵ Three years later, he had all the more reason to worry that "illiberality, *improper* jealousies, and a train of evils . . . oftentimes, in republican governments, must be sorely felt before they can be removed."⁸⁶ To Jefferson, however, he explained: "I cannot

1775. In response to Thomas Paine's *Common Sense*, James Chalmers, writing under the pseudonym "Candidus," urged "Reconciliation on Liberal Principles with Great Britain." "CANDIDUS" [JAMES CHALMERS], *PLAIN TRUTH ADDRESSED TO THE INHABITANTS OF AMERICA, CONTAINING, REMARKS ON A LATE PAMPHLET, ENTITLED COMMON SENSE* (title page) (1776).

83. *Thoughts on Coinage and the Establishment of a Mint*, N.Y. DAILY ADVERTISER, Feb. 19, 1791, reprinted in *A DIARY OF WILLIAM MACLAY AND OTHER NOTES ON SENATE DEBATES*, in *9 DOCUMENTARY HISTORY OF THE FIRST FEDERAL CONGRESS OF THE UNITED STATES OF AMERICA* 420 (Kenneth R. Bowling & Helen E. Veit eds., 1988).

84. JOEL BARLOW, *THE VISION OF COLUMBUS* 179 (Book VI) (1787).

85. *Letter to John Augustine Washington (June 15, 1783)*, in *GEORGE WASHINGTON: A COLLECTION* 256 (W.B. Allen ed., 1988). To James Madison, in 1786, he wrote: "Let prejudices, unreasonable jealousies, and local interest yield to reason and liberality. Let us look to our National character, and to things beyond the present period." Letter from George Washington to James Madison (Nov. 5, 1786), in *4 PAPERS OF GEORGE WASHINGTON, CONFEDERATION SERIES* 331 (W.W. Abbot & Dorothy Twohig eds., 1995).

86. Letter from George Washington to John Jay (May 18, 1786), in *GEORGE WASHINGTON: A COLLECTION* 323 (W.B. Allen ed., 1988). On April 21, Jay had complained to Washington of "Laws dictated by the Spirit of the times, not the Spirit of Justice and liberal Policy." Letter from John Jay to George Washington (April 21, 1779), in *15 WRITINGS OF GEORGE WASHINGTON*, *supra* note 1, at 38 n.63. In Congress, Alexander Hamilton and William Floyd argued from "those principles of justice and liberality, which ought to govern the intercourse between these states." *24 JOURNALS OF THE CONTINENTAL CONGRESS*, 162 (Mar. 4, 1783).

. . . give up my hopes and expectations that we shall 'ere long adopt a more just and liberal system of policy."⁸⁷ Washington was not alone in his conception of national interest as opposed to local illiberality. When Nathaniel Gorham argued for "the shutting of the Mississippi" from further American settlement, on the ground that it "would be advantageous to the Atlantic States," James Madison "animadverted on the illiberality of his doctrine, and contrasted it with the principles of the revolution, and the language of American patriots."⁸⁸ Against both British oppression and the narrow concerns of the existing states, the national cause was liberal.

In contrast, America seemed illiberal when it was interested, prejudiced, or ungenerous. At home, the grounds were obvious enough. After quoting the Declaration of Independence, a Philadelphia writer in 1782 asked: "How far the situation of the Negroes, still kept in slavery on this Continent, is consonant to those liberal sentiments, is a matter which calls for the most serious attention"⁸⁹ Looking abroad, many Americans praised the liberality of admitting British and other aliens and condemned the illiberality of laws excluding foreigners.⁹⁰ The effect of these arguments did not go unnoticed. In Virginia, an opponent of the readmission of Tories complained that when "*the people of this State (at least those about the trading towns) seemed disposed to forgive the offences of certain classes of men, Some were influenced by nice refinements on the words 'LIBERALITY OF SENTIMENT.'*"⁹¹ Yet the influence of liberal sentiments was hardly pervasive, and, in subsequent years, advocates of immigration still had frequent occasion to complain of policies that were "illiberal and Void of Philanthropy."⁹²

87. Letter from George Washington to Thomas Jefferson (Aug. 1, 1786), in 28 WRITINGS OF GEORGE WASHINGTON, *supra* note 1, at 505.

88. Congressional Debates (April 23, 1787), in 5 ELLIOT'S DEBATES 103 (Jonathan Elliot ed., 1938).

89. INDEP. GAZETTEER (Phila.), Aug. 10, 1782, No. 18. This article was earlier published in PA. GAZETTE, Aug. 7, 1782.

90. "A Pennsylvanian" suggested that a "generous competition" would "take place betwixt the different States, which shall, by the liberality of its constitution, the freedom and mildness of its government . . . recommend itself the most to the discontented inhabitants of Europe, that may be desirous of emigrating to this land of civil and religious liberty." "A Pennsylvanian," *An Address to the Freeholders and other Electors of the State of Pennsylvania*, INDEP. GAZETTEER, Sept. 21, 1782, No. 25.

91. "A Soldier," *Letter to Mr. Davis*, VA. INDEP. CHRON., Nov. 1, 1786, No. 15. He was referring to the summer of 1785.

92. See William Maclay, *The Diary of William Maclay and Other Notes on Senate Debates*, in 9 DOCUMENTARY HISTORY OF THE FIRST FEDERAL CONGRESS OF THE UNITED STATES OF AMERICA 214 (Kenneth R. Bowling & Helen E. Veit eds., 1988) (entry for Mar. 8, 1790). Later in the month, "the same illiberality as was apparent on other occasions, possessed the New England Men." *Id.* at 218 (entry for Mar. 15, 1790). Worried that Americans would not be sufficiently liberal in admitting foreigners, Washington told the Baltimore Mechanical Society:

If the Citizens of the United States have obtained the character of an enlightened and liberal people, they will prove that they deserve it, by shewing themselves the true friends

The potential of the nation to avoid illiberality depended in part on its capacity to be neutral or equal. The prevailing sense that it was liberal to be neutral is evident from an anonymous writer who wished “that the Publishers of News-papers, would never suffer themselves to become the *dupes* or *tools* of any *particular* party; but, on the contrary, that their public papers might be conducted upon a plan, which may with truth and propriety be stiled, LIBERAL, OPEN, IMPARTIAL, and UNINFLUENCED.”⁹³ At a national level, this liberal impartiality had implications for the states and for the treatment of religious minorities. Washington told a delegation of Roman Catholic Americans: “As mankind become more liberal they will be more apt to allow that all those who conduct themselves as worthy members of the community are equally entitled to the protection of civil government.”⁹⁴ Beyond this impartial liberality in domestic matters, the President desired such liberality in American policy toward foreign trading partners. He urged “liberal intercourse with all Nations”—noting that “even our Commercial Policy should hold an equal and impartial hand.”⁹⁵ Neutrality, like opposition to oppression, allowed America to be liberal.

of mankind and making their Country not only an Asylum for the oppressed of every Nation, but a desirable residence for the virtuous and industrious of every Country.

Letter from George Washington to the Mechanical Society of Baltimore (June 4, 1793), in 32 WRITINGS OF GEORGE WASHINGTON, *supra* note 1, at 490.

93. “A Typographer,” *Letter to Mr. Loudon*, N.Y. PACKET, Feb. 28, 1785, No. 467, at 198-99. Fearing that such neutrality might be applied to moral questions, Ashbel Green wrote sarcastically: “The truth is, that the perfection of liberality consists in bringing the mind to a complete equilibrium; so that it shall have no partial preponderance toward any one sentiment, more than another.” Although considering himself liberal in his support for religious liberty, Green was witheringly caustic about those whose liberality led them toward the position that “all opinions are equally good.” See LIBERALISSIMUS, *supra* note 52, at 4; see also A LIBERAL PLEA FOR IMPARTIAL LIBERTY: BEING A BRIEF DISSERTATION CONCERNING THE PARISH GLEBES (Evans 46,809), which, according to Evans, was advertised in the *Virginia Herald* of June 20, 1793, but no copy of which has been located.

94. *Letter to the Roman Catholics* (March 15, 1790), in GEORGE WASHINGTON: A COLLECTION 547 (W.B. Allen ed., 1988). On account of both his standard of equality and his caveat, Washington was not quite as generous in this statement as he no doubt hoped to appear. In particular, equal protection was not the fullest possible equality—an equality of all legal rights—but rather an equality of natural rights to the extent these were protected by law, which was what was considered the essential minimum for free persons. See Philip A. Hamburger, *Equality and Diversity: The Eighteenth Century Debate about Equal Protection and Equal Civil Rights*, 1992 SUP. CT. REV. 295.

Other examples of liberality as a lack of prejudice abound. In 1788, shortly after the formation of the federal government, when the Convention of Kentucky petitioned Congress for statehood, it wrote: “[I]mplicitly confiding in the justice and Liberality of Congress,” the Convention was “[c]onscious that” members of Congress dealt with issues that “extended to every part of the confederacy” and that “as it is their duty, it is their inclination to relieve the distresses and to communicate happiness to all the Citizens of America.” *Petition of Convention of Kentucky to Congress*, KY. GAZETTE, Feb. 23, 1788, No. 26.

95. Farewell Address (Sept. 19, 1796), in 35 WRITINGS OF GEORGE WASHINGTON, *supra* note 1, at 235. Charles Pinckney and John Lawrance referred to “the humane and liberal views of the United States” in its treaty with the Six Nations. See 28 JOURNALS OF THE CONTINENTAL CONGRESS 424 (June 3, 1785).

C. *Forming the Nation*

Many Americans recognized that, to unite successfully under one government, they would need to be liberal. In this sense, liberality was not so much a specific argument for a stronger general government as a characteristic required among Americans if their national aspirations and patriotism were to prevail over their local interests and prejudices.

Part of the liberality that seemed essential was a liberal attitude among the states. In 1781, a committee of the Continental Congress worried: "To combine so many states in one general system; to reconcile it to their opinions, their policy and their internal circumstances, will always be difficult. Without liberal sentiments with respect to each other; without confidence in the general council, and a regard for the safety and happiness of the whole Confederacy, it will be impracticable."⁹⁶ Six years later, after the Confederation had failed, George Mason hoped for such liberality in the creation of a new government:

It is easy to foresee that there will be much difficulty in organizing a government upon this great scale, and at the same time reserving to the State legislatures a sufficient portion of power for promoting and securing the prosperity and happiness of their respective citizens; yet with a proper degree of coolness, liberality and candor (very rare commodities by the bye), I doubt not but it may be effected.⁹⁷

This "coolness, liberality and candour" would allow the representatives of the states to discuss and resolve their differences.

In addition, Americans had to avoid illiberal attachments to the interests of the states. At the New York Ratification Convention, an opponent of the Constitution, John Lansing, charged that its supporters were illiberal

96. *Report of Committee to Whom Was Referred the Letter of March 10 from the General Court of Massachusetts*, in 19 JOURNALS OF THE CONTINENTAL CONGRESS 424 (Apr. 19, 1781). In 1768, when Samuel Adams prepared a circular letter to be sent by the Massachusetts House of Representatives to the other colonial assemblies, he closed by emphasizing that, in setting forth Massachusetts's position against Parliament, his letter made not attempt to usurp the equal status of other states. "The House is fully satisfied, that your Assembly is too generous & liberal in sentiment, to believe, that this Letter proceeds from an Ambition to take the lead, or dictating to the other Assemblys." House of Representatives of Massachusetts to the Speakers of Other Houses of Representatives (Massachusetts Circular Letter) (Feb. 11, 1768), in DOCUMENTS OF AMERICAN HISTORY 67 (Henry Steele Commager ed., 1948). If the colonies were to cooperate in defending their rights, they had to have liberal confidence in each other's selflessness. In 1777, the Continental Congress recommended the Articles of Confederation to the states with the caution: "let them be examined with a liberality becoming and fellow-citizens surrounded by the same imminent dangers." Official Letter Accompanying Act of Confederation (Nov. 17, 1777), in ELLIOT'S DEBATES 69. In South Carolina, John Rutledge reminded the legislature that Congress had made this recommendation. *Speech of . . . John Rutledge, . . . President . . . of South Carolina, to the Legislative Council and General Assembly (Jan. 9, 1778)*, PA. GAZETTE (March 21, 1778).

97. Letter from George Mason to George Mason, Jr. (May 20, 1787), in 3 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 23 (Max Farrand ed., 1911) [hereinafter FARRAND].

in accusing Lansing and other Anti-Federalists of local interest and prejudice. Federalists, he charged, had “imbibed prejudices from a want of information”—prejudices against state officials that “originate from an illiberality of sentiment which would disgrace the worst cause.”⁹⁸ Although Lansing rejected the illiberal closed-mindedness of Federalists, the latter could point to the more substantive illiberality evident among adherents of the states. Later in the New York Ratification Convention, after Lansing and his ally, Melancton Smith, spoke about the danger of “corruption” and the risk to “virtue” in the new, federal system, Alexander Hamilton observed that “the danger of corruption has been dwelt upon with peculiar emphasis, and presented to our view in the most heightened and unnatural coloring.”⁹⁹ In response, he argued that the real danger of corruption was in the old plan of government, and he added, among other things, that this danger included an illiberal attachment to state interests.

Sir, in my experience, . . . I have constantly remarked, in the conduct of members of Congress, a strong and uniform attachment to the interests of their own state. These interests have, on many occasions, been adhered to with an unduc and illiberal pertinacity, and have too often been preferred to the welfare of the Union.¹⁰⁰

State interests were not necessarily illiberal, but there had been illiberality in the strong and uniform attachment to them.

More positively, Americans had to be liberal in putting the good of the country ahead of their own, more confined interests and opinions. During the Revolution, those who defied Britain could feel they were liberal in pursuing the good of the whole rather than their narrow or selfish interests. For example, in 1775, George Mason reminded his fellow members of the

98. 2 ELLIOT'S DEBATES 220 (Jonathan Elliot ed., 1888) (June 17, 1788) (statement of John Lansing).

99. *Id.* at 262 (June 21, 1788) (statement of Alexander Hamilton).

100. *Id.* at 266 (June 21, 1788). He also said:

The early connections we have formed, the habits and prejudices in which we have been bred, fix our affections so strongly, that no future objects of association can easily eradicate them. This, together with the entire and immediate dependence the representative feels on his constituent, will generally incline him to prefer the particular before the public good.

Id. Similarly, Chancellor Robert R. Livingston objected to the Anti-Federalist demand for a power of recall, as such an amendment “would have a tendency to bind the senators too strongly to the interests of their respective states.” *Id.* at 296 (June 24, 1788). A senator would “be subjected to all the caprices, the parties, the narrow views, and illiberal politics, of the state governments, and become a slave to the ambitions and factions at home.” *Id.* Later, when defending the indirect election of the Senate and pointing out the dangers of directly elected legislative bodies, Hamilton pointed out that legislatures ought not be so constituted as to feel all of the “prejudices and passions” of the people or to be governed by their “misapprehensions.” He exploded: “What intrigues have been practised for the most illiberal purposes! Is not the state of Rhode Island, at this moment, struggling under difficulties and distresses, for having been led blindly by the spirit of the multitude?” *Id.* at 317 (June 25, 1788).

