

The Example of the Dutch Republic for American Federalism

J. W. SCHULTENORDHOLT

We may derive from Holland lessons very beneficial to ourselves.

John Marshall in the Convention of Virginia 1788.

I

History is philosophy teaching by examples. That famous saying expresses the eighteenth-century approach to the past better than long explanations. The philosophers and political scientists of the Enlightenment were eager to find examples to justify their actual deeds and opinions. Perhaps the deepest reason for this quest for an imitable past is to be found in their belief in the unity of Western civilization. There was a great chain of being, not only in space, as has been so magnificently described by Arthur Lovejoy, but also in time.

The presupposition of such a belief in the cohesive patterns of the past was the conception that there had been, through the ages, a certain uniformity in human behaviour. Man had never changed, that is why history could be used as a model. As David Hume put it:

Mankind are so much the same, in all times and places, that history informs us of nothing new or strange in this particular. Its chief use is only to discover the constant and universal principles of human nature.

The task of the historian was not in the first place to understand the past for its own sake, but, as Carl Becker remarks, to choose between good and evil, 'between the customs that were suited and those that were unsuited to man's nature'.¹ That is exactly what men like James Madison and his friends were to do during that long summer of 1787 when they drafted the Constitution.

Such a use of history was certainly lacking in depth. Even an historian like Peter Gay who writes about the *philosophes* with so much understanding and sympathy, has to admit that 'the idea of uniformity kept the philosophes' vision relatively flat'. Kingsley Martin had already used the same word when he characterized the historical writings of Voltaire as 'flat': 'he judges all institutions good or

1. Carl L. Becker, *The Heavenly City of the Eighteenth-Century Philosophers* (3rd. ed.; New Haven, 1961) 95, 108.

bad irrespective of place and period'.² Again, that could have been written just as well about James Madison.

But with one difference. Madison found all the institutions of the past to be exclusively bad. He and his fellow Americans in Philadelphia worked in the old tradition of the continuity of history, the chain of events that linked the past to the present, that is why they studied the examples of the past with so much diligence. But at the same time they tried to break that chain because they were convinced that in the new world a new beginning could really be made. They studied the past and, predictably, rejected it.

Sometimes one is almost inclined to consider all their historical efforts as nothing but a kind of rhetoric, with which they tried to convince the people and certainly also themselves of the superiority of the American present above the European past. That would, I think, be taking them a bit too lightly. There is a great seriousness in the dedication with which men like Madison or John Adams go over the models of old constitutions and federal systems. But there is indeed something abstract in their approach: the patterns of the past become more important than the reality behind it. History became for them a kind of rationalistic mythology. It is perhaps typical for an Americanized European like George Santayana, in later years, to express the belief that those who do not want to learn from the past are bound to repeat its errors. James Madison must have been inspired by that belief. And errors he found, everywhere, certainly including the Dutch Republic.

But what did he, or his fellow Founding Fathers, know about Holland? Some twenty years ago a political scientist, William H. Riker, has published a useful essay on this matter.³ The author made a rather thorough study of the sources of knowledge of Holland in Philadelphia. The most important, he concluded, were Sir William Temple's *Observations Upon the United Provinces, the Political Maxims of the State of Holland* (ascribed at that time to Jan de Witt, who perhaps, wrote the last two chapters, the real author was Pieter de la Court)⁴ and the account of the government of the Dutch Republic that Lord Chesterfield wrote for his son. Riker's article is important, but it lacks historical perspective, the author is not aware of the eighteenth-century conceptions of history, and hence his conclusion is that there was no real influence from the Dutch example because it was not known well enough and moreover used with a bias. But how much has

2. Peter Gay, *The Enlightenment. An Interpretation* (2 vols.; New York, 1966-69) II, 380; Kingsley Martin, *French Liberal Thought in the Eighteenth Century* (revised ed.; New York, 1963) 284.

3. William H. Riker, 'Dutch and American Federalism', *Journal of the History of Ideas*, XVIII (1957) 495-526.

4. Herbert H. Rowen, *John de Witt, Grand Pensionary of Holland, 1625-1672* (Princeton, N.J., 1978) 391-92.

to be known of history before it can be acknowledged as an example? And which history did ever, certainly in the eighteenth century, find practical applications without a bias?

