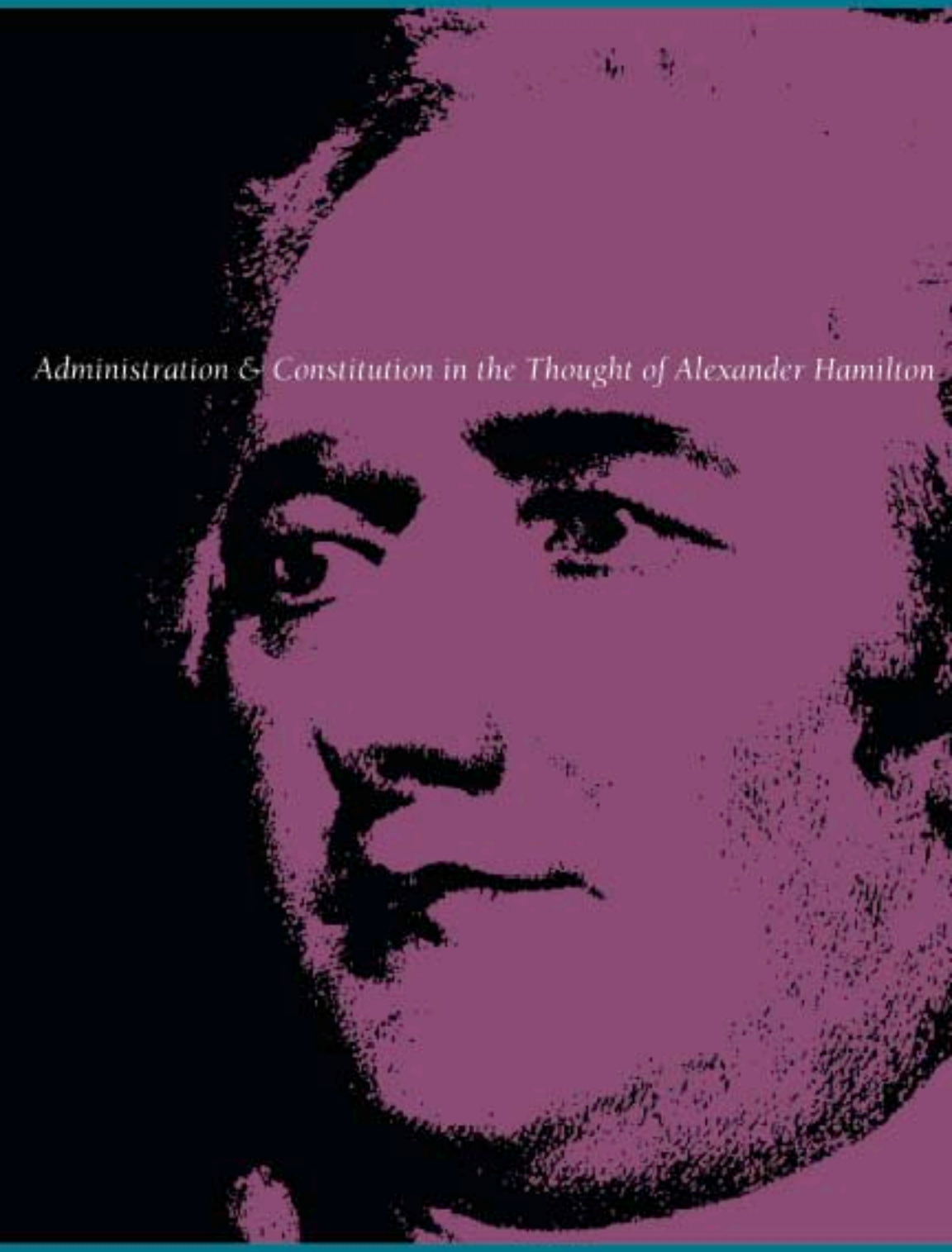
THE EFFECTIVE REPUBLIC



Administration & Constitution in the Thought of Alexander Hamilton

HARVEY FLAUMENHAFT

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Administration and Constitution

in the Thought of Alexander Hamilton

Harvey Flaumenhaft

Duke University Press *Durham and London 1992*

Printed in the United States of America
on acid-free paper ∞
Library of Congress Cataloging-in-Publication Data
appear on the last printed page of this book.

This book is dedicated
to my mother,
Fay Flaumenhaft,
and to the memory
of my father,
Louis Flaumenhaft,
and of my teacher,
Herbert J. Storing

Contents

Acknowledgments

A generous grant from the National Endowment for the Humanities supported my completion of the final version of this book.