Fairfax militia that their company was not “a common collection of mercenary soldiers” but rather “was formed upon the liberal sentiments of public good, for the great and useful purposes of defending our country, and preserving those inestimable rights which we inherit from our ancestors.”¹⁰¹ These “liberal sentiments of public good” seemed particularly important in the 1780s as increasing numbers of Americans felt the need for a new general government. Thus, in 1787, when sending its representatives to the Constitutional Convention, New Hampshire declared that it “hath been ever desirous to act upon the liberal system of the general good of the United States, without circumscribing its views, to the narrow and selfish objects of partial convenience; and has been at all times ready to make every concession to the safety and happiness of the whole”¹⁰²

In the summer of 1787 and during the following year, as Americans met to draft and ratify what became the U.S. Constitution, they revealed their liberality. “Numa” wrote of the Philadelphia convention: “The members are much distinguished for knowledge and moderation, liberality of mind and firmness, for patriotism and love of virtue and attachment to government, as possibly any of our citizens.”¹⁰³ Looking back in December 1787, one of the members, Oliver Ellsworth, declared that he had “often admired the spirit of candour, liberality, and justice, with which the Convention began and completed the important object of their mission.”¹⁰⁴ Six months later, when the new Constitution was finally ratified, George Washington, who had presided in Philadelphia, remarked that “in the construction and adoption of the proposed General Government,” Americans had displayed “so much liberality.”¹⁰⁵

101. *Remarks on Annual Elections for the Fairfax Independent Company (ca. April 17-26, 1775)*, in 1 THE PAPERS OF GEORGE MASON, 1725-1792, at 229 (Robert A. Rutland ed., 1970).

102. New Hampshire House of Representatives (Jan. 17, 1787), in 3 FARRAND, *supra* note 97, at 573.

103. “Numa” (from the HAMPSHIRE GAZETTE), VA. INDEP. CHRON., Oct. 3, 1787, No. 63.

104. Oliver Ellsworth, *The Landholder*, No. VII, CT. COURANT (Dec. 17, 1787), in 3 FARRAND, *supra* note 97, at 168.

105. Letter from George Washington to Jonathan Trumbull (July 20, 1788), in 30 WRITINGS OF GEORGE WASHINGTON, *supra* note 1, at 20, 22. Washington recognized that such liberality was also required after ratification: “It was for a long time doubtful whether we were to survive as an independent Republic The adoption of the Constitution so extensively, & with so liberal an acquiescence on the part of the Minorities in general, promised the former.” Letter from George Washington to Henry Lee (Sept. 22, 1788), in 6 PAPERS OF GEORGE WASHINGTON, CONFEDERATION SERIES 529 (1997). In addition, the convention was liberal in a simpler sense. Observing the novelty of the project and especially of the fact that “scarcely a personality, or offensive expression escaped during the whole session,” an unknown person in Philadelphia, in October 1787, concluded that “the whole was conducted with a liberality & candor which does them the highest honor.” See Letter from William Lewis to Thomas Lee Shippen (Oct. 11, 1787), in DOCUMENTARY HISTORY OF THE FIRST FEDERAL ELECTIONS 1788-1790, at 16 (Gordon DenBoer ed., 1989).

D. Law and Federal Power

Liberality was closely associated with law. Law could reenforce the mores of close-knit communities, but it also had the potential to establish a basis for confidence beyond and across communal boundaries, and, accordingly, law could lay a foundation for liberality. More directly, law could be an instrument with which governments actively sought liberal ends, and this was most notably true of constitutional grants of federal power.¹⁰⁶

In rejecting illiberal prejudices, Americans increasingly elevated law and questioned whether public opinion was a legitimate sanction in a republic. For example, in 1787, in opposition to the enforcement of public debts to the British, a Virginian remarked with mortification that "the Briton, the Frenchman, and even the Portugee" would have claims upon Americans.¹⁰⁷ In response, another writer declared that the ownership of American public securities by varied nationalities "ought to be pleasing to every man of liberal sentiment," and he added:

The word "even" being used here, has much the complexion of illiberality, cruelty, and some degree of uncharitableness. If the Devil himself, was permitted to establish a brokers-office in your city; he ought surely to be treated like a gentleman, and an honest man so long as he demeaned himself properly, and paid due obedience to our laws.¹⁰⁸

It was illiberal to distinguish among those who behaved themselves and obeyed the laws.

To carry out liberal policies, Americans often depended upon law to counteract local attachments, and they had particular reason to feel this dependence in the new, federal government. Even amid the close-knit relationships that flourished in small communities, local opinion and custom often required some support from law. Lacking consistent support in the close-knit ties of such communities, the liberal opinions and practices that flourished in the more expansive environment of the nation were especially dependent upon legal enforcement. The dependence upon law to counteract illiberality seems to have been recognized by the 1787 Constitutional Convention when Roger Sherman opposed a motion to prohibit religious tests. Hesitating to object on the merits, this Connecticut politician (who was accustomed to the constraint of public opinion) argued that the prohibition was "unnecessary, the prevailing liberality being a

106. On the alliance of power and liberty, see GORDON S. WOOD, *THE CREATION OF THE AMERICAN REPUBLIC, 1776-1787*, at 543-47 (1969).

107. "A Poor Old Soldier" (Fredericksburg, Sept. 17, 1787), VA. INDEP. CHRON., Sept. 26, 1787, No. 62.

108. *Id.*

sufficient security ag[ain]st such tests.” Of course, Sherman was hardly enamored of liberality in matters religious, and his protest did not prevent the motion from passing. In voting for the motion prohibiting religious tests, most framers probably understood that religious dissenters might not always be able to count upon the liberality of others, who, like Sherman, might bring their local prejudices to bear.¹⁰⁹

Liberality seemed to require not only some legal limitations on government but also governmental powers. For instance, the power to do justice and make improvements could be liberal. When New Haven deviated from the New England way of government by obtaining a charter of incorporation, a correspondent from Hartford observed that “nothing can be more wise and more liberal than the principles on which this charter is founded”—his first illustration being that “the corporation will enjoy a greater degree of power than in any government; suffice it to say, that the recovery of any debt whatever, can never exceed three months.” It hardly requires to be mentioned that he thought the charter liberal in offering “to every man, of whatever religion or political principles soever, the right of citizenship, legal peace, and a participation of all immunities,” but he apparently equally associated liberality with the power to prevent injustice—let alone the power to improve the city by planting elms, building canals and piers, and requiring houses to be uniform.¹¹⁰ In the power to do justice and make improvements, liberality could be allied with strength.

Most dramatically, a federal power to regulate commerce for the common good seemed liberal. In 1785, when urging New York to grant the Continental Congress “the sole power of regulating the commerce of the United States,” memorialists in New York City explained that “[t]hough the interest of a particular state, might be perhaps sometimes affected by the regulations which would take place, yet we all have, or ought to have, one common and general interest, to which the interest of any particular state should ever be subservient.” It was “by adopting a liberal and generous policy like this, that our confederate communities will daily encrease the intimacy and utility of their alliance, and by this shall we make ourselves respectable as a NATION.”¹¹¹ Less attractively, this

109. See 1 FARRAND, *supra* note 97, at 468 (Madison’s notes) (June 29, 1787).

110. See “*Extract of a Letter from Hartford, Jan. 27*”, INDEP. J. (N.Y.), Feb. 14, 1784, No. 22. Incidentally, in Ireland, one who read of “the proceedings of the city and town of New-Haven, respecting the admittance of the loyalist as inhabitants,” wrote a correspondent in New Haven: “The liberality of sentiment which is supposed to have actuated the minds of the inhabitants, is spoken of with applause by people who scarcely knew there was such a place on the globe.” Correspondence (New Haven, Aug. 12), *Extract of a Letter from a Gentleman in Londonderry, to His Friend in This City* (May 6th, 1784), INDEP. J. (N.Y.), Aug. 21, 1784, No. 76.

111. To the Honorable the Legislature of the State of New-York, in Senate and Assembly Convened, N.Y. PACKET, Mar. 7, 1785, No. 469. In 1786, Charles Pinckney argued (with support

power over commerce was part of the mutual liberality among different sections of the country that would eventually allow South and North to agree on the formation of the nation. In the Constitutional Convention, Charles Cotesworth Pinckney of South Carolina acknowledged that the “eastern” or northern states had displayed “liberal conduct” in conceding to the South that it could continue to import slaves. He therefore “thought it proper that no fetters should be imposed on the power of making commercial regulations” and believed that his constituents, “though prejudiced against the Eastern States, would be reconciled to this liberality.”¹¹²

Thus, liberality was associated with the power or “energy” desired for the new government of the United States. From Princeton, one who was disappointed with the weakness of the Continental Congress wrote that he earlier “had great hopes that the Congress would soon pass such liberal resolutions as might have a tendency to put a stop to the further violences of the mobs and committees in the different states.”¹¹³ Later, in 1784, a visitor to America, “actuated merely by what the mind of a citizen of the world suggests,” could not but “lament the little prospect there appears at present of a great, liberal and energetic government in this vast commonwealth.”¹¹⁴ Less easily discouraged, Washington wrote to Madison in 1786 about the need for “a liberal, and energetic Constitution.”¹¹⁵

Of course, the liberality of extending federal power did not end with the ratification of the U.S. Constitution in 1789. Already, in 1791—the year in which the federal Bill of Rights was ratified—some of the Congressmen who defended the constitutionality of a national bank argued

from John Cleves Symmes) that all but two states, “[c]onvinced of the importance of the federal government,” had “liberally dedicated to its support a part of the advantages derived from its establishment,” and they hoped that “their example may induce the legislatures of New York and Georgia to adopt the same liberal conduct.” 30 JOURNALS OF THE CONTINENTAL CONGRESS 52 (Feb. 7, 1786).

112. 2 FARRAND, *supra* note 97, at 449-50 (Aug. 29, 1787) (Madison’s notes). Indeed, so impressed was Pinckney with the conduct of the North toward South Carolina that he added that: “He had himself . . . prejudices against the Eastern States before he come here, but would acknowledge that he had found them as liberal and as candid as any men whatever.” *Id.*

113. *Correspondence (“From Rivington’s New York Royal Gazette . . . Extract of a Letter from Princeton . . . Sept. 2”),* VA. GAZETTE (Nicolson & Prentis, Richmond), Sept. 20, 1783, No. 90. Later, when criticizing the inhabitants of Rhode Island for “the most unjust and tyrannical laws that ever disgraced a popular assembly, and a perseverance in executing them, which can proceed only from obstinate ignorance and dishonest views,” Webster added that the “large trading towns are excepted from this description,” the inhabitants of these being “well informed, polite, liberal and firm supporters of good government.” WEBSTER, *supra* note 73, at 336.

114. “Yorick,” *Letter to the Printer* (Aug. 27, 1784), N.Y. PACKET, Aug. 30, 1784, No. 415.

115. *Letter of George Washington to James Madison* (Nov. 5, 1786), in 29 THE WRITINGS OF GEORGE WASHINGTON, *supra* note 1, at 52.

that their interpretation was liberal—not simply because they took a relaxed approach to the Constitution but because their interpretation would bring about the good of the country. Fisher Ames explained: “Every constitutional right should be so liberally construed as to effect the public good.”¹¹⁶ Only slightly less broadly, Elbridge Gerry argued that, “by a candid and liberal construction of the powers expressed in the Constitution,” Congressmen should “promote the great and important objects thereof.”¹¹⁷ Responding to Madison’s concerns about “the dangerous tendency of a liberal construction,” Gerry pressed his point by asking, “but which is most dangerous, a liberal or a destructive interpretation?”¹¹⁸ Not only in the formation of the U.S. Constitution but also in its interpretation, liberality could require an enlargement of federal power.

IV. Liberal Expansiveness

Liberality extended far beyond the institutions of government. Capable of reaching any person and any feature of life, liberality expansively encompassed cultural and social developments of almost limitless potential. This expansive liberality was a means of surmounting whatever seemed confining, narrow, or particular, and, to some Americans, there seemed almost no limit to the prejudices it could overcome or the divisions it could transcend.

In addition to politics, Americans could be liberal in economics. In 1784, when the well-known Philadelphia printer, bookseller and book auctioneer, Robert Bell, learned that the Pennsylvania House of Assembly was considering the appointment of an auctioneer for Philadelphia who would have the exclusive right to auction books, Bell vehemently protested. According to Bell, “LIBERAL GOVERNMENTS” were opposed to “Monopolies, Embargoes and Restrictions.” He added: “IN the year 1774, to the immortal Credit of the liberal, and learned House of Assembly, . . . they . . . exalted, emancipated, and unfettered, the Sale of Books by Auction from every Restraint whatsoever.” He reminded the Assembly that “the Revolution of America from the monopolizing Power of Britain, was undertaken and accomplished, not to diminish, but to increase the FREEDOM of every Individual.” Moreover, “the most certain method to advance the interest of Learning . . . is to leave the sale of Books by auction, clear from every Species of trammelling, free, entirely free,

116. 4 ELLIOT’S DEBATES, 415 (H.R., Feb. 2, 1791).

117. *Id.* at 420 (Feb. 7, 1791).

118. *Id.* at 421 (Feb. 7, 1791).

unrestrained, and unconfined as the circumambient Air.”¹¹⁹ Another Pennsylvanian told his fellow citizens:

You may now look forward to the rising grandeur of this State, from the enjoyment of a free trade, and liberal intercourse with the whole world; when the ports of the Baltic, of Germany, of Holland, of France, Spain, and indeed of all the maritime powers, will be open to you; when no arbitrary act of navigation can controul your commerce, which shall expand itself as far as seas can carry or winds can waft you.”¹²⁰

Less windily, the President of the Congress, Elias Boudinot, told a Dutch envoy that “the same maxims of policy” of the two nations would be “cemented by a liberal system of commerce.”¹²¹ Liberal economic policy was so familiar to Americans that in a New York election, a writer seeking to remind voters of the benefits of liberality could write of his support for such candidates as “IMPARTIAL JUSTICE,” “DIFFUSIVE PHILANTHROPY” and “LIBERAL OECONOMY”—“these gentlemen” being well known for their “ability and character.”¹²²

119. “A FARMER” [Robert Bell], BELL’S MEMORIAL ON THE FREE SALE OF BOOKS: TO WHICH ARE ADDED SENTIMENTS ON WHAT IS FREEDOM AND WHAT IS SLAVERY 4-6 (1784). He continued: “[T]hen Literature will flourish and abound, to the illumination of every benevolent Mind, who wishes for the attainment, and improvement of the rational Powers of Sentimentalism.” *Id.* at 6. Bell’s liberality was such that, although he was peculiarly eligible to hold the new monopoly, he beseeched the legislature “that no Man, nor number of Men, may be appointed, but in particular he most fervently prays, that Robert Bell, may not be appointed to the Office of Book Auctioneer, notwithstanding his apparent pretensions to [*i.e.*, qualifications for] a preference.” *Id.* For another printing, see “To the Honorable the Representatives . . . of Pennsylvania . . . *The Memorial and Petition of Robert Bell,*” INDEP. GAZETTEER, Mar. 13, 1784, No. 124. The literary and more broadly cultural context of Bell’s liberality is suggested by his advertisements for his book auctions, which typically were headed: “Jewels and Diamonds to be sold or sacrificed, by Robert Bell, humble Provedore to the Sentimentalists.” ISAIAH THOMAS, THE HISTORY OF PRINTING IN AMERICA 261 (2d ed., Burt Franklin Press 1967) (1874); see also BELL’S ADDRESS TO EVERY FREE-MAN . . . CONCERNING, A TYRANNICAL EMBARGO, NOW LAID UPON THE FREE-SALE OF BOOKS BY AUCTION (1784) (Evans 18345).