The Founding Fathers, especially James Madison, studied the Dutch past and used it, or better, rejected it, for their own purposes. It is certainly true that their information about it was rather limited. Yet it is very interesting to trace how they came to this rejection. There was, after all, among the American revolutionaries, much understandable sympathy for the Dutch Republic and its past. The Romantic admiration for the Revolt of the Netherlands against Spain, which was to find its culmination in the work of Motley, was already a common theme in the eighteenth century, and not only in America, as Goethe's *Egmont* and Schiller's *Abfall der Vereinigten Niederlande* witness. An American leader like John Adams studied the Dutch Rebellion long before he came to Holland, from books like Grotius' *Annales*, - but its Renaissance-Latin proved to be unsurmountable - and Bentivoglio's *Guerra di Fiandra*, available in an English translation. Others did not delve as deep into the past as the ever industrious Adams, but the Dutch struggle for liberty was certainly a revered example.⁵

It might have been easy to admire the past, the heroic Hollanders of two centuries ago. But what was left of that glory in Adams' time? The Republic of the late eighteenth century certainly was a quite different country, its brave beginnings and its golden age long since gone. Decline seemed to have set in. Whether that decline was really as bad as later times have thought it to be is a difficult question which recently has been the subject of several historical studies.⁶ But that there was a kind of common opinion in the time itself, an awareness of crisis and decay, is evident from the contemporary witnesses. Lord Chesterfield set the pattern when he remarked, in 1751:

The necessary principle of a republic, *Virtue*, subsists no longer there. The great riches of private people (though the public is poor) have long ago extinguished that principle and destroyed the equality necessary to a commonwealth.⁷

5. John Adams to Abigail Adams, July 21, 1777, *Adams Family Correspondence*, L.H. Butterfield, ed. (4 vols.; Cambridge, Mass., 1963-73) II, 286-87; *idem* to John Quincy Adams, July 27, 1777, *ibidem*, 289-91; Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967) 66; Pauline Maier, *From Resistance to Revolution* (New York, 1973) 217.

6. An excellent condensation in Charles R. Boxer, *The Dutch Seaborn Empire, 1600-1800* (4th ed.; London, 1977) ch. 10: 'The Golden Century and the Periwig Period', 268-94.

7. Philip Dormer Stanhope, Fourth Earl of Chesterfield, 'Some Account of the Government of the Republic of the Seven United Provinces', in *Letters*, B. Dobrée, ed. (6 vols.; London, 1932) III, 605-12. Chesterfield's essay was written in 1745, its notes (in which our quotation, p. 609, nr. 1) were added in 1751 (and not in 1761 as Riker, copying an error, has it).

Rumors of the Dutch decay must have reached the American colonies. The American opinion about Holland contained a certain ambivalence. On the one hand the Republic was admired, be it only for the simple fact that it was a republic. But on the other hand its troubles were so evident. And were they not rooted in its whole system? How much freedom was left? How much unity? An aristocratic elite seemed to have all the power. Extreme individualism weakened the national solidarity.

Typical for this ambivalent view of the Netherlands are the writings of Thomas Paine. In *Common Sense* his admiration for the Republic as such is great: 'Holland without a king hath enjoyed more peace for this last century than any of the monarchical governments in Europe'. But yet something is wrong. In *The Crisis* he admits that the United Provinces are too divided amongst themselves, cannot make decisions. At the same time, in *The Rights of Man*, he complains about the unnatural unity of the Dutch nation, because it is embodied in a hereditary stadtholder.⁸ Paine's rather superficial judgements are easily refuted by his opponents, loyalists like Charles Inglis, the rector of Trinity Church in New York: 'There has not been a general war in Europe for a century past, in which Holland was not deeply engaged'. Or *Candidus* in Philadelphia: Holland has not only been 'a principal' in every war, it has also been torn apart by internal struggles 'since the murder of Barnevelt and the immortal Dewits by the deluded furious people'. Some rebels agree, like *Rationalis* in Philadelphia: 'Holland itself, from being a republic is become a downright aristocracy'. Or the reverend Samuel Williams in Salem: 'Holland has got the forms if she has lost the spirit of a free country'.⁹