Adaptations of parts of an earlier version appeared in the following publications:

Review of Gerald Stourzh's *Alexander Hamilton and the Idea of Republican Government*, in *The American Political Science Review* 67 (June 1973): 637–39;

"Alexander Hamilton on the Foundation of Good Government," *The Political Science Reviewer* 6 (Bicentennial Issue: Fall 1976): 143–214;

"Hamilton's Administrative Republic and the American Presidency," in *The Presidency in the Constitutional Order*, edited by Joseph M. Bessette and Jeffrey Tulis (Baton Rouge: Louisiana State University Press, 1981), pp. 65–112;

"Americanism Abroad," in *Constitutionalism in Perspective*, edited by Sarah Baumgartner Thurow (Lanham, Md.: University Press of America, 1988), pp. 240–51.

I am grateful for permission to reprint from those publications. The following papers also presented earlier versions of parts of this book:

"Alexander Hamilton on the Administration of Liberty," presented to a panel on "American Liberty: The Problematic Character of a Founding Concept," at the Annual Meeting of the Northeastern Political Science Association, Mount Pocono, Pennsylvania, 10–12 November 1977;

"The Administrative Republic of Alexander Hamilton," presented to a con-

ference on "Alexander Hamilton's Contribution to the American Presidency: A Model for Our Time?" at the White Burkett Miller Center of Public Affairs, University of Virginia, 4–5 April 1978;

"A Place for Duration in the Republic: Hamilton on the Senate," presented to a panel of the Claremont Institute for the Study of Statesmanship and Political Philosophy, at the Annual Meeting of the American Political Science Association, Washington, D.C., 30 August 1984.

I am most obliged to those to whom this book is dedicated—my parents, Fay Flaumenhaft and the late Louis Flaumenhaft, to both of whom I owe more than I can say, and the late Herbert J. Storing, whose delightful classes at the University of Chicago introduced me to the study of the American founding. I am also much obliged, for instruction and assistance at various times in my career, to Joseph Cropsey, Robert A. Goldwin, and the late Morton Grodzins. Jeffrey D. Wallin was helpful in his capacity as an officer at the National Endowment for the Humanities. Kathryn Kinzer has been very helpful as Librarian of St. John's College in Annapolis. The editors at Duke University Press, as well as the reviewers to whom they sent the manuscript, have been helpful and pleasant to work with. I owe much to the generosity of my late parents-in-law, Joseph Oxenhorn and Ruth Oxenhorn. The encouragement, support, and conversation of Leon Kass and Amy Kass have played a large part in the genesis of this book over the years. The good advice of Kathleen Blits and the generous editorial suggestions of Jan Blits have greatly helped me in making final revisions for publication. My wife, Mera Flaumenhaft, in addition to providing encouragement and delight, has pored over various versions of this book and has much improved it by her counsel.

The Effective Republic

Introduction

At Washington, if anywhere, are to be found those who preside over the fortunes of free government in our day. The form of government whose home is in that place is distinguished among free governments by the name of "presidential" government. Presiding over its birth and its first days was that monumental man named Washington. Indeed, without the splendid solidity of Washington's character, there would have been no such government to speak of. But that character would have been less effective without the brilliant operation of the mind of another man—Alexander Hamilton—who spoke of Washington as "an Aegis very essential to me." The exploits for which that aegis was essential were informed by the master writings from which Hamilton learned that "the science of politics . . . like most other sciences has received great improvement . . . in modern times." According to a writer who taught Hamilton much of that improved political science, "in the birth of societies, it is the chiefs of republics who make the institution; and it is afterward the institution which forms the chiefs of republics." Unlike Hamilton, we are not among the chiefs who have instituted republics; our republic was made by our predecessors. Those who made it formed those who modified it, and we in turn have been formed by this institutional inheritance, so that we cannot be fully free unless we inform ourselves about the minds of its original makers. Hamilton was among those who laid the foundation of the constitutional edifice within which we dwell, subject to constraint yet able to be free; but Hamilton was not merely one among many. He was the chief minister of the first chief magistrate of the American republic, as well as the chief proponent in America of chiefdom in a republic. To understand the institution of the American presidency, to understand ourselves as the posterity for whom it was to have a central

place in securing the blessings of liberty, we must rethink the thoughts of Alexander Hamilton.[1]

As a contribution to our doing so, this book will present Hamilton's thinking about the parts of government and their work. In order that the reader may enter as directly as possible into that thinking, the words of Hamilton himself are used as much as possible, though I often omit quotation marks—conflating, compressing, and rearranging Hamilton's phrases and sentences without constantly repeating "Hamilton says." In presenting Hamilton's words, I interpret them, as well as link and arrange them and add some emphasis. I try to make available to readers the material that they need in order to understand Hamilton's thought, and to judge it also, but it is not my aim to facilitate a judgment on the correctness of Hamilton's judgment about the *particulars* of the political controversies and the policy decisions in which he took so large a part. My aim is, rather, by carefully examining what he said in his discussion of particular affairs, to consider Hamilton's *principles*.