Pointing out that “paper credit depends upon opinion,” creditors and others in Rhode Island who were opposed to legislation requiring acceptance of devalued paper money, compared this regulation to an attempt to constrain opinion, arguing that “any attempt to controul or alter the minds of men, by any other force, than the force of reason, are illiberal, impolitic, and absurd.” *City Meeting . . . convened . . . in obedience to the direction of the General Assembly on the 2nd day of October, A.D. 1786 (Newport, RI Oct. 24, 1786)*, VA. INDEP. CHRON., Nov. 29, 1787, No. 19.

120. “A Pennsylvanian,” *An Address to the Freeholders and other Electors of the State of Pennsylvania*, INDEP. GAZETTEER, Sept. 21, 1782, No. 25.

121. *President’s Address to Letter from Their High Mightinesses the States General*, in 25 J. OF THE CONTINENTAL CONGRESS 785, Oct. 31, 1783.

122. “Chrononhotontholigos,” *Letter to the Printer*, N.Y. PACKET, Apr. 21, 1785, No. 482. Congress resolved to inform the French that it was “their earnest wish” that “a spirit of liberality may pervade commercial regulations, on both sides; as will extend the intercourse and mutual interests of the two nations.” 25 J. OF THE CONTINENTAL CONGRESS 746, Oct. 24, 1783. Congress felt that it

Notwithstanding the liberality of free trade, some government subsidies for the public welfare were also said to be liberal. Such was the power, already mentioned, of the corporation of New Haven to plant elms and build piers. Similarly, the leaders of Pennsylvania did not hesitate "to ascribe to the influence of the new government the liberal attention and encouragement which of late has been bestowed upon domestic arts and manufacturers."¹²³ More narrowly, when the Pennsylvania legislature repealed "the late law making a trifling allowance to post-riders," the disappointed riders "hoped a more liberal sentiment will prevail at the next session of our legislature" than that which had induced the revocation of this benefit.¹²⁴ Liberality could be extended from free trade to government encouragement and support.

Liberality could be opposed to any prejudice or constraint, most obviously, slavery. After confessing his aversion to the possibility that "manumission would mongrel the nation and destroy our celestial complexion," a student at the Richmond Academy acknowledged the argument that "this is prejudice, and that swarthy liberty is more eligible than a compound of white dominion and black servitude." Accordingly, he hoped that "our legislature . . . will vouchsafe to adopt their most liberal regulations" and that "the late revolution in favour of liberty will ultimately produce a general emancipation in this commonwealth."¹²⁵ Further west,

had founded "the commercial system of these states on the basis of liberality[,] perfect equality and reciprocity" and would unite with the "Burgomasters and Senate" of Hamburg "in promoting [and] encouraging the most friendly intercourse between the citizens of the respective countries on such liberal principles as will secure [and] best promote their mutual advantage and prosperity." Report of committee to whom was reported a letter from the Burgomasters and Senate of Hamburg, in 25 J. OF THE CONTINENTAL CONGRESS 758 (Oct. 29, 1783); *see also* Circular Letter, 26 J. OF THE CONTINENTAL CONGRESS 270 (Apr. 22, 1784); Letter from Merchants of London (June 13, 1766), PA. GAZETTE, Aug. 21, 1766. Madison justified the reach of the judicial power of the new government to controversies between the states on the ground that debtor states, such as Connecticut, had already attempted to pass laws precluding collection by creditor states, such as New York, and "[t]hese illiberal regulations and causes of complaint obstruct commerce." Va. Ratifying Convention, in 3 ELLIOT'S DEBATES 535 (June 20, 1788).

123. *Message from the President and Supreme Executive Council of Pennsylvania to the General Assembly*, in PA. GAZETTE, Nov. 19, 1788. Later, following Philadelphia's epidemic, Governor Mifflin drew to the attention of the legislature "the plans which have been submitted, at different times, to the consideration of the government, for more effectually preventing the generation, introduction and propagation of pestilential diseases," and he expressed his confidence "that the liberal sentiments of our constituents, in perfect unison with your own, have prepared you to adopt and enforce, among the earliest acts of legislation, every measure, which . . . the authority or treasure of the state can accomplish, in the contemplation of an object so momentous and interesting." Governor Thomas Mifflin, *Address to Both Houses of Legislature of Pa. (Dec. 7, 1798)*, PA. GAZETTE, Dec. 12, 1798.

124. *See Extract of a Letter from Benson, to the Printer (May 19, 1791)*, PA. GAZETTE, June 15, 1791.

125. "Juveniles Vindex," *On Bondage (Jan. 12, 1788)*, VA. INDEP. CHRON., Jan. 23, 1788, No. 79. *See also* the letter from James Pemberton to his kinsman, Robert Pleasants, who helped lead the struggle against slavery in Virginia in *supra* note 62.

in Kentucky, an advocate of a “gradual emancipation” for the descendants of living slaves argued that it “would hardly injure the owners or their posterity: and their praises would be eternally sung for the infinite advantages that would redound through their liberality.”¹²⁶

This expansive, encompassing tendency of liberality flourished in the eighteenth-century culture of sentiment and sympathy.¹²⁷ In the eighteenth century, some philosophers came to understand moral obligations as founded upon sentiments, and some even came to understand moral sentiments as further based upon sympathy. Echoing popular versions of such ideas, the protagonist of the first American novel, *The Power of Sympathy* (1789), condemned “aristocratick” and other social distinctions “inimical to domestick quietude” and celebrated the portion of America where “slavery is abolished” and where “all men are declared free and equal, and their tempers are open, generous and communicative.”¹²⁸

126. “Mancipium.” Letter to “Massa Braddefo.” KY. GAZETTE, Feb. 23, 1788, No. 26. Writing of an act for the gradual abolition of slavery, “A Whig Freeholder” praised “[t]he liberal spirit which this act breathes.” “A Whig Freeholder,” *Letter to the Printers*, PA. GAZETTE, Jan. 26, 1780.

127. More broadly, liberality flourished amid the optimistic expectations about human nature cultivated in the philosophy and literature of sentiment. Such optimism may be illustrated by the views of a character in a leading eighteenth-century sentimental novel, *Felicia to Charlotte*. Responding to the relatively traditional, Calvinist opinions proposed by a friend, Lucius “acknowledged . . . that there is too much reason for the disagreeable representation that has been made of a general depravity.” See MARY COLLYER, *FELICIA TO CHARLOTTE: BEING LETTERS FROM A YOUNG LADY IN THE COUNTRY, TO HER FRIEND IN TOWN* 98 (1749). Yet he resisted this conclusion: “But let us leave this gloomy, this disagreeable subject, and with hearts warmed with a love of truth and virtue, impartially enquire if vice is really so prevalent, as upon a superficial view it appears to be.” *Id.* at 98-99. In fact, according to Lucius, “virtue reigns more universally than vice, and that by the constitution of nature, mankind have, even in this imperfect state, more real, more exquisite happiness than misery.” *Id.* at 99. He argued, in part, from religion—from “the wisdom and benevolence of that moral being, who is the father of the human soul.” *Id.* He also, however, argued from what he considered empirical evidence: “We must extend our views, and glance upon the virtues and vices of all the known world; and here we shall find the greatest reason for an universal bevolence; we shall see with pleasure a noble simplicity of manners, and an integrity of heart, delightfully conspicuous amidst the barbarism of ignorance, the superstition of wild uncultivated nations.” *Id.*

128. WILLIAM HILL BROWN, *THE POWER OF SYMPATHY* 31 (letter XVII) (Herbert Brown ed., 1961) (1789). The novel exploited a popular theme that, at least in literary publications, was expected to appeal to women and apparently did. See, e.g., *The Force of Sympathy*, AM. MAG. 384 (N.Y., 1788); see also LINDA KERBER, *WOMEN OF THE REPUBLIC: INTELLECT AND IDEOLOGY IN REVOLUTIONARY AMERICA* 235-36 (1980); Nord, *supra* note 33, at 55. Yet the culture of sentiment and sympathy also had concrete political significance in the political realm dominated by men. The practical, political role of sympathy and how it was to be obtained was suggested by Isaac Backus’ observation that “if our opponents could once put themselves into our place, we doubt not but they would think it was high time to seek for more full liberty than we have hitherto enjoyed.” ISAAC BACKUS, *An Appeal to the Public* (1773), in ISAAC BACKUS ON CHURCH, STATE AND CALVINISM 325 (William G. McLoughlin, ed., 1968). More generally, see Ruth H. Bloch, *Religion, Literary Sentimentalism, and Popular Revolutionary Ideology*, in *RELIGION IN A REVOLUTIONARY AGE* 308 (Ronald Hoffman & Peter J. Albert eds., 1994). For an elegant and suggestive account of some of these and other, related issues in the nineteenth century, see Elizabeth B. Clark, “*The Sacred Rights of the Weak*”: Pain, Sympathy, and the Culture of Individual America, 82 J. AM. HIST. 463 (1995).

Drawing upon an expansive sense of sympathy that transcended mundane constraints and distinctions, "liberal sentiments" had special appeal in a world in which there were ever fewer prejudices and other constraints against which ever wider numbers were not beginning to rebel. Against both British and local prejudices, liberal sentiments included national sympathies; against national prejudices, liberal sentiments included the international sympathies of those who considered themselves citizens of the world. Against taxes and regulation, liberal sentiments included economic freedom; against public needs, liberal sentiments included government regulation and even largess. Against racial oppression, liberal sentiments were humanitarian. Against the bigotry of religion and race, they were also egalitarian. Less of a stable position than an almost infinitely expandable attitude or tendency, liberal sentiments offered an elevated sense of benevolence and sympathy for a growing range of diverse groups—for the "other" of every variety. In this sense, liberality was defined by its context and had the potential to reach any constraint upon any person.

In their liberality, some Americans sought a complete freedom from habitual thought. "It is our happiness to live in the times of enlightened liberty, when the human mind, liberated from the restraints and fetters of superstition and authority, hath been taught to conceive just sentiments of its own."¹²⁹ For the author of this little paean to mental freedom, the conclusion was liberty in religion: It was a period "when mankind, in matters of *religion*, are quite charitable and benevolent in their opinions of each other."¹³⁰ So too, there was a mental freedom in politics. The "Revolutionist," who defended the independence of western regions against the constitutional claims of eastern states, explained that, to "minds circumscribed in their habits of thinking, and blinded by the prejudices of ancient usage," his point of view would seem "abstruse"; indeed, it would "be lost on many."¹³¹ Yet his "design was calculated, by no means, for the meridian of such minds." Instead, he "principally addressed" his essays "[t]o those who are liberal, to those who are enlightened, and to the guardians of our confederacy, liberty, and peace."¹³²

129. "A Jew Broker," *Letter to the Printers*, INDEP. GAZETTEER, Mar. 13, 1784, No. 124. The author apparently was an opponent of the proposed Second Bank of North-America who sought to deflect any Jewish support for the chartering of this institution by attacking one of its supporters, Miers Fisher, for having made aspersions against the Jews of Philadelphia. A subsequent communication to the Independent Gazetteer suggested that the author was not a Jew and that he had a wooden leg, perhaps suggesting Gouverneur Morris. See "Spectator," *Letter to the Printers*, INDEP. GAZETTEER, Mar. 20, 1784, No. 125.

130. *Id.*

131. "A Revolutionist," *On the Principles of the American Revolution*, No. VII, INDEP. GAZETTEER (Phila.), July 20, 1782, No. 15.

132. *Id.*

There was a risk of perfectionism in liberality, especially when Americans followed their liberal feelings so far as to abandon traditional, constraining assumptions about human nature. For example, Washington wrote:

As the rage of conquest, which in the times of barbarity, stimulated Nations to blood, has in a great degree ceased; as the objects which formerly gave birth to Wars are daily diminishing; and as mankind are becoming more enlightened & humanized, I cannot but flatter myself with the pleasing prospect that more liberal policies & more pacific systems will take place amongst them.

With these hopes for a world so liberal as to be without war, America's sober-minded Commander in Chief was willing to engage in what he acknowledged to be wishful thinking: "To indulge this idea affords a soothing consolation to a philanthropic mind, insomuch that altho' it should be founded in illusion, one would hardly wish to be divested of an error, so grateful in itself & so innocent in its consequences."¹³³ Whether or not founded in illusion, and whether or not so innocent in its consequences, Washington's hope for "more liberal policies and more pacific systems" suggests how even the most responsible of Americans could indulge in liberal escapes from conventional assumptions about mankind.

Inevitably, some Americans worried about the liberal challenge to conventional opinion, for what was valuable as a means of undermining prejudices might be dangerous if applied to other habitual ideas. It was this expansive quality of liberality that led "Q.Q." to ask in the pages of the *Gentleman's Magazine* whether other correspondents "would oblige him

133. George Washington, *Letter to Rochambeau* (July 31, 1786), in 4 *THE PAPERS OF GEORGE WASHINGTON, CONFEDERATION SERIES 180* (W.W. Abbot & Dorothy Twohig eds., 1995). Believing that he lived "in such an enlightened, in such a liberal age," Washington shortly afterward wrote to Lafayette:

Altho' I pretend to no peculiar information respecting commercial affairs, nor any foresight into the scenes of futurity; yet as the member of an infant-empire, as a Philanthropist by character, and (if I may be allowed the expression) as a Citizen of the great republic of humanity at large; I cannot help turning my attention sometimes to this subject. I would be understood to mean, I cannot avoid reflecting with pleasure on the probable influence that commerce may here after have on human manners & society in general. On these occasions I consider how mankind may be connected like one great family in fraternal ties—I indulge a fond, perhaps an enthusiastic idea, that as the world is evidently much less barbarous than it has been, its melioration must still be progressive—that nations are becoming more humanized in their policy—that the subjects of ambition & causes for hostility are daily diminishing—and in fine, that the period is not very remote when the benefits of a liberal & free commerce will, pretty generally, succeed to the devastations & horrors of war. Some of the late treaties which have been entered into, & particularly that between the King of Prussia & the U[nite]d States, seem to constitute a new era in negotiation, & to promise the happy consequences I have just now been mentioning.