Since Holland was approached with such ambivalence, it is so very difficult to determine its influence. Perhaps it can be perceived in the first constitution of the rebellious colonies, the Articles of Confederation. That at least is an opinion expressed by several Dutch writers at the time itself. The young Pieter Paulus, later to become a leader of the Patriot party, and the first president of the National Assembly of the Batavian Republic, started his career as a defender of the Union of Utrecht. In his great work *Verklaring der Unie van Utrecht* he gave much at-

8. Thomas Paine, *The Life and Writings of*, Daniel Edwin Wheeler, ed. (10 vols.; New York, 1908) II, 13, 50-51, III, 359-60, IV, 199, 246.

9. [Charles Inglis], *The True Interest of America Impartially Stated in Certain Strictures on a Pamphlet called Common Sense* (Philadelphia, 1776) 22-23, 47, 61; *Candidus*, *Plain Truth, Addressed to the Inhabitants of America, Containing Remarks on a Late Pamphlet called Common Sense* (Philadelphia, 1776, Dublin, 1776) 6, 34; *Rationalis*, 'To the Inhabitants of Pennsylvania', Philadelphia, Feb. 28, 1776, in: Peter Force, ed., *American Archives* (Washington, 1837-53) 4th series, IV, 1530; Samuel Williams, 'A Discourse on the Love of our Country' (Salem, 1775), in B. Bailyn, ed., *Pamphlets of the American Revolution, 1750-1776* (Cambridge, Mass., 1965) I, 82.

tention to the new American Articles of Confederation and proudly asserted that the Americans had imitated the Dutch model:

It is surprising and to the credit of our ancestors, that these inhabitants of another continent, after a lapse of some two centuries, adopted practically the same measures and arrangements as they did when drafting the Union of Utrecht.¹⁰

This assertion is repeated by another scholarly writer, Gerhard Dumbar of Deventer in his extensive explanation of the American Constitution of 1787. From the text of the Articles, he remarks, it is clear that the Americans have copied the great wisdom of our Dutch forbears. The difficulty is that from the American side there is very little to support this allegation. The only definite statement that I could find is a letter from William Grayson, the Virginian anti-federalist, to James Madison, dated 1786, and criticizing the Articles of Confederation with these words: 'It is no wonder our Government should not work well, being formed on the Dutch model where circumstances are so materially different'.¹¹

Alas, while we know so much about the origins of the Constitution, far too little is known about the early history of the Articles of Confederation. Sources and literature are scarce. From the few notes we have on the discussions in the Continental Congress we learn that the example of Holland was especially used when the question of voting - by State or in proportion to the number of inhabitants - came up. The representatives of the smaller States, like Roger Sherman of Connecticut, claimed that in the Dutch Republic liberty was preserved through voting by State and the requirement of unanimity. Others argued the reverse. Benjamin Rush, the famous physician from Philadelphia and a strong nationalist explained that the reading of Raynal's *Histoire du Stadhoudérat* had taught him that there were three causes for the decay of the United Provinces: the requirement for unanimity, the voting by province, and the obligation of the members of the State to consult their constituents upon all occasions. America should take a different course: 'We are a new nation'.¹²

10. Pieter Paulus, *Verklaring der Unie van Utrecht* (3 vols.; Utrecht, 1775-77) III, 242-53. It is important to note that Paulus used an early draft of the Articles of Confederation, dated Oct. 4, 1776, and not the definitive one of Nov. 15, 1777, which is a bit different, especially in the order of the articles.

11. Gerhard Dumbar, *De oude en nieuwe Constitutie der Vereenigde Staten van Amerika, uit de beste schriften in haare gronden ontvouwd* (3 vols.; Amsterdam, 1793-96); William Grayson to James Madison, March 22, 1786, in: W.T. Hutchinson and W.M.E. Rachal, *The Papers of James Madison* (Chicago, 1962-) VIII (1973) 508-11. Cf. Robert Fruin, *Geschiedenis der Staatsinstellingen in Nederland*, H.T. Colenbrander, ed. (The Hague, 1901) 386: 'The United States who imitated many of our institutions'.