Though I do sometimes speak about the course of events that occasioned or resulted from what Hamilton wrote, and though I do stay close to the very words in which Hamilton treated those particulars, this book is a study not so much in history as in political science. It does not tell the story of Hamilton's deeds in the American founding. It lays out his analysis of the republican problem and its possible solution—an analysis that has a claim on the attention of all thoughtful students of politics.

Though Hamilton denied that general principles alone suffice for handling particulars, he insisted that abiding principles are needed to guide deliberation and decision. And not only did he assert that principles are required for good political practice—he in fact intended to preside over the production of a multivolume treatise in political science, with himself as the author of a volume in which conclusions would be drawn from the historical research of his collaborators. He died before that treatise could come into being, but we do have many thousands of pages from his pen which explicate the politics of his day, with extraordinary thoroughness and clarity, in statements which relate his judgments on particulars to fundamental principles.

These discussions of political principle do, however, lie scattered among more than two dozen thick volumes of papers on occasional topics that arose amid the urgencies of action. Many of his most pertinent remarks are not in those of his writings which are read most frequently, and even the ones which are read most frequently are only fragments of his thinking. Wide as their relevance may be, and deep as their arguments may go, they

were as much the occasional products of urgency as were his lesser-known newspaper articles and his letters to other men of affairs. Whatever comprehensive thinking about principles informed the statesmanship of Hamilton must be pieced together, therefore, from his fragmentary remarks about the affairs of his time. It is the aim of this book to set forth those political principles constitutive of Hamilton's thought, in the words he employed for the purpose of discussing political particulars.

This book is not the first attempt to deal with the thought of Alexander Hamilton. It has been treated in narrations of his life and career, the most notable of these being Broadus Mitchell, *Alexander Hamilton* (New York, 2 vols., 1957, 1962), John C. Miller, *Alexander Hamilton and the Growth of the New Nation* (New York, 1959), and Forrest McDonald, *Alexander Hamilton: A Biography* (New York, 1979). McDonald's book is an especially interesting treatment of Hamilton's achievements and intentions, particularly in political economy, where it has no peer, but it does not adequately treat administration as a constitutional theme. Another historian whose work is especially suggestive is Douglass Adair, whose essays have been collected as *Fame and the Founding Fathers* (New York, 1974). But an account of Hamilton's deeds in their sequence and their context is not a systematic and analytic account of the principles that governed them. Histories cannot be disregarded, but histories alone cannot supply an adequate view of Hamilton's political science.

In that political science, administration becomes a constitutional theme. But previous studies of Hamilton's political thought neglect the administrative thought located at its center, while studies of his administrative thought inadequately locate it within the political thought surrounding it. This book seeks to avoid both deficiencies.

There are several studies which treat Hamilton's thought topically rather than narratively. Some of the most interesting of these, however, treat it too sketchily. Outstanding examples are Paul Eidelberg's "Reinterpretation of the Intentions of the Founding Fathers," *The Philosophy of the American Constitution* (New York, 1968), and Leonard D. White's *The Federalists*, "A Study in Administrative History" (New York, 1959).

There are studies which not only treat Hamilton's thought topically (rather than narratively) but also treat it at some length (rather than dealing briefly with him as one of "the Founding Fathers" or as one of "the Federalists"). Like Eidelberg's book and White's, however, these studies do not adequately bring together Hamilton's political and administrative themes. Outstanding examples are Lynton K. Caldwell's *The Administrative Theories of Hamilton and Jefferson* (Chicago, 1944), which is too narrow an account

to convey an understanding of Hamilton, and Clinton Rossiter's *Alexander Hamilton and the Constitution* (New York, 1964), which is too sweeping in its remarks.

David F. Epstein's *The Political Theory of* The Federalist (Chicago, 1984) is a study not of Hamilton but of "Publius." While it has interesting things to say about an important portion of what Hamilton wrote, it does not range over the whole body of Hamilton's writings, and a large part of what is treated in it was the product of another pen than Hamilton's. The same is true of Martin Diamond's "Democracy and The Federalist: A Reconsideration of the Framers' Intent," *The American Political Science Review* 53 (1959): 52–68, and "The Federalist," in Leo Strauss and Joseph Cropsey, eds., *History of Political Philosophy* (Chicago, 1963).

The best treatment of Hamilton's thought at some length is Gerald Stourzh's *Alexander Hamilton and the Idea of Republican Government* (Stanford, 1970), which appeared during the writing of the preliminary version of this book. My review of it for *The American Political Science Review* 67 (1973): 637–39, notes that Stourzh makes clear important parts of Hamilton's work but not its principle of energy; I indicate there why I think that Stourzh's account of Hamilton's thought does not adequately articulate what Stourzh correctly calls "the core of his lifework."