George Washington, *Letter to Lafayette* (Aug. 15, 1786), in *id.* at 215-16.

with the meaning of the term LIBERAL in its fullest extent, as understood among us at present.”¹³⁴ A rhetorical question, it elicited no answer. In America, Ashbel Green sarcastically proposed that preachers of liberal sentiments should discount “all opinions which bear so evidently the stamp of prejudice, as those . . . derived from common-sense, experience, and the Bible.”¹³⁵ He even claimed for the liberal creed that “every man ought to exercise a great many rights but is under no obligation to any duties.”¹³⁶ More moderately, the Rev. Nathan Strong, in his election sermon to the assembled officialdom of Connecticut, warned: “But while we speak of a liberal spirit, let not immorality and irreligion think they have a right to our tenderness. Liberality . . . cannot be pleased with vice. True liberality is christian love, and delights in GOD, and in all the virtues he commandeth.”¹³⁷ Capable of almost unlimited extension, liberality

134. “Q. Q.,” *Letter to Mr. Urban* (Nov. 8, 1783), 53 GENTLEMAN’S MAG., (part 2, No. 5), Nov., 1783, at 938.

135. LIBERALISSIMUS, *supra* note 50, at 4-5.

136. *Id.* at 21. Green accused Unitarians of “endeavouring to destroy the general prejudice in favour of Jesus Christ.” LIBERALISSIMUS, *supra* note 50, at 8. Incidentally, he also suggested that people were in doubt as to what liberal men believed: “But I am informed, that illiberal or ignorant folks are frequently asking, ‘What is it that these people do believe? What do they think? What sentiments do they hold?’” *Id.* at 20.

137. NATHAN STRONG, A SERMON: DELIVERED IN THE PRESENCE OF HIS EXCELLENCY SAMUEL HUNTINGTON, ESQ., L.L.D., GOVERNOR, AND THE HONORABLE GENERAL ASSEMBLY OF THE STATE OF CONNECTICUT 21 (1790). Such fears were a staple of discussions about religious liberality. Already in 1779, a satirical response to Jefferson’s draft bill for establishing religious liberty argued:

Let us leave men to judge for themselves; to believe in one or more Gods, as seems best to them; to credit or disbelieve a future state of rewards or punishments, according to the dictates of their fancy and inclination; and in short, to form such notions of God and his government of us, of their duty here, and lot hereafter, as they shall think proper; . . . If from the latitude of their principles, they shall be led to commit private injuries or frauds, when such acts become overt, let the laws punish them; if they betray the publick trust, let their heads answer for it; and if they are tempted irremediably to ruin their country, this reflection will still comfort us, that we owe our fall to our liberality of sentiment, and to a zealous enthusiastick regard for the rights of human nature.

“A Friend to Liberty,” VA. GAZETTE, Oct. 30, 1779, No. 237 (Clarkson & Davis, pub.). Similarly, Jedidiah Morse, who had discussed liberality with Ashbel Green, worried about those who “break the proper bound, and liberalize away all true religion.” 1 JEDIDIAH MORSE, AMERICAN GEOGRAPHY 341 (1796). In 1800, in one of his grand jury charges, Jacob Rush praised William Penn and his guarantees of religious liberty but added:

But however liberal his ideas were on controverted points of theology, yet the pernicious member of society—the immoral man, whose actions are hostile to virtue and a good life, was justly held in abhorrence, and delivered up to the secular power, to be dealt with according to his desert. The drunkard, the swearer, the adulterer, the Sabbath-breaker, the gambler, with the whole crew of moral disorganizers, were, in his judgment, proper objects of legal cognizance; because no dictates of conscience can be pleaded for violating the duties of natural religion, or justify overt acts, or even expressions, when they are subversive of private rights, or social order.

Jacob Rush, *Upon Profane Swearing, delivered before the Grand Jury of Luzerne County* (Nov. 1800), in JACOB RUSH, CHARGES, AND EXTRACTS OF CHARGES, ON MORAL AND RELIGIOUS SUBJECTS 82-83

could usefully overcome any number of prejudices, but it thereby seemed to threaten the prejudices in favor of religion and morality.

The moral dangers of an undefined liberality could be a metaphor for the associated political risks. When, in the Constitutional Convention, Gouverneur Morris proposed that fourteen years of citizenship should be one of the qualifications for senators, James Madison objected because “it will give a tincture of illiberality to the Constitution”—an argument seconded by Benjamin Franklin, who said he “should be very sorry to see any thing like illiberality inserted in the Constitution.”¹³⁸ In defense of his proposal, Morris expostulated: “*Liberal & illiberal*—The terms are indefinite.”¹³⁹ To illustrate his point, he suggested that: “The Indians are the most liberal, because when a Stranger comes among them they offer him [thei]r wife & Daughters for his carnal amusement.”¹⁴⁰ The moral extremes to which an undefined liberality might be taken revealed the weakness of political arguments from liberality.

Reacting to the almost infinitely expansive quality of arguments from liberality, Morris defended his fourteen-year qualification for senators by arguing that legislators ought to have a patriotic predisposition—indeed, a prejudice. “We sh[oul]d cherish the love of our country—This is a wholesome prejudice and is in favor of our Country—Foreigners will not learn our laws & Constitution under 14 y[ea]rs.”¹⁴¹ This extended time was necessary “to eradicate the Affections of [foreign] Education and native attachments” and to substitute the “wholesome prejudice” of American affections.¹⁴² In contrast to persons who adopted American loyalties, those without any national prejudices—those who placed themselves above patriotism, American or foreign—were to be excluded altogether. “As to those philosophical gentlemen, those Citizens of the World, as they called themselves, He owned he did not wish to see any of them in our public Councils. He would not trust them.”¹⁴³

(1804). Anticipating such criticism, advocates of liberality eventually incorporated it in their own positions. For example, in 1819, the Baptist, William Staughton, wrote in a circular letter:

As liberality of sentiment is often a cover for error and skepticism on the one hand, and as it is too little attended to by the uninformed and biggoted on the other, we lay before you, brethren, a character which in our judgement is worthy, not only of your investigation, but also of your imitation; a man of liberal sentiments must be distinguished from him who hath no religious sentiments at all.

MINUTES OF THE APPOMATTOX ASSOCIATION, HOLDEN AT UNION HILL MEETING-HOUSE, CAMPBELL COUNTY, MAY 1ST, 2D AND 3RD, at 6-7 (Lynchburg, Va.: 1819) (S&S 47147).

138. See 2 FARRAND, *supra* note 97, at 236 (Aug. 9, 1787) (Madison’s notes). In King’s account, Franklin’s comment comes after Morris’s. *Id.* at 242-43. (Aug. 9, 1787) (King’s notes). Whether or not Franklin spoke before Morris, it is clear that the latter responded to arguments from liberality.

139. *Id.* at 242.

140. *Id.*

141. *Id.* at 242-43.

142. *Id.*

143. *Id.* at 238 (Madison’s notes).

Liberality had the potential to condemn all that stood in its path as narrow interest and prejudice and therefore was already becoming an ideal so far-reaching as to stimulate, both among the liberal and the less liberal, a sense of the incompatibility between general principles and particular practices, affiliations or attachments. Transcending all that was narrow, liberal arguments had the potential to be ever more universalistic, and they thereby sometimes provoked a retreat to the opposite extreme. Such was the reaction of Morris when, in defending his principles against arguments from liberality, he spoke of patriotism as a "wholesome prejudice."¹⁴⁴

144. The sense that patriotism was a prejudice or was illiberal was quite widespread. An American who urged that immigrants be granted citizenship within six months argued: "If an attachment to the place of our birth be a *prejudice*, it is one that is difficult indeed to eradicate; it cannot without many a struggle, be dislodged from the breast of the philosopher—no wonder then it has such tyrannic authority with the bulk of mankind" "Tiberius Gracchus," *To the Senate and Assembly of New-York, Letter II (April 13, 1785)*, N.Y. PACKET, Apr. 18, 1785, No. 481. The possibility that liberal sentiments might sometimes conflict with national sentiments was recognized when the Continental Congress considered whether to appoint John Temple as Britain's Counsel General. The United States' secretary for foreign affairs reported that, although negotiations between the two former adversaries were still uncertain, "it will nevertheless be proper for the United States, on this and every other occasion, to observe as great a degree of liberality as may consist with a due regard to their national honor and welfare." 29 J. OF THE CONTINENTAL CONGRESS 897 (Dec. 2, 1785). Earlier, in 1764, in England, Charles Churchill had more optimistically written:

That spring of love, which in the human mind,
Founded on self, flows narrow and confined,
Enlarged as it roles, and comprehends
The social charities of blood and friends,
Till smaller streams included, not o'erpast,
It rises to our country's love at last;
And he, with liberal and enlargèd mind,
Who loves his country, cannot hate mankind.

The Farewell (1764), POEMS OF CHARLES CHURCHILL 396 (lines 294-301) (James Laver ed., 1933).
In 1787, his *Vision of Columbus*, James Barlow echoed such thoughts:

No more the noble patriotic mind,
To narrow views and local laws confined,
'Gainst neighboring lands directs the public rage,
Plods for a realm or counsels for an age;
But lifts a larger thought, and reaches far,
Beyond the power, beyond the reach of war;
For realms and ages forms the general aim,
Makes patriot views and moral views the same,
Sees with prophetic eye in peace combined,
The strength and happiness of human-kind.

BARLOW, *supra* note 84, at 248-49. In contrast to these perspectives was that of Edmund Burke, who increasingly perceived general arguments (whether from reason, natural rights or liberality) as challenges to morals and the nation and emphasized the particular attachments of place and patriotism, common law and the English constitution. Similarly, Thomas MacDonal, who regretted that "an extreme liberality of sentiment is now the reigning affectation," declared: "Let our national attachment and old peculiarities of sentiment, our respect for a free and manly subordination, our honest prejudices, let all of them be cherished and preserved, and Britain shall yet stand firm." THOMAS MACDONALD, THOUGHTS ON THE PUBLIC DUTIES OF PRIVATE LIFE, WITH REFERENCE TO PRESENT CIRCUMSTANCES AND OPINIONS 7 (1795); *see also* EDMUND BURKE, REFLECTIONS ON THE REVOLUTION IN FRANCE (London, 1790).

Yet the expansiveness of liberality was not without at least one moral limit. Rejecting the boundaries of their narrower communities and prejudices, increasing numbers of Americans found a shared moral sentiment in their liberality, and, in so doing, many found a sense of shared moral boundaries in their denial of sympathy to those neither adequately liberal nor much oppressed. Such limits to the moral expansiveness of liberality became apparent when the more liberal organizers of Transylvania University were simultaneously slow to open the school and censorious of those who wanted a more sectarian institution. A "Sectarian" complained:

The *liberal*, they may do something: but I beg the favour of them, when they do get into motion, not to teach us, in the violent heat of a party spirit, that a crow is as white as a swan, that honey is as bitter as tobacco, or that it is more reasonable to believe absolute impossibilities than mysteries; and then with the supercilio[u]s air of absolute infallibility pronounce all superstitious and party spirited, who presume to contradict them.¹⁴⁵

So generous in their estimate of human nature as to tend toward a worldly perfectionism, the liberal, according to one who clearly felt the sting of their moral disdain, were annoyingly sanctimonious toward those less liberal than themselves.

Notwithstanding these risks, liberality was expansive enough to embrace large numbers of diverse Americans and to help draw them together into one nation. As Americans sought common ground, many of them adopted at least a degree of liberality, making it one of the most encompassing, even if least specific, moral sentiments of their expanding country. Of course, in their smaller communities, Americans tended to be far less liberal. In their more extended connections, however, an attitude of liberality, based on ever-broader sympathies, seemed to be admired, and many Americans adopted such an attitude as an essential foundation of their national life.

Of course, these varied perspectives on national attachments were part of a broader range of moral tensions increasingly felt by Europeans and Americans. See *infra* text accompanying note 205.

145. "A Sectarian," *A Letter to the Printer*, KY. GAZETTE, Dec. 22, 1787, No. 18. In England, Thomas MacDonald complained:

Every age and period of time has some prevailing fashion or prominent feature of folly, and an extreme liberality of sentiment is now the reigning affectation. The worst of prejudices and most intolerant bigotry are propagated or concealed under that pestilent mischief.—The school-boy may recover; experience and observation may banish the abstractions he has been taught. But the aged or adul[t] Quixot of liberal sentiment is confirmed by opposition, and looks down upon the danger of defeat.

MACDONALD, *supra* note 144, at 7.

V. Liberality's Social Context

Liberality seems to have been part of a more extensive liberalization of constraints that frequently was a response not only to the nation's relatively tangible political cleavages but also to a broader, more diffuse social fragmentation. Although the evidence of a liberal and more generally liberalizing approach to social fragmentation is necessarily sketchier than the evidence about liberality examined thus far, and although any conclusions must be more speculative, liberality's relation to its widest social context cannot be ignored, for it reveals much about the evolution of American society, institutions, and culture.

Some Americans recognized that their liberal sentiments were part of a broader array of changes in their society. Speaking in the Maryland Assembly in support of a petition for removing the legal obstacles to voluntary manumission, William Pinckney was not far from the mark when he assumed that "liberality of sentiment . . . springs from civilization and refinement."¹⁴⁶ Washington also associated liberal sentiments with the progress of civilization. He observed that America was founded "at an Epoque when the rights of mankind were better understood and more clearly defined, than at any former period" and that this "collected wisdom" and understanding of "social happiness" could be "happily applied in the Establishment of our forms of Government."¹⁴⁷ Acknowledging the basis of such knowledge, Washington wrote that "the free cultivation of Letters, the unbounded extension of Commerce, the progressive refinement of Manners, the growing liberality of sentiment, and above all, the pure and benign light of Revelation, have had a meliorating influence on mankind and [have] increased the blessings of society."¹⁴⁸ The "growing liberality of sentiment" evolved with other social and cultural developments, which together had this "meliorating influence," and it was at this "auspicious period" of "progressive" improvement that the United States "came into existence as a Nation."¹⁴⁹

A. Fragmentation and Liberalization

American society was changing in many ways that were significant for liberality, but especially important seem to have been varied types of fragmentation and what could be called the "liberalization" with which

146. PROVIDENCE GAZETTE & COUNTRY J., July 25, 1789, No. 1334. Incidentally, this speech was widely disseminated.

147. Circular to the States (June 14, 1783), in GEORGE WASHINGTON: A COLLECTION, *supra* note 82, at 240-41.

148. *Id.* at 241. See *supra* note 133 for Washington's "progressive" view of the world.