12. W.C. Ford, ed., *Journals of the Continental Congress, 1774-1789* (34 vols.; Washington, D.C., 1904-37) VI (1906) 1079-81, 1105-06.

The circumstances of war made the decision to vote by State almost inevitable. But, as we have said, proof of a direct Dutch influence is hard to find. If we compare the two documents, the articles of the Utrecht Union and those of the American Confederation, a certain similarity cannot be denied. In both the inconsistency between the national unity and the regional particularities is evident. Solidarity is loudly proclaimed: 'the aforesaid provinces will form an alliance, confederation and union among themselves, ...as if they constituted only a single province', and: 'the said States... enter into a firm league of friendship'. But that declaration is directly followed by the restriction: 'Nevertheless each province ...shall retain undiminished its special and particular privileges', and, 'each State retains its sovereignty, freedom and independence'. In both countries it is, as is quite evident, only the common enemy which brings the reluctant parts together. The Americans, like the Dutch, agree on a common defense, common foreign policy, and equal valuation of money and more such essential matters. They reject unanimity - a majority of nine States will be decisive, but they keep the vote by State.¹³

There is indeed a rather strong resemblance between the two confederations. The greatest difference is perhaps that the Dutch document, meant only as a temporary arrangement, was to become a kind of constitution for more than two centuries, while the American articles soon are considered so inefficient that they are replaced by a stronger declaration of unity, the Constitution of 1787. In a recent essay, the American historian Herbert H. Rowen, expert on the Dutch past as few others, has made a comparison between the Union of Utrecht and the Articles of Confederation. He points out that the Dutch Republic was only a small country with an excellent system of internal Communications and a dominating centre, conditions for success which were lacking in the United States. He also argues, rightly I think, that the real problems of Dutch politics were not caused by the difference between the several provinces, but by the antagonism between the stadtholder and the regents. Moreover, he adds, there is an enormous difference between the perceptions of foreign policy in the two nations. The Dutch are in the centre of international politics, certainly in the seventeenth century, the Americans on the contrary, do all they can to withdraw themselves from the evil European world.¹⁴

But that is the wisdom of the historian after the event. For the contemporaries

13. For the translation of the articles of the Union of Utrecht I follow, with gratitude, the text given in Herbert H. Rowen, *The Low Countries in Early Modern Times, A Documentary History* (New York, 1972) 68-74.

14. Herbert H. Rowen, 'The Union of Utrecht and the Articles of Confederation, the Batavian Constitution and the American Constitution: A Double Parallel', in R. Vierhaus, ed., *Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze* (Göttingen, 1977) 281-93.

the question of the value of the example was more direct and difficult. When after some years people began to doubt the effectiveness of the Articles of Confederation, the Dutch example was naturally also drawn into the discussion. Defenders of local liberties, traditionally afraid of a strong centralized State, did all they could to make the Dutch example attractive. If it were true, as Montesquieu seemed to have proven so irrefutably, that democracy was only possible on a small scale, in a limited area, was not Holland the best model to be found and to be followed? Idealistic representatives in the conventions about a new constitution, held in the years 1787 and 1788, liked to reason like this. Montesquieu was eagerly quoted, Holland and Switzerland mentioned as beautiful examples of local selfgovernment. Holland was free and hence prosperous because its citizens had been able to retain their ancient privileges.¹⁵

It was of course to be doubted whether it was such a good idea to use the Dutch example so unencumbered by knowledge of the actual facts of the Dutch situation. Such idealistic arguments could easily be refuted. Just as Thomas Paine, when he used the Dutch example, had been rebutted by his loyalist opponents, so were the anti-federalists of 1787 by their adversaries. And with the same arguments.

II

So we come back to James Madison, the great scholar of federalism. Long before the Convention in Philadelphia convened, Madison had dedicated himself to the study of federal systems. When his friend Thomas Jefferson was ambassador at Paris he had asked him for books on history and especially on

whatever may throw light on the general constitution and droit publique of the several confederations which have existed. I observe in Boenaud's Catalogue several pieces on the Dutch, the German and the Helvetic. The operations of our own must render all such lights of consequence.