"The test of good government," according to Hamilton, "is its aptitude and tendency to produce a good administration." And while "administration of government, in its largest sense, comprehends all the operations of the body politic, whether legislative, executive, or judiciary," yet "in its most usual and perhaps its most precise signification, it falls peculiarly within the province of the executive department." There is, however, "an idea, which is not without its advocates, that a vigorous executive is inconsistent with the genius of republican government"—even though "energy in the executive is a leading character in the definition of good government." Energy in the executive is not, according to Hamilton, the only characteristic of good government, but it is a leading one, and it was the one most in need of Hamilton's efforts on its behalf. He sought, he said, to "blend the advantages of a monarchy and republic in our constitution." He repeatedly affirmed his attachment to republican government, but though he had "strong hopes" for the success of the republican theory, he was "far from being without doubts." "I consider its success," he said, "as yet a problem." Successful republican government was not an accomplished fact but a project to be accomplished: "It is yet to be determined by experience whether it be consistent with that *stability* and *order* in Government which are essential to public strength & private security and happiness." The re-

publican form of government needed improvements that would give to its administration the advantages of the monarchical form. Hamilton's political thought was concerned with completing the arrangements required by the enlightened modern commitment to popular representation as the foundation of good government. Upon that foundation of popular representation, Hamilton sought to erect a structure of effective administration. Demanding that Americans either accept the consequences of their commitment or else embrace an alternative, Hamilton sought to enlighten the heirs of the Enlightenment about the harsh necessity of decisive choice.

In seeking to discern the broad outlines of what Hamilton tried to teach his countrymen, readers may find it helpful to have the following brief synopsis of the argument of this book.

After an opening chapter on principles in the study of Hamilton's thought, this book has three parts. The *first* part shows Hamilton's views on popular representation as the distinctive foundation of government according to enlightened modern principles. The book's *central* part shows Hamilton's views on efficacious administration as an unpopular but necessary completion for the principles that require popular representation as the foundation of good government. This part discusses the problem of adequately arranging for efficacy of government in a government amply arranged with a view to safety against government. The solution involves apportioning the powers of government so as to provide a place for both of the ingredients of efficacy—unity and duration. That is to say, government must be organized both to concentrate power sufficiently for many wills to act as one at one time and to stabilize power sufficiently for many actions to be in concert for constant purposes during a long time. This part of the book shows how Hamilton presents himself as a great friend of republican government, one who seeks to give it that efficacy without which it cannot avoid being soon destroyed and afterward discredited—an efficacy which requires the establishment of properly differentiated parts within organizational machinery founded upon popular representation. The book's *final* part, on constitutional integrity, shows Hamilton's view of the judiciary as that part of the government which has especially to do with the wholeness of the body politic. The book closes with a return to first principles.

I
Principles

We Americans dwell together in a building long admired as commodious and even noble. But its inconveniences obtrude upon us, and its very safety has been questioned. Shall we prop it up or pull it down, make small repairs or thorough renovations? Or shall we just leave well enough alone? Our wish to reexamine the founding of our constitution springs not from an antiquarian love of lingering in museums; it arises neither from a pious longing to perform the rites of civic reverence, nor from a petulant delight in mocking heroes or battling authorities. We must make plans about the house that we've inherited; and in making plans for maintenance or renovation, a prudent heir examines plans and records left by those who built the house.

The American founders, not worshiping the work of human hands, nor disregarding wantonly what already was laid down, fearlessly pulled down connecting walls that made their habitation an apartment in a dangerous old castle; coolly they surveyed the edifice hastily erected afterward to enclose and join their several rooms; and they deliberately proceeded with a fundamental renovation. They found they had to show in full that the evils which Americans experienced proceeded not from minute or partial imperfections, but from "fundamental errors in the structure of the building," which could only be amended by "an alteration in the first principles and main pillars of the fabric." The "frail and tottering edifice," it seemed to them, was "ready to fall upon our heads and to crush us beneath its ruins." The "renovated edifice" was something very new.[1]

Among the builders of the new edifice, Alexander Hamilton was regarded as a master. In "Character Sketches of Delegates to the Federal Convention" another delegate wrote of him: "There is no skimming over the

surface of a subject with him, he must sink to the bottom to see what foundation it rests on." Among his professional colleagues also, Hamilton stood supreme. According to a chief justice of New York's supreme court, one who had been assemblyman, state senator, and Hamilton's opponent as counsel in various cases: "Hamilton . . . more than any other man, did the thinking of the time." And another chief justice of New York's supreme court, Chancellor James Kent, professor of law and writer of an authoritative set of commentaries on American law, looking back in 1836 on the members of the New York bar "who took a leading share in business for some years after the close of the American War," said that then, when everything was new, great talent was needed, and "among all his brethren, Colonel Hamilton was indisputably pre-eminent."[2] To his domestic party opponents, Hamilton seemed a "colossus." More than once, Jefferson would plead thus with Madison: "We have had only middling performances to oppose him . . . when he comes forward, there is nobody but yourself who can meet him. . . . For God's sake take up your pen, and give a fundamental reply."[3] A distinguished foreign observer, Talleyrand, said that he considered Napoleon, Pitt, and Hamilton to be the three greatest men of the age, and that without hesitation he would give first place to Hamilton.[4]