149. Circular to the States, *supra* note 82.

numerous Americans responded to it. In particular, as Americans became increasingly independent from the social ties of their varied communities, they frequently relaxed their communal mores and (as illustrated in later sections) sometimes adopted liberal sentiments. Of course, numerous Americans reacted less generously to the fractured quality of American life, but, at the same time, many seem to have accommodated and even embraced it by liberalizing their mores and adopting elevated, liberal sentiments.¹⁵⁰

Although hardly uniform or predictably progressive in all parts of America or among all types of Americans, and although coexisting with other, apparently contrary trends, the independence of Americans from the connecting ties of close-knit communities was already becoming a persistent and more pervasive feature of American life. Mobility and communication, frontier and city, commerce and war, had long been slowly breaking up and liberalizing close-knit communities, their prejudices and their parochial public spiritedness to create a more broad, urbane, and open society in which individuals increasingly felt free to depart from the traditional expectations of their local and other tightly bound relationships.¹⁵¹ For example, T.H. Breen and Timothy Hall have shown that in the 1740s, in response to itinerant preaching and proposals for the circulation of paper money, some Americans expressed hopes of escaping and relaxing the constraints of their smaller communities.¹⁵² Later, during the intensity of their struggle against Britain, Americans overcame some of their individuation and other social fragmentation—in part by emphasizing republican concepts of virtue—but during the period after the Revolution, Americans seemed all the more individuated, and, in varied communities, religious and local, they liberalized their mores. The War dislocated many Americans from their churches and towns, and the Revolution's ideals encouraged Americans to aspire to freedom from

150. Of course, to suggest that liberality and, more generally, what is here called "liberalization" often appealed to Americans as they confronted varied types of fragmentation is not to leap to the conclusion that such fragmentation was a sole or even a necessary cause—surely it was neither. Moreover, as in so many questions of causation, there is reason to keep in mind the relation between chickens and eggs.

151. See T.H. Breen & Timothy Hall, *Structuring Provincial Imagination: The Rhetoric and Experience of Social Change in Eighteenth-Century New England*, 103 *AM. HIST. REV.* 1411, 1415 (1988); see also BRUCE H. MANN, *NEIGHBORS AND STRANGERS: LAW AND COMMUNITY IN EARLY CONNECTICUT* (1987) (regarding the changing character of commercial relationships in Connecticut); DARRETT B. RUTMAN, *WINTHROP'S BOSTON: PORTRAIT OF A PURITAN TOWN, 1630-1649* (1972) (concerning the relaxation of mores in Boston); Timothy L. Smith, *Congregation, State, and Denomination: The Forming of American Religious Structure*, in 1 *ESSAYS ON THE NATIONAL PAST, 1607-1865*, at 73, 76 (regarding the effect of mobility on religious organizations).

152. *Id.* Indeed, this study suggests the ways in which even the mere prospect of traveling preachers and paper money could stimulate liberalization.

domestic as well as foreign oppression.¹⁵³ Conscious of their identification with freedom, numerous Americans became increasingly impatient and independent of locality, sect and family even as the bonds of such communities were becoming more relaxed.¹⁵⁴

The ways in which, in some places, Americans became relatively independent of the mores of any one community and adopted relaxed sentiments and conduct can be illustrated by manners, particularly manners toward strangers, which seemed very different in, for example, New England and Pennsylvania.¹⁵⁵ Not without prejudice for his home state, William Maclay believed "we have really more republican plainness [*sic*], and sincere openness of behaviour in Pennsylvania, than in any other place I have ever been."¹⁵⁶ Of New Englanders, however, he felt: "no People in the Union dwell more on trivial distinctions, and Matters of Mere form. They really seem to show, a readiness to stand on punctilio and ceremony."¹⁵⁷ Whereas "[w]e Pennsylvanians act as if we believed that God made of one blood all families of the Earth[,] . . . the Eastern People seem to think that he made none but New England Folks."¹⁵⁸ Maclay thought "it is strange that men born & educated Under republican forms of Government, should be so contrasted, on the Subject of General Philanthropy."¹⁵⁹ Yet it was hardly strange that the people of New England—so homogenous, so English, so long settled, so tightly bound in close-knit towns, and so deferential to their ministers and leading families—should have less relaxed manners than the Quakers, Germans, and Scots-Irish of Pennsylvania. Maclay could explain part of this himself: "They are an unmixed people in New England, & used only to see . . . Neighbours like themselves, and when once an Error of behaviour is crept

153. That such a development, however characterized, was occurring in eighteenth-century America and that it was much accelerated during and after the Revolution is widely recognized. Yet the analysis and vocabulary with which to understand and describe it have remained elusive. Elisha Douglas emphasizes "democratization." ELISHA P. DOUGLAS, *REBELS AND DEMOCRATS* (1955). In connection with religion, McLoughlin observes the demands for equality. See 1 WILLIAM G. MCLOUGHLIN, *NEW ENGLAND DISSENT 1630-1783: THE BAPTISTS AND THE SEPARATION OF CHURCH AND STATE*, xviii & *passim* (1971). Most broadly, Gordon Wood focuses on the Revolution and its radicalism. See WOOD, *RADICALISM*, *supra* note 16. For a subtle treatment of earlier such developments in liberal terms, see Breen & Hall, *supra* note 151, at 1415.

154. See DOUGLAS *supra* note 153; WOOD, *RADICALISM*, *supra* note 16, at 124-34; Breen & Hall, *supra* note 151, at 1415; JAY FLIEGELMAN, *PRODIGALS AND PILGRIMS: THE AMERICAN REVOLUTION AGAINST PATRIARCHICAL AUTHORITY 1750-1800* (1982; 1989); MELVIN YAZAWA, *FROM COLONIES TO COMMONWEALTH: FAMILIAL IDEOLOGY AND THE BEGINNINGS OF THE AMERICAN REPUBLIC* (1985).

155. On changing manners, see BUSHMAN, *supra* note 36, at 57-58.

156. MACLAY, *supra* note 92, at 9 (Apr. 28, 1789).

157. *Id.*

158. *Id.* at 215 (Mar. 9, 1790).

159. *Id.* at 215-16.

in among them, there is small chance of [its] being cured.”¹⁶⁰ By way of illustration, Maclay added:

[S]hould they ever go abroad, being early used to a ceremonious and reserved behaviour, and believing that good Manners consist intirely in punctilios[,] they only add a few more stiffened Airs to their deportment, excluding Good humor affability of conversation, and accomodation of temper and sentiment, as qualities too vulgar, for a Gentleman.¹⁶¹

Not accustomed, as were Pennsylvanians, “to the reception and adoption of Strangers,” the “unmixed people” of New England did not understand the importance of “Good humor,” “affability of conversation” or an “accommodation of temper and sentiment.”¹⁶²

Incidentally, in Connecticut, manners underwent substantial change only after the period examined in this study—although for reasons that are relevant to the arguments here. Connecticut’s religious, social and political framework of close-knit and hierarchical relationships often constrained the conduct even of those who did not know each other, and, well into the nineteenth century, travelers there greeted one another on the highways “with a certain dignified and formal curtesy,” including salutations and bows.¹⁶³ By the 1820s, however, when the habits, deference, politics and established church of an older Connecticut were clearly becoming history—when “aspiring young America” no longer walked as “slow” as once was commonplace—the formality of bowing “subsided into a vulgar nod, half ashamed and half impudent” and eventually “totally ceased.”¹⁶⁴ Even with these changes, however, travellers in Connecticut did not become as relaxed as on the far western frontier, where they tended to greet each other with the familiarity of: “How are you, stranger?”¹⁶⁵

160. *Id.* at 9 (Apr. 28, 1789).

161. *Id.* at 9. Of course, another part of the explanation was that mentioned by Benjamin Rush when he wrote: “Here quakers & germans, tincture every thing with simplicity—industry—& republicanism. Here the people & their rulers will be alike.” Letter of Benjamin Rush to John Adams (March 19, 1789), in 4 DOCUMENTARY HISTORY OF THE FIRST FEDERAL ELECTIONS, 1788-1790, at 202 (Gordon DenBoer, ed. 1989).

162. MACLAY, *supra* note 92, at 215-16 (Mar. 9, 1790).

163. See 1 S.G. GOODLICH, RECOLLECTION OF A LIFETIME OR MEN AND THINGS I HAVE SEEN 127 (1857).

164. *Id.* at 121.

165. *Id.* at 127. Although the “change in manners had no doubt been silently going on for some time,” Goodrich observed that “it was not distinctly visible to common eyes till the establishment of the new constitution”—that is, until 1818—and he associated it with the informality popularized by Jeffersonians. *Id.* at 129. Of course, there were differences within New England between the older and newer states, as noticed by Lucy Larcom in Massachusetts when she was young: “Most of my mother’s boarders were from New Hampshire and Vermont, and there was a fresh, breezy sociability about them which made them seem almost like a different race of beings from any we children had

What Maclay noticed in the manners of Pennsylvanians could also be observed in commerce, especially on the frontier or in cities.¹⁶⁶ In these places, customers often were more-or-less strangers, relatively unconstrained by the mores of civility, and shopkeepers, who depended upon the patronage of such strangers, frequently found it necessary to tolerate from these potential customers what would never otherwise be acceptable. For example, in 1791, in Lexington, Kentucky, an unidentified retailer of cloth and other goods (perhaps fictional, but revealing nonetheless) noted that “in order to promote business, I have studied a smile, which I put on indiscriminately to every person who enters my shop.” This welcoming of strangers, however, had a cost:

Unfortunately this smile has encouraged a set of LOUNGERS with whom I am now daily infested. They generally give me a call about 10 o'clock, observe the day is fine &c. &c. and take a seat upon my Counter. This poisture [sic] presently becomes uneasy, and down they lay, stretched out at full length.

Such loungers not only impeded the shopkeeper's use of his counters, but, more seriously, offended other customers.

It so happened that whilst my counter was thus occupied a lively Widow with three or four hand[some] country girls (all good customers) entered my shop door, and were approaching the counter but stopped short at sight of the LOUNGERS—I observed their difficulty, and requested the gentlemen to rise—with reluctance, they did so—dropt off—and with their elbows on the Counter supported their heads, so tu[r]ned as to stare the ladies full in the face.—The evident offence in the countenance of the ladies gave rise to the idea—that to these LOUNGERS was owing the declension of my business. . . . I observed the Ladies now highly offended by the frequent winks and grinning of my LOUN[GERS] I have also since found that my Gentlemen customers from the Country do not care to enter a shop where they see three or four idlers collected supposing (as they say) that they meet to make remarks on them.¹⁶⁷

hitherto known.” LUCY LARCOM, *A NEW ENGLAND GIRLHOOD OUTLINED FROM MEMORY* 152 (1985; 1889).

166. On the importance of cities as well as frontiers, see CARL BRIDENBAUGH, *CITIES IN THE WILDERNESS* (1955).

167. “A Batchelor,” *Letter to Mr. Printer*, KY. GAZETTE, Dec. 17, 1791, Vol. V, No. 14. The signature “A Batchelor” was sometimes used facetiously in the Kentucky Gazette, and therefore this letter may be a rather obscure satire. Even if so, it appears to draw upon what would have been a recognizable contemporary scene, the loungers hanging out in Lexington's stores and the smiling shopkeepers. Compare the phrases, “The buyer is always right” and “Smile when you say that, Mister.” A somewhat different sort of smiling was observed by a satirist who purported to offer hints about genteel behavior to “Candidates for high offices.” Describing how these ambitious Americans

Smiling to everyone, the shopkeeper had encouraged loungers who irritated his better customers. He noticed other stores were also "infested" and hoped the loungers would depart but did not tell them so directly. Instead, he continued to smile, protesting only anonymously in the local newspaper. Where each depended upon the good will of strangers—especially where social ties were weak and law was an ineffective substitute—a ready smile, like the affable good will it signaled, was a necessary commodity.

With the prevalence of this sort of distance among individuals, local and other close-knit relationships could seem constraining, and a liberalization of manners and a liberality of sentiment could seem attractive. Americans could still enjoy continuing, unspecialized, and interconnected relationships in their close-knit communities—in, for example, the towns in which they regularly participated in the same churches, markets and circles of gossip—and, therefore, Americans could sometimes feel their sense of identity so closely intertwined with communal mores and opinions as to consider these their own. From the time of the earliest settlements, however, they found in their frontiers and, later, their towns and even some of their villages increasing opportunities for more specialized, discontinuous, and unintertwined relationships.¹⁶⁸ By these means, among others, Americans came to feel less tightly connected by their social ties and became more tangibly aware of the possibility of escaping them, and increasing numbers thereby came to perceive their social ties more as constraints than as connections. Persons who had (or came to expect) opportunities for relationships that were less continuous, repeated, or interconnected than the relationships of their neighbors and fellow churchgoers might feel neighborly and church connections as confining. It was this perception of communal ties as binding down more than bonding together—this sense that they were more coercive than cohesive—that made it liberating and liberal to relax them.

Of course, liberality and the liberalization of which it was a part contributed to the fractured character of American society. For instance, as Americans came to appreciate their liberalized mores and came to value liberal sentiments, they were apt to perceive the demands of their close-knit communities as constraining and were likely to seek their freedom from

should behave when joining a company or party in a home, he recommended all sorts of boorish behavior, including that they should "whisper, if you please, about private matters—laugh and grin by yourselves whenever you have occasion—and make the company think you are vastly happy." "Peter Punctilio." *Rules for Genteel Behavior, Humbly Off'ered to the Consideration of All Candidates for High Offices*, AM. MAG., (N.Y.), July 1788, at 530-31.

168. See MANN *supra* note 151, at 65-66 (regarding changes in Connecticut's society and law); DARRETT B. RUTMAN, WINTHROP'S BOSTON 140-43 (1965) (concerning the changing character of Boston).

these constraints. Refracted through their liberalized lives and liberal sentiments, any number of things, including the aspirations and bonds of a close-knit locality, could come to seem burdensome and illiberal, and, in this way, liberality and the liberalization with which it was connected probably stimulated the social fragmentation amid which many Americans found liberality appealing.

B. Diversity

As hinted in Maclay's observations, the diversity of Americans sometimes contributed to the independence they felt from their close-knit communities and encouraged the liberalization of their communal mores. When Americans traveled or communicated across local boundaries, when they expanded their national community to include more variety, or when they otherwise had occasion to conceive of themselves as diverse, many of them qualified their close-knit ties and adopted the relaxed mores with which they could accommodate their variety. For such purposes, Americans often valued liberality.

