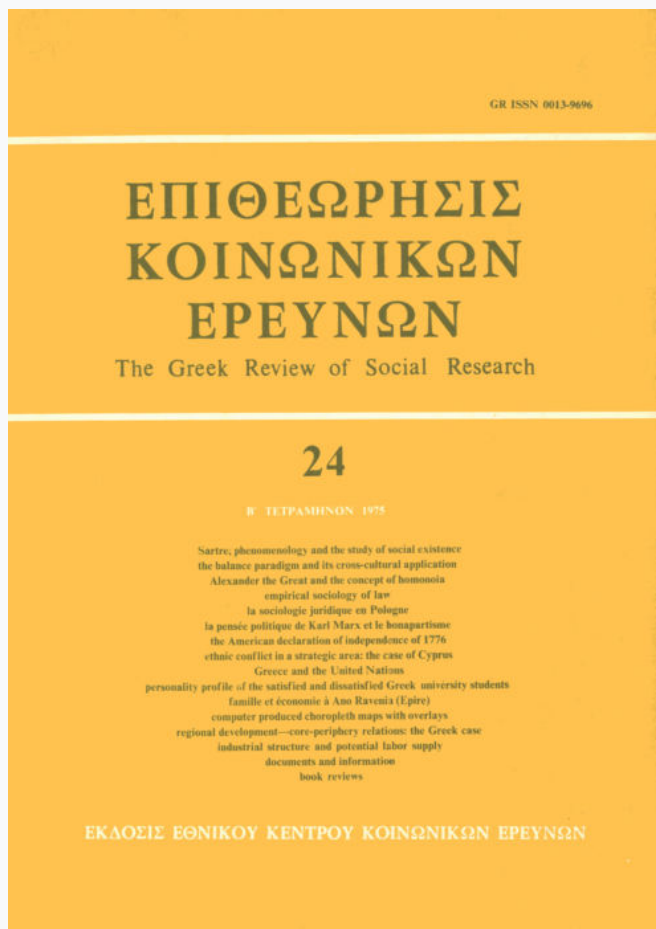


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**The American declaration of independence of 1776 and the constitution of 1789: A case of their indirect impact on the Greek constitutional order during the war of independence**

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*A case of their Indirect Impact  
on the Greek Constitutional Order  
during the War of Independence*

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We begin this study with the observation that the models of democratic theory which historically have given both direction and justification to democratic politics were inherited from the eighteenth century. Indeed, the eighteenth century, with its faith in the process of establishing governments on a rational basis and its philosophy of natural rights, was an age of constitution making.

The men who made the «democratic revolutions» in the eighteenth century were, it is true, united by their opposition to the systems of monarchy, aristocracy, and feudalism and by their positive commitment to the ideals of liberty and equality. The ideals of Liberty and Equality became the powerful weapons for assaulting the established political, economic, and social orders.

Historians have been intrigued by indicating that there is a common pattern in the great revolutions that have occurred in the Western world during the last two centuries. In this respect the American Revolution of 1776 and the French Revolution of 1789 seem to have established that pattern in several important aspects. The constitutional order which followed both revolutions presents a pattern which has become extremely significant to other revolutionary movements around the world. From the time of the Mayflower Compact, people in the new world had given much attention to written charters of fundamental law that would express the purposes, the precise character, and the limits of government. It is equally true that the success of the French Revolution of 1789 can also be measured by the profound changes it brought about in terms of the new constitutional order that was established.

It is our intention in this study to examine the impact the American Revolution and its constitution-making process had on the revolutionary constitutions during the Greek War of Independence.

«We hold these truths to be self-evident,» declared the Second Continental Congress on July 4, 1776, «that all men are created equal, that they are endowed by their Creator, with certain inalienable rights, that among those are Life, Liberty, and the pursuit of Happiness—that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed.... That whenever any form of Government becomes destructive of these ends (Life, Liberty, and the pursuit of Happiness) it is the Right of the People to alter or to abolish it, and to institute a new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and Happiness.»

The breadth of respect for the felt needs, beliefs, and desires of individuals as asserted in the American Declaration of Independence, is indeed quite

brehtaking and has undoubtedly shaped political developments over the last two centuries. The ringing phrases of the Declaration of 1776, at a time when despotism and authoritarianism had reached a high point, were a clear signal that in the political world the emphasis had been shifted from speculation to action.<sup>1</sup> And the language of natural law and natural rights, which had become a political weapon at various times in the course of human history, was to be used once more in the American and the French revolutions of the eighteenth century.