It might be argued that Hamilton's thought is not worth much consideration apart from an historical account of what he did, for he was not a theoretical writer but a statesman—a man who had to make decisions and engage in advocacy concerning particulars. Hamilton himself was well aware that the business of decision and advocacy differ from theorizing. Criticizing Adams as chief executive, he wrote about how widely the "business" of government differs from the "speculation" of it, and "the energy of the imagination dealing in general propositions" from "that of *execution in detail*."[5] What is choiceworthy in the circumstances, he pointed out, depends on what is feasible in the circumstances: "what may be good at Philadelphia may be bad at Paris, and ridiculous at Petersburgh."[6] Moreover, speech that urges the choice of a particular action must be adapted to its audience. Not only must one emphasize or single out minor points that are likely to have effect,[7] one must sometimes adopt some of the prejudices of those one addresses, and even "a little of their nonsense."[8] Much of what Hamilton accomplished was done by others through whom he acted. Such influence requires sometimes drafting papers based on premises which the author may reject but is willing nonetheless to suppose authoritative.[9]

Though differing from theory, decision and advocacy may have a grounding in thoughtfully articulated principle. When asked for his advice on one occasion, Hamilton replied that he regretted troubling the Presi-

dent with "the perusal of so voluminous a discussion"; but because "the judgments formed, in particular cases, are almost always connected with a general train of ideas, in respect to some more comprehensive principles or relations," he therefore "thought it advisable to lay that train before you, for the better explanation of the grounds of the opinions, I now give, or may hereafter have occasion to give on the like subjects, in obedience to your commands."[10] When departing in a particular case from what he thought to be sound general principle, Hamilton was inclined to indicate that he was doing so.[11] To avoid pedantry, he said, one must admit exceptions to any general rule, but such avoidance is not the same as an easy inconsistency: "a wise and good man may, on proper grounds, relinquish an opinion which he has once entertained, and the change may even serve as a proof of candor and integrity. But with such a man, changes of this sort, especially in matters of high public importance, must be rare. The contrary is always a mark, either of a weak and versatile mind, or of an artificial and designing character; which, accommodating its creed to circumstances, takes up or lays down an article of faith, just as may suit a present convenience."[12]

It was belief that principles are indispensable in politics which led Hamilton to stake his life in opposition to the career of Aaron Burr. Hamilton lamented the plan of some New Yorkers to run Burr against Adams for vice president in the second national election, Burr being a man with "no other principles than to mount"—"unprincipled"—"for or against nothing, but as it suits his interest or ambition"—"determined . . . to make his way to be the head of the popular party, and to climb *per fas aut nefas* to the highest honors of the State, and as much higher as circumstances will permit"—"bold, enterprising, and intriguing"—"his object to play the game of confusion." For Hamilton to say this, thus taking part in elections while Secretary of the Treasury, was a departure from a principle which hitherto had been his rule, and thus it needed to be justified. He said that though he had hitherto scrupulously avoided interference in elections, the occasion was, in his opinion, sufficiently important to warrant in this instance a departure from that rule. "It is incumbent upon every good man to resist the present design," he wrote; "I feel it to be a religious duty to oppose his career." Calling Burr "an embryo-Caesar" who "cares nothing about the means of effecting his purpose," Hamilton again justified his departure from that rule which deems it most proper for someone in his situation to avoid interference in any matter relating to the elections for members of the government. A decade later Hamilton's associates had to choose between Burr and Jefferson for the chief magistracy. To the argument that Burr was preferable because "he holds no pernicious theories, but is a mere *matter-of-fact* man,"

Hamilton replied that "If Burr's conversation is to be credited, he is not far from being a visionary." But while admitting that Burr "has no fixed theory," and that "his peculiar notions will easily give way to his interest," Hamilton asked: "Is it a recommendation to have no theory? Can that man be a systematic or able statesman who has none?" His answer was: "I believe not. No general principles will hardly work much better than erroneous ones."[13]

Unless there are true principles in politics, it would be folly to make an attempt at "establishing good government from reflection and choice" rather than to acquiesce in being "forever destined to depend, for . . . political constitutions, on accident and force." It would be deceitful to proclaim that "My motives must remain in the depository of my own breast: my arguments will be open to all, and may be judged of by all. They shall at least be offered in a spirit, which will not disgrace the cause of truth."[14]