Although, today, Americans may doubt the diversity of the country in the eighteenth-century, many Americans at that time perceived themselves as diverse in at least some respects and in some places. Such a place was Lexington, Kentucky, where loungers filled the stores and shopkeepers felt obliged to smile indiscriminately:

I look'd, and soon an infant-town descry'd;
 Her streets, and houses, throng'd from side to side,
 From side to side, my curious eye pursu'd,
 And the well-varied scene with pleasure view'd.
 A motly group of men, this scene disclos'd,
 Of ev'ry colour, age and sex compos'd;
 White, black, and mix'd; all hues that intervenes,
 From Afric's black-wool'd sons, to red-hair'd danes. . . .
 A blended, motley mass of things, and themes;
 All factions, sects, tongues, partizans and names,
 That time, in past or present ever us'd:
 Old Babels builders were not more confus'd.¹⁶⁹

169. "Sophia Kentuckeana" [W. Ward], *Sophia's Dream*, KY. GAZETTE, May 24, 1788, No. 39. Rarely did the heightened expectations so typical of early Kentucky soar as high as when "Sophia Kentuckeana" made these observations from an aerial passage somewhere above the State:

With wide stretch'd wing, cleft the unfeeling air;
 And sudden swept our western hemesphere,
 From where the' Atlan[tic] washes Georgia's shore,
 To where broad Erie's mid-land surges roar:
 Recross'd Ohio['s] stream, with slacken'd reins,
 And hover'd oe'r Kentucky's fruitful plains

In addition to this tangible diversity of a frontier town was the diversity Americans felt as they became a nation. Many Americans, especially in parts of New England and the South, could feel considerable homogeneity within their states. Yet, as Americans formed their nation in the 1780s, they expanded their political identity to include a much more diverse populace, and they thereby became more diverse even if their neighbors remained unchanged.¹⁷⁰

To participate in this heterogenous society—whether in some larger towns, on some frontiers or in the nation—Americans increasingly learned to get along. Maclay's account of the "affability" and "acommodation" he found among Pennsylvanians, who were not an "unmixed people," has already been noted.¹⁷¹ Similarly, as Protestant denominations recognized that varied forms of Protestantism rather than any one sect would predominate, they adopted a more generous attitude toward one another. It could be observed that "the *spirit* of religion is easily distinguis[h]able in *modern* days from what it was formerly, . . . and mankind improving in light and knowledge, have been taught to entertain more *liberal* sentiments upon the subject."¹⁷²

Id. With his feet more firmly on the ground, Ward, under the name "Sophia," addressed his poem to the judges of the Supreme Court of Kentucky, offering his "visionary suggestions" to the judges who "have it very much in your power to form the principles[,] create the manners and stamp an indelible complexion on the gene[r]al character of this district"—an illustration of how, in the absence of settled communities and mores, Americans looked to law to shape their lives. *Id.*

170. This is a reminder that perceptions of social conditions can be at least as significant as the reality and that political and institutional change can transform such perceptions.

171. See *supra* text accompanying note 162.

172. "Religious." *Letter to Mr. Oswald (Oct. 3, 1782)*, INDEP. GAZETTEER (Phila.), Oct. 8, 1782, No. 30. When travelling in New England in the summer of 1791, the Philadelphia Presbyterian, Ashbel Green, visited the Association of Clergy in and about Boston and found a disturbing combination of diversity and affability. A prayer was "usually the only thing of a religious nature which claims attention." Nor were the members inclined to cooperate for religious improvement, being "so diverse in their sentiments that they cannot agree on any point in theology." This led Green to exclaim:

How absurd it is for men of such jarring opinions to attempt to unite. How much more conducive to improvement and to pleasure, that the parties should divide, and that those who are agreed should walk by themselves. Yct this plan I know would be esteemed by them as the effect of bigotry and narrowness of mind; and so they will meet, and shake hands, and talk of politics and science, and laugh, and eat raisins and almonds, and apples and cake, and drink wine and tea, and then go about their business when they please. To such a meeting as this, for the purposes of amusement, relaxation or sociability, few would object. But for the purposes of church government, to me, at least, it appears ludicrous.

JONES, *supra* note 51, at 224-25 (diary entry for July 11, 1791). Incidentally, in 1774, a "Catholic Christian" wrote: "Love is the strongest cement of society, and union in religious sentiments promotes love. On this consideration, a wise magistrate might desire uniformity in religion. But when divisions spring up, sectaries encrease, parties begin to be formed, it is wisdom then to inculcate mutual charity and toleration." "A Catholic Christian," *Charity Suffereth Long, and Is Kind*, VA. GAZETTE (Clementina Rind pub.), May 12, 1774, No. 418.

This acceptance of diversity—not mere toleration, but an appreciation of different opinions and practices—was even elevated to political theory and aesthetics. In *Federalist* number ten, James Madison treated diversity—the unavoidable differences in talents, interests, passions and opinions—as an unfortunate source of factionalism, and one of the ways he hoped to counter this danger was by expanding the sphere of government to include more parties and interests.¹⁷³ James Wilson, however, who was eager to establish his superior reputation as a political theorist, went further, protesting that diversity was not so much a problem as a positive good: “How insipidly uniform would human life and manners be, without the beautiful variety of colors, reflected upon them by different tastes, different tempers, and different characters!”¹⁷⁴ A political danger had acquired aesthetic value. In the words of the poetic observer of Lexington, Wilson viewed “the well-varied scene with pleasure.”¹⁷⁵

In contrast to what an older generation and even many contemporaries still assumed about the binding quality of shared opinions and mores, some Americans wondered if they were discovering a new, very different mode of harmonizing peoples. In 1776, an opponent of establishments in Virginia declared: “WHATEVER narrow zealots may alledge to the contrary, does not a mixture of a variety of religious sects in the same civil society the most effectually promote freedom of inquiry, and liberal sentiments?”¹⁷⁶ In 1782, President John Dickinson of Pennsylvania applied this new perspective to international politics. On the basis of their older views, the English supposed that a friendship between America and France could never succeed. They assumed this alliance would fail “because of the dissimilarity of governments, laws, manners, customs, religion and language.” Yet Dickinson rejected such “hereditary habits of thinking.” Instead, he believed that “[m]utual interests, liberal sentiments, and fair dealing, are better promoters of concord between nations, than resemblances.”¹⁷⁷ In this respect, Americans were beginning to take diversity and liberal sentiments far beyond what was plausibly compatible with republican ideas about the virtue of local communities.

173. See THE FEDERALIST NO. 10, at 58-59 (James Madison) (Jacob E. Cooke ed., 1981).

174. 1 THE WORKS OF JAMES WILSON 241 (Robert Green McCloskey ed., 1967).

175. See *supra* text accompanying note 169.

176. *Queries on the Subject of Religious Establishments*, VA. GAZETTE (Purdie pub.), Nov. 8, 1776, No. 93. Moving from the consequences for opinion to those for homogeneity and limits on government, he added: “Can any device more completely answer the purposes of a *ensor morum* (an inspector and reformer of manners) or form a more certain barrier against the encroachments of lawless power, foreign or domestick?” *Id.* Incidentally, the image of a *ensor morum* is a reminder of Jefferson’s ability to state with flair what was hardly a unique perspective.

177. John Dickinson, *State of Delaware In the House of Assembly, at Dover, January 19, 1782*, PA. GAZETTE, Feb. 27, 1782. Of course, for some aspects of this supposedly new approach, there were precedents reaching back to the Stoics.

C. *Homogenization*

Amid the variety of the nation and the much relaxed character of shared expectations, an insistence upon distinctive opinions and mores could seem constraining and illiberal. Instead, liberality seemed to require conformity to the relatively homogenized views and practices shared by the larger society.¹⁷⁸

One of those who was reluctant to concede his distinctive religious beliefs to the nation's homogenizing liberality was Ashbel Green, who complained that:

[T]he system of genuine and extensive liberality, consists in holding that the public mind ought to be formed like a kettle of New-England beer; into which a great variety of materials, such as bran, hops, pumpkins, malt, molasses, apples, spruce and wort, are promiscuously thrown, and each allowed to find its proper place, and the whole to stew, and work, and ferment together, till at length the liquor partakes of the qualities of each ingredient; or rather is an octavum-quid, distinct in its nature from any.¹⁷⁹

Although Green admired ministers who adopted liberal attitudes without giving up their distinctive beliefs, he had only contempt for the more "extensive liberality" that blended each ingredient into a common liberal brew—a melting pot of religion and morals.¹⁸⁰

Yet Americans had reason to participate in this liberal homogenization. Whether politicians, preachers or schoolmasters, late eighteenth-century Americans were apt to succeed in appealing across sectarian or local

178. Some observers hoped that the liberal reduction of differences among sects would contribute to Christian unity and, in this respect, even if not all, liberality laid a foundation for the nineteenth-century evangelical movement. For example, a foreign commentator believed that the differences among denominations "will I doubt not be in part removed by the progress of liberal sentiments. The greater majority hold now the sound principle, that all faithful worshipers please the Supreme Being; why then should smaller differences prevent so great a national blessing as a general public worship." "A Foreign Spectator," *An Essay on the Means of Promoting Federal Sentiments in the United States*, PA. GAZETTE, Aug. 22, 1787. An American observed that, not having a religious test, "our new federal constitution admits all, whether protestant, or catholic or presbyterian, or episcopalian," and the "federal connexion, established on these liberal and generous principles, will lead to a sort of federal union among the various churches which it has pleased God to raise up in the world." "A Friend of Society and Liberty," *To the Inhabitants of the Western Counties of Pennsylvania*, PA. GAZETTE, July 23, 1788.

179. LIBERALISSIMUS, *supra* note 52, at 7. In its struggle to prevent revision of Pennsylvania's radical constitution, the State's Constitutional Society professed that it would cheerfully concur in amendments to the Constitution if this were found necessary, explaining that "[i]t is incompatible with the liberal sentiments we hold, to differ upon trifles with any of our fellow citizens who may have the same general good in view with which this society is animated." Charles Wilson Peale, President of the Constitutional Society, *Letter to House of Assembly of Pa. (May 16, 1777)*, PA. PACKET, May 20, 1777.

180. For Green's views about Calvinist ministers who were liberal toward those who differed from them, see *supra* note 52.

boundaries when they adopted an ecumenical or liberalized approach, deemphasizing such doctrinal or other requirements as were obstacles to popular support and unity.¹⁸¹ Certainly, many individuals responded to less restrictive standards with pleasure or at least sympathy. Equally important, however, as individuals developed more extended relationships and sympathies, they tended to understand the liberalized mores and opinions valued in such relationships to be what was laudable. For example, in 1789, one who worried about “the growing neglect” of catechizing children observed “a dislike” of the “long questions and answers” and “deep matters in divinity” in the existing Calvinist catechism, and therefore, more positively, he hoped Americans would pay “particular attention” to the “religious education” needed under “the present new and independent form of government.”¹⁸² Accordingly, he prepared a rather Arminian “summary” of the catechism that was, as its title advertised, “THE AMERICAN Independent Catechism, ADAPTED TO THE Liberal Spirit OF THE UNITED STATES.”¹⁸³ Arminianism, Universalism and an ecumenical emphasis upon faith rather than doctrine contributed to a liberalization of heaven and hell—the illiberal penalties of hell becoming

181. This was often a self-conscious motive for liberality, as can be illustrated by the example of King’s Chapel in Boston. After Tory members of the Chapel departed for Nova Scotia and elsewhere, the congregation rented pews “to persons, sundry of whom had never professed themselves of the church; to the members of which they had no other affinity in principle than what consisted in dissatisfaction with the system then generally preached in Boston.” [William White], [Introduction to] *Correspondence with Mr. Charles Miller, BIRD WILSON, MEMOIR OF THE LIFE OF THE RIGHT REVEREND WILLIAM WHITE*, 323 (1839). This left the Chapel with a less than conventional Anglican membership that was disappointed when the Episcopal Church in America did not make “liberal” alterations in its liturgy in 1784. Accordingly, the King’s Chapel, now renamed the Stone Chapel, altered its liturgy on its own. Letter of Charles Miller to William White (Jan. 8, 1786), in *id.* at 329. As the Chapel’s minister, Charles Miller, explained to Bishop White: “The object of our society in the new liturgy was to leave out all such expressions as wound the conscience of a unitarian, without introducing any which should displease a trinitarian.” *Id.* at 334. Miller argued that the Episcopal Church should follow this example and adopt “a plan which was ‘truly great and liberal.’” He explained: “For whilst she tenaciously adheres to disputable doctrines many conscientious persons will be prevented from joining her communion” *Id.* at 335. Somewhat similarly, in his study of the response to the calls of President Adams for national days of fasting, Charles Ellis Dickson concludes: “Political leaders could appeal to the least common denomination in their large and complicated society by publicly thanking Providence for singling out America for special favors, but they could no longer call the nation to repentance.” Charles Ellis Dickson, *Jeremiads in the New American Republic: The Case of National Fasts in the John Adams Administration*, in 60 *NEW ENG. Q.* 187, 207 (1987).

182. See “A FRIEND OF RELIGION AND HIS COUNTRY,” *THE AMERICAN INDEPENDENT CATECHISM, ADAPTED TO THE LIBERAL SPIRIT OF THE UNITED STATES* 2-3 (1789) (Evans 21641).

183. *Id.* Jay Fliegelman observes that, Noah Webster, in his blue-backed speller, “replaced the Westminster Catechism with one of his own, stressing mercy over justice”—a mercy the exercise of which, according to the new Catechism, “tends to happify everyone.” As Fliegelman points out, “his neologism ‘happify’ epitomizes the values of the new age for which he spoke.” FLIEGELMAN, *supra* note 154, at 161.

quite discredited and the gates of heaven being liberally opened to all. Indeed, Joel Barlow looked forward to a less than conventional millennium:

When the pure Church should stretch her arms abroad,
Fair as a bride and liberal as her God;
Till warm benevolence and truth refined,
Pervade the world and harmonize mankind.¹⁸⁴

Transforming the preponderant character of their religion, Americans ever more frequently identified what was divine and Christian with what was humane and liberal.