A year after this first request he tried again. Send me, he wrote, 'treatises on the ancient and modern Federal Republics', and also 'the Dictionary in 13 vol. 4° by Felice'. Jefferson was quite willing to oblige his correspondent, in a short time he sent him more than 200 books.¹⁶

15. See e.g. Abraham Yates in the Convention of New York, quoted in Jackson Turner Main, *The Antifederalists, Critics of the Constitution, 1781-1788* (New York, 1974) 80, and George Mason in Virginia in Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adaption of the Federal Constitution* (5 vols.; Washington, D.C., 1854) III, 268-69.

16. James Madison to Thomas Jefferson, March 16, 1784, in J.P. Boyd, ed., *The Papers of Thomas Jefferson* (19 vols.; Princeton, 1950-1974) VII, 37, *idem*, April 27, 1785, *ibidem*, VIII, 111, cf. E.G. Bourne, 'Madison's Studies in the History of Federal Government' in *Essays in Historical Criticism* (New York, 1901) 165-69.

From the many notes which Madison has left us of his study we can learn much about his historical approach. He was indeed the typical collector of facts of the eighteenth century, caring almost nothing for special situations, local developments, social backgrounds etc, weighing all the old confederacies from the Greek down to the Dutch in the same balance and finding them all wanting. They were 'beacons, which give warning of the course to be shunned, without pointing out that which ought to be pursued'.¹⁷ The European past was studied, and rejected.

If we now try to find out what were the sources that Madison used in his study of the Dutch Republic, we see that the most important among them was a work, that, strangely enough, is not even mentioned by Riker in his article on the Dutch and American federalisms. It was the French encyclopedia on legal and constitutional matters that Jefferson had sent him and that had the somewhat pompous title *Code de l'Humanité*. One of those typical eighteenth-century compilations of knowledge, in thirteen heavy volumes, it had been collected and edited by a French philosopher of Italian origin, Fortuné-Barthélemy de Felice. Felice, born in Rome and raised for the priesthood, had gone through all kind of romantic ventures and conversions before he settled at Yverdon to begin his immense writing and publishing program.¹⁸

For his *Code de l'Humanité* he had invited contributors from many countries. Most of the articles on the Netherlands were written by a minister of the English Church in The Hague, Archibald Maclaine. Maclaine, a brother indeed of the famous James Maclaine, the most notorious highwayman of his time, hanged in public at Tyburn in 1750, was himself a scholar of some renown, a dignified clergyman, living at The Hague for almost fifty years and well acquainted with the stadtholder and teacher of his children. Hence his views on the Dutch political situation were those of the conservative circles around the Dutch court. His articles on subjects like Provinces-Unies, Etats-Généraux, *stadhouder*, and the like, were very laudatory.¹⁹ He had really nothing but praise for the complex constitutional situation of the Republic. The country might be divided into seven provinces,

17. 'Notes on Ancient and Modern Confederacies' in R.A. Rutland and W.M.E. Rachal, eds., *The Papers of Thomas Jefferson* (10 vols.; Chicago, 1962-77) IX, 3-24; cf. Marvin Meyers, *The Mind of the Founder, Sources of the Political Thought of James Madison* (Indianapolis, 1973) 73-81, and the excellent introduction to this book; Jacob E. Cooke, ed., *The Federalist* (Middletown, Conn., 1961) nr. 37, 233.

18. F.B. de Felice, ed., *Code de l'Humanité* (13 vols.; Yverdon, 1778); on Felice, *Bibliographie Universelle* (Michaud) XIII (Paris 1885) 493-95.

19. Most articles in the *Code de l'Humanité* on the Netherlands are written by Maclaine but the article *Hollande* is by M. Andrié, Baron de Gorgier. On Maclaine see *Dict. Nat. Biogr.*, XII, 5.v. and *Biografisch Lexicon voor de Geschiedenis van het Nederlands Protestantisme* (Kampen, 1978) I, 149-50. I here wish to acknowledge my debt to my colleague Prof. Dr. G.H.M. Posthumus Meyjes for his help.

which were almost independent sovereign powers, they yet were allied in a perpetual and sacred confederacy. The States General sometimes looked more like a 'Congress of ambassadors than like a council which had sovereign power', but the real unity in the Netherlands was embodied and preserved in the person of the stadtholder.