Hamilton's principles, however, lie scattered about through many volumes of official reports, newspaper essays, speeches, letters, and miscellaneous papers. His collected writings require selection and arrangement to yield the principles that guided his handling of particulars. "Judiciously collected," said Fisher Ames about Hamilton's writings, "they will be a public treasure."[15]

When Hamilton was approached by Hopkins, the man who was to republish *The Federalist* in 1802, Hamilton "hesitated his consent to republication"; he gave Hopkins the impression that "he did not regard the work with much partiality"; "but, nevertheless," said Hopkins, Hamilton "consented to republication" of the collected *Federalist* papers, insisting however that the edition include the *Pacificus* letters, which, he remarked to Hopkins, "some of his friends had pronounced . . . his best performance"; the hesitant Hamilton told Hopkins that "*Heretofore* I have given the people *milk; hereafter* I will give them *meat,*" words indicating to Hopkins "his formed purpose—to write a treatise on government."[16]

According to Chancellor Kent, Hamilton contemplated "a full investigation of the history and science of civil government and the various modifications of it upon the freedom and happiness of mankind." He wished "to have the subject treated in reference to past experience and upon the principles of Lord Bacon's inductive philosophy, and to engage the assistance of others in the enterprise."[17]

At the age of forty-nine, however, Hamilton was killed, "religiously" opposing the career of "an embryo-Caesar," before he could write that treatise—leaving us the work of discovering for ourselves what animated his work.

For the appropriate attitude in which to examine the arguments of

Hamilton, we might get light from Francis Bacon, Hamilton's scientific source. In the Second Book of his *Advancement of Learning*, Bacon writes: "for the more public part of government, which is Laws, I think good to note only one deficience; which is, that all those which have written of laws, have written either as philosophers or as lawyers, and none as statesmen. As for the philosophers, they make imaginary laws for imaginary commonwealths, and their discourses are as the stars, which give little light because they are so high. For the lawyers, they write according to the states where they live, what is received law, and not what ought to be law: for the wisdom of a lawmaker is one, and of a lawyer another."

Part One
Popular Representation

II
The Characteristic Spirit of Society

We begin with the end by which governing itself is governed. The prime end of all laws, said Hamilton in the controversy with which his public career began, is "utility." But, it might be asked, utility for what? If we had to put his politics into a word, that word would be *security:* good government secures for the people safety and prosperity. Good governing, he said, is "productive of solid and durable advantages" for the people—advantages which he identified as "their union, safety, and prosperity." But their union is itself only for the sake of their safety and prosperity. In a resolution he intended to submit to Congress in 1783, but abandoned for lack of support, he wrote that it would be unwise to "continue this extensive empire under a government unequal to its protection and prosperity." Hamilton abandoned this resolution, but not his resolute effort to produce a government equal to the work of governing. As the Convention adjourned in 1787, having done its work of proposing a workable government, Hamilton wrote for himself some "Conjectures about the New Constitution," in which he spoke about the people's belief in "the necessity of the union to their safety and prosperity." Subsequently urging the ratification of the proposed Constitution, Hamilton as "Publius" seemed to equate vindicating it with showing it to be "necessary to the public safety and prosperity."[1]

The preservation of liberty, it is true, was often listed by Hamilton alongside safety and prosperity as governing aims. Sometimes it even replaced safety[2] or prosperity.[3] However, he treated popular liberty not as a stage or an arena for displaying popular action, but rather as a protective device, which, moreover, properly established might help the people it protected to become yet more productive. As America moved toward independence, he asked: "will you give up your freedom"—"or, which is the

same thing, will you resign all security for your life and property?" And he called the checks and controls on government which are provided by representation "that *moral* security which is the very essence of civil liberty."[4]

Sweet as liberty may be, what secures it must give way when it becomes an impediment to the protection which it is to serve. Writing of standing armies, and the corresponding appendages of military establishments, Hamilton called safety from external danger the most powerful director of national conduct. Even the ardent love of liberty, he said, will after a time give way to its dictates. The violent destruction of life and property incident to war, the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort, for repose and security, to institutions which have a tendency to destroy their civil and political rights. To be more safe they at length become willing to run the risk of being less free. Liberty secures one's safety against one's own government; but in order to obtain the means of security against overwhelming danger from foreign governments, one may have to forego means of security against one's own.[5]

Although Hamilton recognized that government must submit to necessity, his judgment of measures often referred to their effects upon the nation's "honor," "character," "dignity," "reputation," or "respectability."[6] But when Hamilton appealed to honor, he did not mean that political men should soar in quest of glory. He meant that men who cannot take care of themselves unless they cheat cannot respect themselves, and that men will have contempt for and put no trust in other men who cannot take care of themselves, whose words are not reliable and whose deeds are not sober.[7]

National honor is an affair of durable solidity, not of lofty splendor: in matters of state we ask about utility. Political society is a means of coping with men's insecurity, an insecurity preceding political society, though political society may complicate that insecurity. Political society is machinery for organizing swords and purses. Fear and desire are the beginnings of government; its ends are safety and prosperity.