Similarly, many Americans rejected formality, solemnity and severity in manners, law or religion as illiberal. It has already been suggested how, in Pennsylvania and, later, Connecticut, declining cohesion and growing diversity helped to undermine the distinctive manners of different communities. The tendency, however, was more general. For example, in Virginia, piety was said to be "the foundation of good morals," but:

At the same time you are not to apprehend that an exhortation to be religious includes an obligation of becoming more formal and solemn in your manners than others of the same age, or of electing yourselves into supercilious reprovers of those around you. The spirit of true religion breathes gentleness and affability; it is social, kind, and cheerful; far removed from that gloomy illiberal superstition and bigotry which clouds the brow, sours the temper, dejects the spirit, and impresses morosity on the manners.¹⁸⁵

184. BARLOW, *supra* note 84, at 217. By the early nineteenth century, liberality was a position shared by deists, Unitarians, and even many Baptists. Although well beyond the period examined here, the 1819 Circular letter of the great Baptist, William Staughton, is worth quoting to illustrate liberal opinion among some Baptists, not surprisingly, itinerants and those sympathetic to them. He began: "We have thought it proper to address you in this our Circular on the subject of LIBERALITY." Although he initially exhorted "the exercise of Liberality, in contributing to the relief of the needy," he quickly reached his main concern, that his fellow Baptists should imitate "the benevolence of our great Creator and bountiful Benefactor, who giveth liberally to all men and upbraideth not." According to Staughton: "Liberality of sentiment is a generous disposition a man feels towards another who is a different opinion from himself; or as one defines it 'that generous expansion of mind which enables it to look beyond all petty distinctions of party and system, and in the estimation of men and things, to rise superior to narrow prejudices.'" In this sense, a liberal Christian "has adopted sentiments of his own." Yet "a generous believer of the Christian religion is one who will never allow himself to try to propagate his sentiments by the commission of sin; no collision, no bitt[ern]ess, no wrath, no undue influence of any kind, will he use at any time to make his sentiments receivable and no living thing will be less happy, for his being a Christian. He will exercise his liberality by allowing those who differ from himself, as much virtue and integrity as he possibly can. . . . The liberal Christian will allow others to think and believe for themselves." MINUTES OF THE APPOMATTOX ASSOCIATION, *supra* note 137, at 6-9. For another point of view, condemning "that candor and liberality, which place only a small value on truth," see MINUTES OF THE OTSEGO BAPTIST ASSOCIATION, CONVENEED IN THE MEETING-HOUSE IN WESTERN, COUNTY OF ONEIDA, STATE OF NEW-YORK, ON THE 1ST AND 2D OF SEPT. 1819, at 6 (1819).

185. *An Address to Youth*, VA. GAZETTE (Richmond, Nicolson & Prentis pub.), Dec. 6, 1783, No. 102 [hereinafter *An Address to Youth*]. In 1795, Zephaniah Swift wrote:

Increasingly dealing with one another beyond the confines of their relatively cohesive communities, Americans often set aside the manners learned in such communities—manners that might seem formal, severe and illiberal to others—and adopted, instead, a superficial affability, such as that with which the Lexington shopkeeper greeted customers.¹⁸⁶

Of course, Americans who showed this liberality in their wider and more public interactions often reserved very different and less liberal attitudes for their smaller, more intimate communities and relationships. It was on this account that the Lexington shopkeeper had to “stud[y]” and “put on” his smiles. Nonetheless, as Americans increasingly centered their lives around their broadest affiliations and connections, they often did not simply “put on” liberal sentiments but more fully identified with them, adopting these public beliefs even in private.

Allied with liberality in uniting an otherwise increasingly diverse and fragmented people were some ideals, such as freedom and happiness. If the shared religion of Americans was dwindling into little more than a vague faith, and if their shared morality was lapsing into little more than a rule against injury, Americans could easily acknowledge the value of pleasure—a tendency already clearly apparent in the mid-eighteenth century and well established by the 1780s.¹⁸⁷ The essayist who rejected such “gloomy illiberal superstition” as “imposes morosity on the manners” observed that the youth of America strained against their parents’ mores, and he pliantly counseled the discontent youngsters to consider the pleasure permitted by religion and morality: “[W]hat do the dictates of religion and the counsels of age amount to? The sum total is—not to hurt yourselves, and not to injure others by the pursuit of pleasure. Within these bounds pleasure is lawful; beyond them it is criminal, because it is ruinous.”¹⁸⁸

Mankind are rejecting those false appendages of religion, which have so long imposed upon them penances and restraints, that have only contributed to encrease their wretchedness and misery. They begin to entertain an idea, that religion was not instituted for the purpose of rendering them miserable, but happy, and that the innocent enjoyments of life are not repugnant to the will of a benevolent God. They believe there is more merit in acting right, than in thinking right; and that the condition of man in the future state will not be dependent on the speculative opinions they may have adopted in the present.

To which he added: “It is a pleasing consideration, that pure religion and moral virtue, have augmented in proportion to the progress of liberality of sentiment.” 1 ZEPHANIAH SWIFT, *A SYSTEM OF THE LAWS OF THE STATE OF CONNECTICUT* 145 (1795). Significantly, this was part of Swift’s defense of Connecticut’s religious establishment. For discussion of part of this passage, see WILLIAM WARREN SWEET, *RELIGION IN THE DEVELOPMENT OF AMERICAN CULTURE* 198 (1952).

186. See *supra* text accompanying note 167.

187. In discussing happiness as a human end, many Americans drew upon European authors, not least, Burlamaqui. For the connection between Burlamaqui and the Declaration of Independence, see MORTON GABRIEL WHITE, *THE PHILOSOPHY OF THE AMERICAN REVOLUTION* 107-13 (1978). See also FLIEGELMAN, *supra* note 154, at 161.

188. *An Address to Youth*, *supra* note 185. Similarly, the “Speculatist” wrote:

Indeed, liberty and happiness increasingly seemed important as sources of unity. Thus, on their anniversary in 1796, the Philadelphia Tammany Society “assembled at the Fish-house on Schuylkill,” where, “having spent the day with innocent mirth and brotherly harmony,” they drank, among other toasts, to: “The Family of Mankind—May liberty be their bond of Union, and happiness their inalienable inheritance—*nine cheers*.”¹⁸⁹

Viewed in this context, as the common, homogenized moral foundation for America’s larger society, liberal sentiments had their most persistent advocates in men, such as George Washington, who were self-consciously attuned to what the whole nation might consider admirable. The most regular advocates of liberality tended not to be admirers of local government. Jefferson, Anti-Federalists and others who emphasized the possibility of virtue within a state were not the most emphatic advocates of liberality; nor were Americans who were suspicious of cities, immigrants or the diversity foreigners brought with them.¹⁹⁰ More typically, liberality was a position attractive to Federalists, but it should hardly be assumed that all Federalists insisted upon much liberality. Only a limited, cautious liberality could be expected from those, such as James Madison, who recognized in the prejudice and injustice of the states the immutable realities of human nature and who responded by seeking solutions within such realities rather than in optimistic speculation about the amelioration of human nature. Madison could be highly critical of illiberality and, when taking what might be viewed as an illiberal position, could protest that he was “a friend in general to a liberal policy,” but he did not identify with it as thoroughly as some of his contemporaries.¹⁹¹ In contrast, liberality

For what End was Man created? “To subdue his passions, and to practi[c]e Self-Denial,” replies the Stoick. “To wallow in Sensuality,” answers the Epicurean. “For incessant Contemplation,” returns the Hermit. “For Prayer and Fasting,” cries the Monk. But what says a Being distinct from all them? I mean the Man of Sense. “We are born, says he, to be happy ourselves, and to make others so; to indulge ourselves in every innocent Pleasure, agreeable to our Natures; gratefully to accept all the Blessings the benign Author of our Existence reaches forth to us, and to spurn at none of his Bounties.”

“The Speculatist,” VA. GAZETTE, May 23, 1771 (Purdie & Dixon, pubs.). This “Speculatist” believed that “Pleasure in general” was “that grand Point in Morality,” and, against “the Devotees of Superstition and Rigour,” he urged a “good natured Morality.” *Id.*

189. *Domestic Intelligence*, 28 INDEP. CHRON. (Boston), May 12, 1796, No. 1581.

190. For example, when, in 1801, Jefferson wrote to reassure immigrants, he was not altogether welcoming, although he wrote that “your own knowledge of the liberal conduct heretofore observed towards strangers settling among us will warrant the belief that what is right will be done.” *Letter of Thomas Jefferson to Hugh White, May 2, 1801*, in 4 PAPERS OF THOMAS JEFFERSON, 394 (1905). As with slavery, so with immigrants, Jefferson’s liberality was more limited than that of many of his contemporaries. In contrast, Joyce Appleby adopts a modern understanding of liberalism and, on this basis, emphasizes the “liberal political vision of Jefferson.” Joyce Appleby, *Republicanism in Old and New Contexts*, 43 WM. & MARY Q. 20 (1987); see also Gordon Wood’s views in *supra* note 31.

191. He said this in 1787, in the debates as to whether Phineas Bond should be admitted as British consul for the Middle States. See 33 JOURNALS OF THE CONTINENTAL CONGRESS 732 (March 30, 1787). He was, however, thoroughly liberal in matters of religious liberty. Already in 1774, he wrote from Virginia: “That liberal, catholic, and equitable way of thinking, as to the rights of conscience,

pervaded the writings of persons more concerned with the widest public perceptions of what was appropriate. These habitual advocates of liberality included not only varied newspaper writers but also George Washington, whose writing, even when addressed to friends, was somewhat posed—self-consciously written, if not for the public, at least so that it could be considered admirable by all whose horizons extended beyond parochial boundaries. Never accused of seeking too much depth, newspaper writers and men such as Washington often adopted a platitudinous, optimistic stance compatible with the sentiments they admired and for which they hoped to be admired as widely as possible.

Although homogenized liberal sentiments were weak compared to the intense passions of local communities, they could seem an important means of uniting the country, and therefore some broad-minded Americans sought to overcome the nation's political divisions by cultivating the circumstances in which their countrymen were likely to adopt liberal sentiments. Eager to encourage these shared attitudes, Washington insisted that a national university was "of the highest importance." At such an institution, "young men from different parts of the United States would be assembled together, and would by degrees discover that there was not that cause for jealousies and prejudices which one part of the Union had imbibed against another part." Once these young men learned to overcome their jealousies and prejudices, "sentiments of more liberality in the general policy of the Country would result from it. What, but the mixing of people from different parts of the United States during the War rubbed off these impressions?"¹⁹² By taking Americans out of their local communities and mixing them with individuals from different places, the Revolutionary War had, incidentally, "rubbed off" prejudices and inculcated liberal sentiments, and now a national university could accomplish these goals by design. This institution, Washington hoped, would encourage the liberal sentiments that increasingly seemed to define the common identity of Americans.

which is one of the characteristics of a free people, . . . is but little known among the zealous adherents to our hierarchy." Letter of James Madison to William Bradford (April 1, 1774), in 1 *LETTERS AND OTHER WRITINGS OF JAMES MADISON* 14 (1865). He added: "We have, it is true, some persons in the Legislature of generous principles both in Religion and Politics; but number, not merit, you know, is necessary to carry points there." *Id.*

192. Letter of George Washington to Alexander Hamilton (Sept. 1, 1796), in 35 *THE WRITINGS OF GEORGE WASHINGTON FROM THE ORIGINAL SOURCES 1745-1799*, at 199 (John C. Fitzpatrick ed., 1940). In the New York ratification debates, Hamilton argued:

Though the difference of interests may create some difficulty, and apparent partiality, in the first operations of government, yet the same spirit of accommodation, which produced the plan under discussion, would be exercised in lessening the weight of unequal burdens. Add to this, that, under the regular and gentle influence of general laws, these varying interests will be constantly assimilating, till they embrace each other, and assume the same complexion.

New York Ratification Debates (June 20, 1788), in 2 *ELLIOT'S DEBATES* 268.

D. Reconciling Particular Interests with the Sympathies of the Whole

With the concept of liberality, Americans could generalize their diverse desires for liberalization; they could identify their particular interests with the moral sympathies of the larger community. Although few Americans yet consistently sought liberalization, many increasingly perceived that their particular sympathies and desires for liberalization of one sort or another could be understood as elements of a common cause—what Barlow called “the liberal, universal cause.” On this basis, liberality would eventually become—what some apparently already assumed it to be—one of the most widely shared of American moral sentiments and an expression of the relatively unconfining, indeed, liberating relationships and opinions that seemed desirable in an expansive, liberalized society.

By characterizing his self-interested demands as rights, and by appealing to fellow Americans to be liberal in supporting such rights, a person could reveal that what might seem selfish was, in fact, generous. For example, in 1792, when “Philanthropos” advocated a constitutional provision in Kentucky for the public education of all children, including the poor, he pointed out that because “I am one of these poor men myself,” opponents would “im[m]ediately impute” his opinions “to the right source, viz. a desire of supporting my own rights.”¹⁹³ Knowing that his plan would “meet with opposition from the churlish and penurious,” he addressed himself to the “Philanthropists of the present age”—to those “whose affections are not confined within a narrow & partial sphere”—and concluded: “My opinion of the humane generosity, liberal sentiments and enlarged views of my fellow countrymen hath already produced a satisfaction and confidence in my own mind.”¹⁹⁴ He asked for liberality in support of his “own rights,” and he thereby reconciled his selfishness with political generosity. Liberality allowed him to harmonize his particular interests with the public good or at least with public sympathies.

Thus, liberality was a means with which individuals who had different demands could harness the moral and political strength of the whole. In a society in which many were increasingly tempted to hope for their own quite varied types of freedom, and in which shared sympathies for the oppressed and desires to be considered liberal were beginning gradually to displace the less accommodating shared aspirations of relatively small, homogenous and close-knit communities, liberality was a means of encompassing the nation’s diversity and liberty so as to find at least a degree of accord. Although not first developed by Americans, modern liberality was profoundly appealing among so fragmented a people, who were peculiarly in need of shared sympathies, and, in this way, as Americans struggled for

193. “*Philanthropos*,” KY. GAZETTE, Jan. 14, 1792, Vol. V, No. 18.

194. *Id.*

some sense of their shared sentiments, nation and identity, liberality became one of their distinguishing characteristics.

Of course, it may be wondered whether liberality unified Americans only superficially. It will be recalled that Joel Barlow had hoped, with not quite traditional piety, for liberal religion and for a time when:

. . . warm benevolence and truth refined,

Pervade the world and harmonize mankind.¹⁹⁵

To be sure, liberality and benevolence could reduce religious, local and other prejudice that stood in the way of unity, and, similarly, it could discourage narrow conceptions of interest, but exactly how it could be an effective basis of cohesion, and whether, after removing the grounds of divisions, it would leave standing any other effective ground for cohesion, appears not to have been a question Barlow, Washington, or any other advocate of liberality addressed.¹⁹⁶

So too, it may be questioned whether liberality united some Americans at the cost of dividing them from others. To the extent it usually left some Americans to feel and resent the reproach of being illiberal, liberality could create breaches that were not easily healed. For example, although he approved of a degree of liberality, Ashbel Green found his beliefs questioned as illiberal, and he replied, as has been seen, with the most vehement anti-liberal diatribe of the period.¹⁹⁷ Through its very expansiveness, liberality (like the related liberalization of society) gave substance to fears that an accommodation of liberal demands would not forestall further liberal demands on another day, and it thereby sharpened and seemed to justify the reactionary sense that a challenge to one tradition was a challenge to others. Such were the fears of the Southerners who, in defense of slavery and other institutions, would eventually qualify and even reject liberality.¹⁹⁸ Nonetheless, liberality was important for uniting

195. BARLOW, *supra* note 84, at 217.

196. Numerous eighteenth- and nineteenth-century commentators recognized that the enlargement of the moral universe had consequences for the strength of moral sentiments and social attachments. For example, even Adam Smith observed the progressive weakening of sentiment across physical and psychological distances. See JACOB Viner, *THE ROLE OF PROVIDENCE IN THE SOCIAL ORDER AN ESSAY IN INTELLECTUAL HISTORY* 81 (1976). Of course, others were even less sanguine, especially when they considered the consequences of enlarged moral sympathies for the poor and others who depended upon their neighbors. The poor and dispossessed needed more than "the bleak mercy of a liberal age." Hartley Coleridge, Leonard and Susan, in 1 *POEMS BY HARTLEY COLERIDGE: WITH A MEMOIR OF HIS LIFE BY HIS BROTHER* 89 (1851).