Maclaine became panegyric when he talked about the Union of Utrecht. There never had been a better foundation for a commonwealth. It was an ideal constitution because it expressed the realities of the society without going into too much detail. It left future disagreements to the wisdom of sage statesmen, in particular the stadtholder. Was there a better proof of the quality of the system than that it had withstood all endeavours to reform it, in 1584, in 1651, in 1716-17? These were 'des preuves sans réplique de la profonde sagesse de ses auteurs'. The Union of Utrecht 'servira toujours d'exemple frappant de la différence que d'habiles politiques sont souvent obligés de mettre entre la spéculation et la pratique'. So Maclaine skilfully defended the sad reality by calling it practical. But his highest praise he reserved for the stadtholder. He warned emphatically against Raynal's *Histoire du Stadhoudérat* 'in which words took the place of realities'. The stadtholder 'représente la republique dans les parties les plus essentielles de sa grandeur', he kept the nation together.²⁰

Madison, when reading all these encomiums, was evidently not in the least impressed by them. On the contrary, as was his habit with most European tenets, he neatly turned them around. For him the arrangement of the Dutch confederacy, the requirement of unanimity, the consultation of the constituents, the divided sovereignty, were fatal flaws in the system. In vain had special assemblies of the States General, in 1584, in 1651, in 1716-17 tried to reform it. It was true that the stadtholder kept the nation together, that much he would accept, but what kind of a republic was it where the unity had to be preserved by a prince! What a 'strange effect of human contradictions'. Men too jealous to confide their liberty to their representatives, who are their equals, abandoned it to a prince, who might the more easily abuse it, as the affairs of the Republic were important, and had not then fixed themselves.²¹

The knowledge which he collected about Holland he was soon able to use. When in the spring of 1787 the Founding Fathers met at Philadelphia to discuss a new constitution, historical examples were eagerly quoted and the Dutch Republic was one of the most frequently brought in. Not only Madison seemed to know about Holland, others also had their information, sometimes quite recently

20. *Code de l'Humanité*, s.v. Etats-Généraux, VI, 140-51; s.v. Provinces Unies, XI, 572-82, s.v. Stadhouder, XIII, 83-91.

21. Meyers, *The mind of the Founder*, 79-81.

received and not always well understood. Pierce Butler of South Carolina told about the appointment of a French general at the head of the Dutch army, proof of the need of a strong executive. Benjamin Franklin countered his argument, by giving a short survey of Dutch history and explaining that the States of Holland had appointed the Frenchman to resist the usurping powers of the stadtholder. The executive in the Republic was too strong, not too weak. Madison dramatized this account in his notes, writing about the present stadtholder 'ready to wade thro' a bloody civil war to the establishment of a monarchy'. It is easy, as Riker does, to accuse Madison of scanty historical knowledge, but it must be admitted that it was quite difficult for the men who gathered in Philadelphia to understand from afar the fast changing Dutch situation of that same summer of 1787.²²

For Madison the actual problems of the Dutch Republic were only an extra proof of what his reading of history had already taught him. It was not enough to have a republican system of government, that was not a guarantee in itself of freedom and peace. He rejected the kind of idealism preached by Paine and the anti-federalists. He certainly must have agreed with Hamilton's exposé of Dutch history in *The Federalist* nr. 6, so reminiscent of the arguments of the loyalists:

The provinces of Holland, till they were overwhelmed in debts and taxes, took a leading and conspicuous part in the wars of Europe. They had furious contests with England for the dominion of the sea, and were among the most persevering and most implacable of the opponents of Louis XIV.²³

For the federalists the history of Holland was an example of the tragic failure of a republic. It may be true, as Riker has pointed out in a rather pedantic way, that the Founding Fathers, when they quoted Dutch history, did not always use the sources with accuracy. The notes of Madison, Yates, King and others do indeed give that impression. But the ideas, the understandings learned from the Dutch example were quite clear and right. What was wrong with the Dutch Republic, as they saw it, was its eternal inner dissension, the extreme individualism of its inhabitants, the putting of local above national interest, the usurpation of power by small oligarchies. As Chesterfield had said, there was no virtue that kept the country together.