Not that amid such beginnings and ends a merely petty interest attaches to the means. Men need shelter, so they build, and they try to make their houses safe and also comfortable; but a stately house is not merely a shelter: it is a noble and magnificent shelter, a delight to the overseeing eyes of its builders, its supervisors, and its resident owners. And so, while the Union was yet a congeries of shacks hastily thrown together on a great estate, Hamilton called for its rebuilding on proper foundations into a more stately dwelling. Writing on the sixth anniversary of the independence of the United States, in the very last paragraph of his series "The Conti-

nentalist," he said that there is "something noble and magnificent" in the spectacle of a great federal republic, closely linked in the pursuit of a common interest, tranquil and prosperous at home, respectable abroad.[8] And writing of the need for funding to make the public debt solid and stable, one important effect being to make it "useful as Capital," Hamilton showed how even an "edifice" of "business," a structure of interested enterprise that one would not think to call noble, may present a "spectacle" so "wonderful" as to evoke, by its vast liveliness, a kind of disinterested delight.[9]

ii

Hamilton wrote for men who mostly accepted as self-evidently true the ends of political society as he stated them. What was not self-evident to them, and what he found it repeatedly necessary to argue, was that, having accepted the ends, they had to abandon beliefs which did not well consist with achieving those ends. He sought to liberate them from opinions having their source in antiquity, for the animating spirit of earlier society was different from and inferior to that of modern society.

During the War for Independence, Hamilton treated antiquity as antiquated. Writing against "visionary" expectations, he listed as one required item of expense a numerous magistracy, for whom competent provision must be made, or we may be certain our affairs will always be committed to improper hands, and experience will teach us that no government costs so much as a bad one. Preach, he said, till tired of the theme, the necessity of disinterestedness in republics—nevertheless, the virtuous declaimer will neither persuade himself nor any other person to be content with a double mess of porridge, instead of a reasonable stipend for his services. (It was the custom with the Lacedæmonians, Hamilton notes, that when any new senator was elected, he was presented at their public tables with a double allowance as a mark of distinction.) We might as soon reconcile ourselves to the Spartan community of goods and wives, or to their iron coin, their long beards, or their black broth. In the circumstances as well as in the manners of society among us, there is a dissimilarity that is "total," and it is "as ridiculous to seek for models in the simple ages of Greece and Rome, as it would be to go in quest of them among the Hottentots and Laplanders." Civic office, no longer the "simple" activity of honor-loving virtue, is a paid employment. Self-government is not taking part oneself in the work of governing: it is the right to a voice in the hiring and firing of deputies who serve the public by freeing the populace for private business.[10]

Simplicity, however, does not adequately characterize what makes the ancients unfit models for emulation: it would be better to speak of their spiritedness. During discussion of an act acknowledging the independence

of Vermont from New York, a speaker in the New York Assembly asked what the Romans would have done if an inconsiderable part of their citizens had presumed to declare themselves a separate and independent state—and he urged that the Americans should prove themselves as valiant as the Romans. In answer to those observations drawn from the examples of Roman magnanimity, Hamilton said that neither the manners nor the genius of Rome are suited to the republic or the age in which we live: all her maxims and habits were military, and her government was constituted for war; while ours is unfit for it, and our situation still less than our constitution invites us to emulate the conduct of Rome, or to attempt a display of unprofitable heroism.[11]

Shortly afterward, donning his toga as "Publius,"[12] Hamilton returned to the contrast between ancient society and modern. Defending the proposed new Constitution against opponents who feared a standing army, he argued that standing armies were likely to arise not so much from government under the Constitution (if it were adopted) as from the disunion that would follow a rejection of the Constitution; and in this argument, anticipating the question why standing armies did not spring up out of the contentions which so distracted the ancient republics of Greece, he characterized modern society. Hamilton wrote that the concurrence of two factors has produced an entire revolution in the system of war, distinguishing the ancient republics of Greece (in which "the true condition of the people" was "the condition of a nation of soldiers") from "the present day" or "modern times" (in which "disciplined armies, distinct from the body of the citizens" have been rendered the inseparable companion of frequent hostility). In the first place, "the industrious habits of the people of the present day" are "incompatible with the condition of a nation of soldiers"; instead of being warlike, modern men are "absorbed in the pursuits of gain, and devoted to the improvements of agriculture and commerce." And, secondly, the means of revenue have been greatly multiplied in several ways: gold and silver have increased, the arts of industry have grown, and the science of finance has been the offspring of modern times.

