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Mercy Otis Warren Opposes the Constitution

Opponents of the new Constitution criticized its provisions and its framers, often charging them with subverting the achievements of the American Revolution. The debate in Massachusetts about ratification of the constitution prompted Mercy Otis Warren, a member of a distinguished family of revolutionary leaders who traced their origins back to the Mayflower, to publish her *Observations on the New Constitution* in 1788 under the pseudonym, "a Columbian Patriot." A brilliant and exceptionally well-educated woman who had been anonymously publishing plays, poems, and essays for fifteen years, Warren argued that the Constitution's framers sought to undermine liberties that Americans had only recently defended from British encroachment. Like other Anti-Federalists, Warren examined specific constitutional provisions to discern Federalists' assumptions about popular government. Her *Observations* disclose Anti-Federalists' deep suspicion of the Constitution, its supporters, and their secret deliberations and hasty plan for ratification.

Observations on the New Constitution, 1788

Animated with the firmest zeal for the interest of this country, the peace and union of the American States, and the freedom and happiness of a people who have made the most costly sacrifices in the cause of liberty, — who have braved the power of Britain, weathered the convulsions of war, and waded thro' the blood of friends and foes to establish their independence and to support the freedom of the human mind. . . . obliges every one to remonstrate against the strides of ambition, and a wanton lust of domination, and to resist the first approaches of tyranny, which at this day threaten to sweep away the rights for which the brave sons of America have fought with an heroism scarcely paralleled even in ancient republics. . . . On these shores freedom has planted her standard, [dyed] in the purple tide that flowed from the veins of her martyred heroes; and here every uncorrupted American yet hopes to see it supported by the vigour, the justice, the wisdom and unanimity of the people, in spite of the deep-laid plots, the secret intrigues, or the bold effrontery of those interested and avaricious adventurers for place, who intoxicated with the ideas of distinction and preferment, have prostrated every worthy principle beneath the shrine of ambition. Yet these are the men who tell us republicanism is dwindled into theory — that we are incapable of enjoying our liberties — and that we must have a master. . . . [The] Constitution, which, by the undefined meaning of some parts, and the ambiguities of expression in others, is dangerously adapted to the purposes of an immediate *aristocratic tyranny*; that from the difficulty, if not impracticability of its operation, must soon terminate in the most *uncontrouled despotism*. . . .

And it is with inexpressible anxiety, that many of the best friends to the Union of the States — to the peaceable and equal participation of the rights of nature, and to the glory and dignity of this country, behold the insidious arts, and the strenuous efforts of the partisans of arbitrary power, by their vague definitions of

the best established truths, endeavoring to envelope the mind in darkness the concomitant of slavery, and to lock the strong chains of domestic despotism on a country, which by the most glorious and successful struggles is but newly emancipated from the sceptre of foreign dominion. . . .

I will not expatiate long on a Republican *form* of government, founded on the principles of monarchy — a democrattick branch with the *features* of aristocracy — and the extravagance of nobility pervading the minds of many of the candidates for office. . . . Some gentlemen with laboured zeal, have spent much time in urging the necessity of government, from the embarrassments of trade — the want of respectability abroad and confidence in the public engagements at home: — These are obvious truths which no one denies; and there are few who do not unite in the general wish for the restoration of public faith, the revival of commerce, arts, agriculture, and industry, under a lenient, peaceable and energetick government: But the most sagacious advocates for the party have not by fair discussion, and rational argumentation, evinced the necessity of adopting this many-headed monster . . . nor have its friends the courage to denominate it a Monarchy, an Aristocracy, or an Oligarchy, and the favoured bantling¹ must have passed through the short period of its existence without a name, had not Mr. [James] Wilson, in the fertility of his genius, suggested the happy epithet of a *Federal Republic*. . . .

[1.] It will be allowed by every one that the fundamental principle of a free government, is the equal representation of a free people. . . . And when society has thus deputed a certain number of their equals to take care of their personal rights, and the interest of the whole community, it must be considered that responsibility is the great security of integrity and honour; and that annual election is the basis of responsibility. . . . [T]he best political writers have supported the principles of annual elections with a precision, that cannot be confuted, though they may be darkened, by the sophistical arguments that have been thrown out with design, to undermine all the barriers of freedom.

2. There is no security in the profered system, either for the rights of conscience, or the liberty of the Press: Despotism usually while it is gaining ground, will suffer men to think, say, or write what they please; but when once established, if it is thought necessary to subserve the purposes of arbitrary power, the most unjust restrictions may take place in the first instance, and an *imprimator*² on the Press in the next, may silence the complaints, and forbid the most decent remonstrances of an injured and oppressed people.

3. There are no well defined limits of the Judiciary Powers . . . and as they cannot be comprehended by the clearest capacity, or the most sagacious mind, it would be an Herculean labour to attempt to describe the dangers with which they are replete.

4. The Executive and the Legislative are so dangerously blended as to give just cause of alarm, and every thing relative thereto, is couched in such ambiguous terms — in such vague and indefinite expression, as is a sufficient ground without any other objection, for the reprobation of a system. . . .

5. The abolition of trial by jury in civil causes. . . . [s]hall this inestimable privilege be relinquished in America — either thro' the fear of inquisition for

¹bantling: A bratty young child.

²imprimator: Official censor.

unaccounted thousands of public monies in the hands of some who have been officious in the fabrication of the *consolidated system*, or from the apprehension that some future delinquent possessed of more power than integrity, may be called to a trial by his peers in the hour of investigation?