The arguments of the danger of discord had of course a special actuality for Americans: the advocates of a stronger union used it against the champions of local liberty. Madison opposed the New-Jersey plan that defended the rights of the small States by again taking up the example of Holland: 'The Dutch are in a most

22. Max Farrand, ed., *The Records of the Federal Convention of 1787* (4 vols.; New Haven-London, 1937) I, 89-90, 92, 102-03; Riker, 'Dutch and American Federalism', 507-08.

23. *Federalist*, nr. 6, J.E. Cooke, ed., 33.

wretched situation - weak in all parts'. But another evil also became evident in the Dutch Republic: the domination of the greatest provinces over the smaller ones. Holland, Madison went on, where half of the population lives and which pays 58 per cent of all expenses 'by her influence, silently and indirectly governs the whole Republic'. From this the small States could learn how dangerous a weak alliance between the States really was.²⁴

Madison dedicated a whole essay of *The Federalist*, nr. 20, to the evils of the Dutch Republic. Working from his notes he described the system of government, its deceiving appearance: 'such is the nature of the celebrated Belgic confederacy, as delineated on parchment', and its sad reality: 'imbecility in the government; discord among the provinces; foreign influence and indignities; a precarious existence in peace, and peculiar calamities from war'. He enumerated all the shortcomings: the dominating position of the province of Holland, the delay caused by the system of taking matters *ad referendum*, the principle of unanimity, departed from in emergencies. Were there any constitutional safeguards against tyranny, which

has perhaps oftener grown out of the assumption of power, called for, on pressing exigencies, by a defective constitution, than out of the full exercise of the largest constitutional authorities?

Since Madison wanted a strong executive, he could almost agree with Maclaine's defense of the stadholdership. It might have 'produced calamities', but it kept the country together and saved it from anarchy. And he quoted with approval the remarks of Sir William Temple that 'in the intermission of the stadholdership, Holland, by her riches and her authority... supplied the place'.

Describing the futile efforts of four 'extraordinary assemblies' - Maclaine is still his source here - to apply a remedy, the cool Madison became almost pathetic:

Let us pause, my fellow-citizens, for one moment, over this melancholy and monitory lesson of history: and with the tear that drops for the calamities brought on mankind by their adverse opinions and selfish passions, let our gratitude mingle an ejaculation to Heaven, for the propitious concord which has distinguished the consultations for our political happiness.

What had failed in Holland would succeed in America: a union of liberty.

The latest news from the Netherlands only confirmed the sad prophecies. When Madison wrote his essay, in the winter of 1787 to 1788, the Prussian armies had just crushed the Patriotic upheaval in the Republic.

24. Farrand, *Records* I, 327, 449, 459.

The unhappy people seem to be now suffering from popular convulsions, from dissensions among the States, and from the actual invasion of foreign arms, the crisis of their destiny.

How well Madison described the tragic situation. The Netherlands had come to the crisis of their destiny. The Prussians restored the stadholder and his conservative government, but some seven years later the French revolutionary armies occupied the country, and that meant the end of the Dutch Republic.

In another essay in *The Federalist*, nr. 37, Madison returned to the Dutch example. Was not their history typical of all the long and fruitless efforts of 'almost all the great councils and consultations held among mankind... a history of factions, contentions and disappointments' to be 'classed among the most dark and degrading pictures which display the infirmities and depravities of the human character'? Only now, in the new world, a miracle had happened, in the convention at Philadelphia the dissensions had been surmounted with unexpected unanimity.