A little later, defending the absence of a constitutional interdiction of a standing army in time of peace, Hamilton called attention to the need for garrisons on the western frontier, and his arguments against furnishing these by occasional detachments from the militia were similar to the arguments he made in reply to those who objected to select corps as dangerous. Only in extremities, he said, should modern men be "dragged from their occupations and families to perform that most disagreeable duty." Even to achieve a merely tolerable exactness in military movements is a business

that requires time and practice. If the great body of the yeomanry and of the other classes of the citizens were obliged to be under arms for the purpose of going through military exercises and evolutions as often as might be necessary for acquiring the degree of perfection which would entitle them to be called a well regulated militia, this would be a real grievance to the people and a serious public inconvenience and loss. The public loss would be the deduction from the productive labor of the country, and to attempt something which would so considerably abridge the mass of labor and industry would be unwise; but the popular grievance would guarantee that the experiment, if made, could not succeed, because it would not be long endured.

Later still, writing of finance in the modern system of war, Hamilton called it the signal merit of a vigorous system of national credit that it enables a government to support war without violating property, destroying industry, or interfering unreasonably with individual enjoyments. The citizens retain their capital to carry on their several businesses and a due proportion of its produce for obtaining their usual comforts. Agriculture, commerce, and manufactures may receive some check, but they receive no serious wound. Thus war by the use of credit becomes less a scourge.[13]

Nonetheless, although what distinguishes the ancient citizens from the industrious moderns is more adequately characterized as spiritedness than simplicity, the more adequate characterization does not yet go quite far enough. It would be better to speak of ancient ferocity. This may be seen in Hamilton's denial of the claim that one country has the right to confiscate debts owed to aliens of another country against which it is at war. He opposed the appeal to Roman law, which permitted the practice: "nothing but the barbarism of times in which war was the principal business of man could ever have tolerated" such a practice "contrary to what is so plainly dictated by original principles of justice and good faith." The "ferocious maxims of antiquity"—"the ferocious maxims of the times, when war was the chief occupation of man"—might coincide with "some precedents of modern rapacity," but "the rigor of the ancient rule" has been relaxed by "the humane innovations of later times," according to the pronouncements of "enlighted reason." The usages of war must change amidst "the conflict between respect for ancient maxims and the impressions of juster views, seconded by the more enlightened policy of modern times." In ancient times "the world was yet too young—moral science too much in its cradle—to render the Roman jurisprudence a proper model for explicit imitation." The history of Rome shows that "war and conquest were the great business of that people" and that "for the most part, commerce was little cul-

tivated"; "hence it was natural that the rights of war should be carried to an extreme, unmitigated by the softening and humanizing influence of commerce." Against the pretended right there had been by Hamilton's time the negative usage of nearly a century and a half—"a period the most enlightened as well as the most commercial in the annals of the world." The "reason or motive" of the present customary law of nations, that there is no right to confiscate or sequester private debts in time of war, is "the advantage and safety of commerce."[14]

iii The American interest in prosperity and safety would be well served by American observance of the modern maxims that mitigate "the rigor of the ancient maxims of war." The United States cannot better show its wisdom than by showing moderation in this respect—that is, by adhering strictly to all the maxims which favor the rights of creditors. Credit, public and private, is of the greatest consequence to every country; of this, it might "emphatically" be called "the invigorating principle." Credit, as a substitute for capital, is "among the principal engines of useful enterprise and internal improvement": the United States owe, in a great degree, to the fostering influence of credit, their present mature growth; they continue to possess "an immense mass of improvable matter"—and to a country so situated, credit is peculiarly useful. The intelligent merchant in need of credit is freed from the illusions of ferocity by his dependence on potential creditors. Potential creditors also have "the usual sharp-sightedness of avarice": the national government's credit depends on the national government's being given authority to tax, because for anyone to depend upon the engagements of a government that must itself depend upon thirteen other governments for the means of fulfilling its contracts would require a degree of credulity not often to be met with in the pecuniary transactions of mankind.[15]

More urgently, credit is "one of the main pillars of public safety." In the modern system of war, even the wealthiest nations must have recourse to large loans, so that one who would imagine the expense of a single campaign in a war with a great European power would see that war, without credit, would be more than a great calamity—it would be ruin. Modern states, like ancient ones, are far from pacific. The modern commercial system has not eliminated war, but only changed its objects. Hamilton went so far as to call it a "novel and absurd experiment in politics" to try "tying up the hands of Government from offensive war, founded upon reason of state."[16]

But this is far from wars of glory as the stage or the arena for displaying virtue viewed as valor. There are causes, he pointed out, which render