197. See *supra* text accompanying note 48-53.

198. Southern pride in liberality lasted throughout the eighteenth century. For example, in 1795, a Southern judge (who rejected the aspersions on the people of Williamsburg made by Jedediah Morse in his *Geography*) could still insist that in the North there was "nothing like that liberality of Sentiment which pervades and animates our Southern world." *Letter of John Tyler to St. George Tucker* (July 10, 1795), 2 *WM. & MARY Q. HIST. PAPERS* (No. 3) 200 (1894). During the eighteenth century, even liberal attacks on slavery did not typically lead to rejections of liberal sentiments. Although, in at least one instance, a critique of establishment privileges in terms of liberal sentiments provoked some Southerners to reject liberality (see, e.g., *supra* note 137), the far more frequent attacks upon slavery

Americans. With liberality, Americans formed a nation from discordant parts, and, with liberality, the nation developed a common society and culture among its fragmented people.

VI. Conclusion

Many eighteenth-century Americans expressed some of their highest aspirations for themselves and their evolving country in terms of liberality. Liberality was part of the trans-Atlantic Enlightenment and therefore was not confined to Americans. Yet, on account of their limited grounds for unity and their few opportunities for status, Americans tended more than most peoples to envision themselves and their nation in terms of their liberality, and it is partly in such terms that these must be understood.

Liberality was recognized to be based on liberal sentiments. Neither an abstract concept nor the "material reality" of self-interest, liberality was self-consciously adopted as a manifestation of sentiment. In the nineteenth century, on both sides of the Atlantic, varied intellectuals would develop liberality into a full-fledged abstraction and even an "ism."¹⁹⁹ In the late

in liberal terms did not typically have this effect. Thus, in 1785, when Quakers and others demanded that Virginia's Assembly act on its "liberal sentiments" to legislate a general emancipation, 261 inhabitants of Halifax County, Virginia, complained of the Quakers and their allies but not of their principles: "They have the Address, indeed to cover their Design, with the Veil of Piety and Liberality of Sentiment. But it is unsupported by the Word of God, and will be ruinous to Individuals and to the Public." *To the honorable the General Assembly of Virginia the Remonstrance and Petition of the Free Inhabitants of Halifax County (Nov. 10, 1785)*, as printed in Fredrika Teute Schmidt & Barbara Rilpel Wilhelm, *Early Pro-Slavery Petitions in Virginia*, 30 WM. & MARY Q. 133, 145 (1973). Similarly, the hopes of "Juveniles Vindex" for the "most liberal regulations" on slavery from Virginia's legislature elicited a response that did not question the value of liberality. See "Juveniles Vindex," *On Bondage (Jan. 12, 1788)*, VA. INDEP. CHRON., Jan. 23, 1788, No. 79; "Condiscipulus Juvenilis Vindicis," *Letter to Mr. Davis (Richmond Academy, Feb. 12, 1788)*, VA. INDEP. CHRON., Feb. 27, 1788, No. 84.

Already in the late eighteenth century, however, a reaction was anticipated. In an English play of 1790, two characters discussed an attempt to educate slaves:

Scene. A Planter's Estate on the Island, Near a Mill, . . .

Lovemore: . . . [H]ave there been no efforts made to raise them above their brutal state, and to inspire them with the sentiments of man?

Whitmore: Yes, Sir, there was one man mad enough to make the attempt; but it was very speedily found that as the slaves of his own estate improved in intellectual discernment, their corporeal faculties relaxed, so that the other gentlemen of the island by woeful experience very soon dropped their liberal sentiments, and hung the dead weight of ignorance again about them.

Lovemore: Ignorance undoubtedly is the true cause of slavery . . .

SAMUEL JACKSON PRATT, *THE NEW COSMETIC* 3, 7-8 (London, 1790). By 1827, it could be observed from the vantage point of New England that "the liberal tendencies of the age" and especially "Liberal Christianity" had made a progress "more rapid, and more observable here, than elsewhere." *CAUSES OF THE PROGRESS OF LIBERAL CHRISTIANITY IN NEW ENGLAND* 4 (Boston, 1831), in 1 *AMERICAN UNITARIAN ASSOCIATION TRACTS* 282 (1st Series, No. 9). Substantial numbers of nineteenth-century Southerners were liberal in some of their religion, politics and economics, but they could not afford to elevate liberality to a general principle as prominently as did some Northerners.

199. As late as 1815, William Channing rejected the phrase "Liberal Christians" as a label for the Unitarians on the ground that this would be illiberal:

eighteenth century, however, liberality was not yet part of the systematic reasoning of intellectuals. Instead, it was conceived to be a sentiment—once narrowly associated with the genteel and educated but, increasingly, more widely shared. If recognized as a phenomenon of more or less popular sentiment—as a set of attitudes and feelings cultivated by substantial numbers of Americans rather than as an abstract, intellectualized artifact of theoreticians—liberality can reveal much about the development of the nation that is not directly apparent in any systematic theory of the period.

At the very least, this eighteenth-century liberality suggests much about the attitudes and modes of behavior with which Americans formed their governments and their nation. Already in the 1770s, Americans sometimes described their self-government and their constitutions as liberal. In the 1780s, as Americans increasingly perceived their divisions, they often associated themselves with the liberality necessary for the creation and success of the United States, and many of them came to view their new nation and its constitutional power as liberal.

In addition, liberality provides hints about the development of American and, more broadly, modern society. A sympathy and sentiment that cut across and helped to destroy the attachments of smaller communities, liberality contributed to the formation of larger, looser affiliations. It intimates how Americans transformed their relationships and their ideals as they accommodated their fragmentation, including not only their political divisions but also their individuation and diversity. In this sense, liberality was part of a process that has here been called “liberalization,” which, although not described by Americans as such, had already been occurring in American politics, religion, and culture for at least a century, and which would continue to occur, increasingly idealized in liberal terms, in the centuries to follow. Although far from uniform, and although a stimulus for other, contrary tendencies, such liberalization and the liberality increasingly associated with it have been among the most distinctive features of American life.

Ordinarily, this essay could stop here, but, on account of so many decades during which historians have emphasized the dedication of eighteenth-century Americans to “republicanism,” it is necessary to spell

I have never been inclined to claim this appellation for myself or my friends, because as the word liberality expresses the noblest qualities of the human mind,—freedom from local prejudices and narrow feelings, the enlargement of the views and affections,—I have thought that the assumption of it would savor of that spirit which has attempted to limit the words of orthodox and evangelical to a particular body of Christians.

William W. Fenn, *The Revolt Against the Standing Order*, RELIGIOUS HISTORY OF NEW ENGLAND: KING'S CHAPEL LECTURES 116-17 (1917) (quoting a letter from William Ellery Channing to Samuel Thacher, dated June 20, 1815). Nonetheless, Channing recognized that “the appellation . . . cannot well be avoided.” *Id.*

out the different and proportionate roles of liberality and republicanism (let alone other perspectives) and the ways in which they were considered compatible.

The role of republican thought in the formation of the nation has been greatly exaggerated. In seeking to understand the formation of the country, historians of the past few decades have emphasized republican attitudes as the essential perspective of eighteenth-century Americans, not least in the adoption of the U.S. Constitution.²⁰⁰ Yet republicanism was only one tradition of thought among many, including Christianity and natural law. Of particular importance here, the emphasis on republicanism ignores the role of liberality in the creation of the United States. Republicanism was hardly the dominant viewpoint of Americans who, in rejecting Britain, recognized that they had to appeal to the sympathies of persons and nations different from themselves. Nor was it the prevailing vision of Federalists who, in forming a nation from heterogenous materials, understood that they had to reconcile and transcend the narrow interests and prejudices of different denominations, ethnic groups, states and regions. Many Federalists doubted the efficacy of virtue even within the states and, far from praising the virtue of the states, questioned the illiberal interests and prejudices that seemed to follow from what Anti-Federalists called “virtue.” Instead, republicanism was a theme of Anti-Federalists, who sought to defend the power of the states. All too well aware that their hopes for virtue were not realistic across a large, diverse continent—that virtue would be a weak restraint at the national level—Anti-Federalists relied upon republican assumptions about virtue to bolster their demands for further written limitations on federal power and, more generally, to oppose ratification of the Constitution.²⁰¹ Thus, although some virtue was widely understood to be necessary for the survival of freedom in any republic, virtue cannot be the primary basis for an understanding of the formation of the Constitution and the creation of America’s national government, institutions, and culture.

In contrast, liberality is very revealing about the underlying attitudes of the Americans who formed the nation and about the character of their enterprise. In the 1780s, advocates of a strong general government often understood themselves to be liberal when attempting to overcome the confined interests and communal ties that stood in the way of their broadly American goals—when seeking to create *e pluribus unum*. In their detailed arguments for the Constitution, however, most Federalists left liberality

200. See *supra* note 6. The role of republican thought in the formation of the nation was much better understood by Herbert Storing, who observed republican assumptions in the arguments of Anti-Federalists. See HERBERT STORING, WHAT THE ANTI-FEDERALISTS WERE FOR 16 (1981).

201. *Id.* Some aspired to inculcating virtue on a national level, but without attracting much support. See, e.g., George Mason’s proposal for a congressional power to enact sumptuary laws. 2 FARRAND 344 (Madison’s notes) (Aug. 20, 1787).

unmentioned, and this is significant. More than an argument, liberality was a conception many Americans had about themselves and about their aspirations to escape what was narrow and limited, and it was in this sense that liberality was understood by some of the most prominent advocates of a general government to be an essential characteristic of the Constitution and of the people in adopting it.

Republican assumptions about virtue concerned the moral and sociological foundations of freedom and therefore could be allied with liberality. Thus, Benjamin Rush praised the “republican and liberal spirit” of John Adam’s “sentiments”; a “Friend of Society and Liberty” praised “[t]he liberality and virtue of America”; “Numa” lauded the members of the 1787 Constitutional Convention for both their “liberality of mind” and their “love of virtue.”²⁰² Similarly, although the Anti-Federalist, George Mason, prominently sought to preserve virtue even at a federal level by proposing that Congress have the power “to enact sumptuary laws,” he also welcomed liberality, whether in the formation of his local militia company or in the establishment of the general government.²⁰³ Moreover, the Federalists, who asked their fellow Americans liberally to put aside some of their local interests and prejudices, and who thereby challenged the more severe versions of virtue, conceded that some virtue would be necessary in the new nation, albeit an enlarged, relaxed, federal version of it. Such was the “true patriotism & a spirit of moderation” Washington hoped would “exclude a narrow locality, and all ideas unfriendly to the Union.”²⁰⁴ As these illustrations suggest, few Americans yet had reason to question the essential compatibility between liberality and virtue—although, in the debates on the ratification of the U.S. Constitution and in disputes about religion, they began to test this harmony and increasingly maintained it only by liberalizing their conceptions of virtue.

Eventually, liberal sentiments and, more broadly, the liberalization of society would have a profoundly transformative role in undermining the harmony between varied types of freedom and obligation, leaving

202. Letter from Benjamin Rush to John Adams (Jan. 21, 1781), in 1 *THE CORRESPONDENCE OF BENJAMIN RUSH* 260 (L.H. Butterfield ed., 1951); “A Friend of Society and Liberty,” *To the Inhabitants of the Western Counties of Pennsylvania*, PA. GAZETTE, July 23, 1788; “Numa” (quoted from the HAMPSHIRE GAZETTE), VA. INDEP. CHRON., Oct. 3, 1787, No. 63.

203. For the sumptuary laws, see 2 FARRAND 344 (Aug. 20, 1787) (Madison’s notes). For Mason’s liberality, see *supra* text accompanying notes 97, 101.

204. Letter from George Washington to Henry Lee (Sept. 22, 1788), in 6 *PAPERS OF GEORGE WASHINGTON, CONFEDERATION SERIES* 529 (1997). Indeed, the limited power of the federal government undercut any national role for a severe version of virtue, except in military and other matters within the scope of federal authority. In this sense, the federal character of the U.S. government often reduced republican conceptions of virtue to simple patriotism.

Americans with a strong sense of the tensions between freedom and order, liberty and law, liberality and virtue.²⁰⁵ As Americans found themselves less closely engaged with the full lives of others in their society—not just the distant British but also their fellow citizens and even neighbors—and as they therefore increasingly perceived the demands made by their fellow citizens and neighbors to be not so much shared aspirations but mere obligations, they more frequently felt these to be constraints, from which it was desirable to be liberated, and which it was liberal to oppose. Opposition to such constraints seemed all the more necessary as liberality itself became idealized and a source of morality and obligation in opposition to more conventional versions. In these ways, liberality and freedom would eventually come to seem at odds with virtue, morality, and obligation, unless these were further liberalized. Eighteenth-century Americans took steps toward such developments—for example, when some Americans with liberal sentiments began to alter their perceptions of what was genuinely moral or Christian, and some other Americans resisted this emendation.²⁰⁶ Gradually, in later centuries, Americans, like Europeans, would pursue such tensions by exploring romanticism, the tension between liberty and law, and the essentially compromised and illegitimate character of order. In the eighteenth century, however, these developments were still distant and, even in the 1790s, were not so much realized as feared.

205. For the compatibility of obligations and rights in the eighteenth century, see KNUD HAAKONSSON, *NATURAL LAW AND MORAL PHILOSOPHY FROM GROTIUS TO THE SCOTTISH ENLIGHTENMENT* 340-41 (1996); Knud Haakonssen, *From Natural Law to the Rights of Man: A European Perspective on American Debates*, in *A CULTURE OF RIGHTS: THE BILL OF RIGHTS IN PHILOSOPHY, POLITICS, AND LAW—1791 AND 1991*, at 31, 61 (Michael J. Lacey & Knud Haakonssen eds., 1991); Philip A. Hamburger, *Natural Rights, Natural Law, and American Constitutions*, 102 *YALE L.J.* 907 (1993).

206. See, e.g., *supra* text accompanying notes 134-45, 179-80.