It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution.²⁵

Madison set the tune for the discussions in the constitutional conventions which were held in the several States in the spring and early summer of 1788. Again and again the example of the Dutch Republic is brought up and mostly rejected. Only a few anti-federalists like Patrick Henry and George Mason in Virginia cling to the image of the ideal republic, which, as Mason asserts, is sometimes called an aristocracy, or by others a democracy, but which is truly a free republic. Others object. 'Consult all writers, from Sir William Temple to those of modern times', Edmund Randolph retorts, 'they will inform you that Holland is an aristocracy'. Can it then be a republic in the real sense of the word? 'According to my idea of the word', Charles Pinckney in South Carolina affirms, 'it is not a republic; for I conceive it as indispensable, in a republic, that all authority should flow from the people'.²⁶

Madison himself, in the convention of Virginia, repeats his arguments against the admirers of Dutch liberty like Henry and Mason: 'Holland is a favorable quotation with honorable members on the other side of the question... Holland has been called a republic, and a government friendly to liberty'. But in reality it is a country

25. *Federalist*, J.E. Cooke, ed., nr. 20, 124-29, nr. 37, 238.

26. Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adaption of the Federal Constitution* (5 vols.; Washington, D.C. 1854) III, 268-69, 189-90; IV, 326.

where the legislature consists of men who hold their offices for life, who fill up offices and appoint their salaries themselves. The people have no agency mediate or immediate in the government.²⁷

In general it must be said that the Americans of the late eighteenth century have no use for the Dutch example. They admire the origins of the Dutch Republic and they identify themselves with its heroic rebellion against a tyrannical king. But they see in the Dutch development the same pattern of history which they observe everywhere in the old world. There have been other glorious revolutions but they have not brought real liberty. Corruption has set in, the balance of power between the States, the provinces and the classes has been destroyed. Monarchies have become despotisms, republics oligarchies. The old world cannot be an example for the new one.

Certainly, the Americans unashamedly use history as a mirror. They are sure that they can avoid the errors of the past, that theirs is a really new beginning, such as has not been seen under the sun, as Jefferson affirms.²⁸ History cooperated, certainly in the case of Holland. Exactly in those years when the Founding Fathers dedicated themselves to the formation of a new system of government, the Dutch Republic came to an end. It collapsed almost before their eyes. It truly became 'a beacon which gives warning of the course to be shunned'.

27. G. Hunt, ed., *The Writings of James Madison* (9 vols.; New York, 1900-10) V, 170.

28. Thomas Jefferson to Joseph Priestley, March 21, 1801, in: *The Life and Selected Writings of Thomas Jefferson*, A. Koch and W. Peden, ed. (New York, 1944) 562-63.

Federalism: USA Style

RICHARD B. MORRIS

This conference of distinguished scholars attests to the enduring values of federalism, that distinctive governmental structure erected for the United Provinces in this historic city four hundred years ago. Indeed, this conference is a tribute to federalism's multifaceted approaches, to its enduring claims upon statesmen, and to the complex problems that its implementation poses in an age which finds intense nationalism competing with equally intense localism, and when fiscal disarray and threats to political stability summon forth the power and instant decision-making capacity of the centralized State.

To regard federalism as a success story is not to deny that it has failed perhaps as many times as it has demonstrated its effectiveness. Indeed, in Canada it is presently facing a supreme challenge. However, despite failures and shortcomings, federalism is still viewed by many as offering a political structure for the future. Witness various post-World War II State constitutions, whether in West Germany or Nigeria or most recently in Spain, all of which have drawn upon the federal model to unite their respective nation-States in the face of persistent regional or ethnic differences and traditional localisms. It is even being seriously proposed by an Irish opposition party as a solution for a united Ireland, and the upcoming elections for a European Parliament bear testimony to the widespread recognition of the fact that in the governance of a populous continent composed of many nations whose populations differ in tradition, language, and religion, a supra-national authority must of necessity be shaped in federalist terms.

Today I propose to treat a distinctive system of dual sovereignty, one which, despite its contemporary problems, still serves as a model for many new and emerging nations. Indeed, of the very large States, the USA still serves as the most successful, certainly the most enduring modern example of the governance of a vast extent of territory under its original federal constitution. Its beneficent political, economic, and cultural implications have indubitably provided one important model for the European Economic Community and the audacious notion of a European Parliament. It is almost two hundred years since American federalism was formally established by a constitution whose bicentennial the people of