6. Though it has been said by Mr. *Wilson* and many others, that a Standing-Army is necessary for the dignity and safety of America, yet freedom revolts at the idea, when the . . . Despot, may draw out his dragoons to suppress the murmurs of a few. . . . By the edicts of authority vested in the sovereign power by the proposed constitution, the militia of the country, the bulwark of defence, and the security of national liberty is no longer under the controul of civil authority; but at the rescript of the Monarch, or the aristocracy, they may either be employed to extort the enormous sums that will be necessary to support the civil list — to maintain the regalia of power — and the splendour of the most useless part of the community, or they may be sent into foreign countries for the fulfilment of treaties, stipulated by the President and two thirds of the Senate.

7. Notwithstanding the delusory promise to guarantee a Republican form of government to every State in the Union — If the most discerning eye could discover any meaning at all in the engagement, there are no resources left for the support of internal government, or the liquidation of the debts of the State. Every source of revenue is in the monopoly of Congress. . . .

8. As the new Congress are empowered to determine their own salaries, the requisitions for this purpose may not be very moderate, and the drain for public moneys will probably rise past all calculation. . . .

9. There is no provision for a rotation, nor any thing to prevent the perpetuity of office in the same hands for life; which by a little well timed bribery, will probably be done, to the exclusion of men of the best abilities from their share in the offices of government. — By this neglect we lose the advantages of that check to the overbearing insolence of office, which by rendering him ineligible at certain periods, keeps the mind of man in equilibrio, and teaches him the feelings of the governed, and better qualifies him to govern in his turn.

10. The inhabitants of the United States, are liable to be dragged from the vicinity of their own county, or state, to answer to the litigious or unjust suit of an adversary, on the most distant borders of the Continent; in short the appellate jurisdiction of the Supreme Federal Court, includes an unwarrantable stretch of power over the liberty, life, and property of the subject, through the wide Continent of America.

11. One Representative to thirty thousand inhabitants is a very inadequate representation; and every man who is not lost to all sense of freedom to his country, must reprobate the idea of Congress altering by law, or on any pretence whatever, interfering with any regulations for the time, places, and manner of choosing our own Representatives.

12. If the sovereignty of America is designed to be elective, the circumscribing the votes to only ten electors in this State [Massachusetts], and the same proportion in all the others, is nearly tantamount to the exclusion of the voice of the people in the choice of their first magistrate. It is vesting the choice solely in an aristocratic junto,³ who may easily combine in each State to place at the head of the Union the most convenient instrument for despotic sway.

³junto: A self-appointed committee or caucus.

13. A Senate chosen for six years will, in most instances, be an appointment for life, as the influence of such a body over the minds of the people will be coequal to the extensive powers with which they are vested, and they will not only forget, but be forgotten by their constituents — a branch of the Supreme Legislature thus set beyond all responsibility is totally repugnant to every principle of a free government.

14. There is no provision by a bill of rights to guard against the dangerous encroachments of power in too many instances to be named. . . . We are told . . . “that the whole constitution is a declaration of rights” — but mankind must think for themselves, and to many very judicious and discerning characters, the whole constitution with very few exceptions appears to [be a] perversion of the rights of particular states, and of private citizens. — But the gentleman goes on to tell us, “that the primary object is the general government, and that the rights of individuals are only incidentally mentioned, and that there was a clear impropriety in being very particular about them.” . . . The rights of individuals ought to be the primary object of all government, and cannot be too securely guarded by the most explicit declarations in their favor. . . .

15. The difficulty, if not impracticability, of exercising the equal and equitable powers of government by a single legislature over an extent of territory that reaches from the Mississippi to the western lakes, and from them to the Atlantic ocean, is an insuperable objection to the adoption of the new system. . . .

16. It is an indisputed fact, that not one legislature in the United States had the most distant idea when they first appointed members for a convention, entirely commercial, or when they afterwards authorised them to consider on some amendments of the Federal union, that they would without any warrant from their constituents, presume on so bold and daring a stride, as ultimately to destroy the state governments, and offer a *consolidated system*. . . .

17. The first appearance of the article which declares the ratification of nine states sufficient for the establishment of the new system, wears the face of dissension, is a subversion of the union of the Confederated States, and tends to the introduction of anarchy and civil convulsions, and may be a means of involving the whole country in blood.

18. The mode in which this constitution is recommended to the people to judge without either the advice of Congress, or the legislatures of the several states, is very reprehensible — it is an attempt to force it upon them before it could be thoroughly understood. . . .

But it is needless to enumerate other instances, in which the proposed constitution appears contradictory to the first principles which ought to govern mankind; and it is equally so to enquire into the motives that induced to so bold a step as the annihilation of the independence and sovereignty of the thirteen distinct states. — They are but too obvious through the whole progress of the business, from the first shutting up the doors of the federal convention and resolving that no member should correspond with gentlemen in the different states on the subject under discussion. . . .

And it is to be feared we shall soon see this country rushing into the extremes of confusion and violence, in consequence of the proceedings of a set of gentlemen, who disregarding the purposes of their appointment, have assumed powers unauthorised by any commission, have unnecessarily rejected the confederation of the United States, and annihilated the sovereignty and independence of the individual governments.

QUESTIONS FOR READING AND DISCUSSION

1. According to Warren, why would the constitution "sweep away" Americans' rights and lead to "*aristocratic tyranny*" or "*uncontrolled despotism*"? Why was the "*Federal Republic*" proposed by the Constitution in reality a "many-headed monster"?
2. In Warren's view, what did the framers of the Constitution perceive as threats? How did they design the Constitution to avoid those threats? In what sense did the Constitution create a "*consolidated system*"?
3. How did Warren disagree with Federalists' diagnosis of threats and their proposals for remedies? What remedies did Warren propose? What constitutional amendments, if any, might have allayed Warren's fears?
4. What assumptions did Warren make about the location and exercise of power?
5. How did Warren's view of the American Revolution influence her critique of the constitution?