It should be noted at the outset, that the rationalist doctrine of Natural Law, a historical by-product of three centuries (1500-1800), coincided with the idea and force of nationalism during the eighteenth and early nineteenth centuries. Against the universalism of the past, the new form of nationalism glorified the peculiar and the parochial, national differences and national individualities. Yet the common standards of Western civilization, the survival of the Christian and the Stoic tradition, the regard for the universally human, the faith in reason provided a strong enough basis for natural law to preside over the British and the American constitutional orders and of those who derived from them. It was also in this age that the foundations of the free, democratic state were laid.<sup>2</sup> Consequently, it is a fact of special historical significance that eighteenth century rationalism reached political pre-eminence in the American and French revolutions of 1776 and 1789, respectively.<sup>3</sup> Equally, as it will be pointed out in this study later, the phenomenon of nationalism in the nineteenth century and the creation of nation-states in the ruins of the Ottoman Empire is another manifestation of the fact that natural law and natural rights were a significant part of the weaponry used to bring about the desired change.

The Declaration of Independence unanimously adopted on July 4, 1776, was undoubtedly the brain-child of Thomas Jefferson,<sup>4</sup> although Adams and Franklin played a minor role also. The extraordinary historical document consists of five parts: an introductory paragraph setting forth the intent of Congress in issuing the Declaration, a brief statement of contemporary American political philosophy, and indictment leveled against the misgovernment of the British

monarch, George III, the resolution of independence adopted on July 2, and the signatures of the representatives of the thirteen colonies.

Jefferson's rough draft of the Declaration of Independence served as the model upon which all subsequent changes were made. The most important of these was the deletion by Congress of Jefferson's remarks about slavery. As a whole, however, Jefferson's thoughts do manifest the influence of what has been Locke's «social contract» theory in action. Under this theory, the only reason that government exists is to preserve the life, liberty and prosperity of the citizens, and it has no power except that which is used for the good of the people. The basic rights of the people, therefore, limit the power of the ruler, who has no right, Divine or otherwise, to interfere with them. Locke's principal point was that if the government breaks the trust of the people who established it, or if it interferes with the liberty of the citizens, they have a right to rebel and make a new contract under which they may govern themselves more conveniently. This right to rebel was precisely the theory behind the Declaration of Independence, which declared that the colonies found government under the King of England to be highly inconvenient as well as detrimental to their liberties.<sup>5</sup>

Yet one should be reminded that the Declaration of Independence of July 4, 1776 was the high point of a series of events that preceded it.<sup>6</sup> Throughout the years of 1774, 1775, and 1776, a whole series of formal protests have been made by colonies against the British Crown. But neither the local committees of correspondence, the provincial assemblies, nor the Continental Congress before January 1776 laid claim to any regular sovereign political authority. And when the Second Continental Congress met in May 1775, and authorized an armed struggle against the British, it was not with the intention of seeking independence for the colonies but rather to resist the British Parliament's unconstitutional rule in America. The Parliament's forceful reaction to the demands of the colonists throughout 1775 made any reconciliation impossible, and in early 1776, there were clear and definite signs in the political horizon of the colonies that the road to total separation from the mother country and complete independence was the only option left.

As it is true in all great historical events, the growth of the colonial sentiment for independence was greatly accelerated and gained additional momentum thanks to a man that historical destiny placed in the midst of disenchanted and rebellious colonists. The

5. Watson, St., *The Reign of George III, 1760-1815* (Oxford), 1960.

6. Knollenberg, B., *Origins of the American Revolution: 1759-1776* (New York), 1960.

1. Palmer, R., *The Age of Democratic Revolutions: A Political History of Europe and America, 1760-1800*, Vol. 1, «The Challenge» (Oxford), 1960.

2. Trombetas, Th., «Natural Law and the Modern World.» *Xenion*, Festschrift für Pan. J. Jepsos, Vol. 1 (Athens), 1973, p. 382.

3. *Ibid.*, p. 389. Βλ. Τρομπέτας, Θ., «Η ουσιαστική σμίκευση του χάσματος μεταξύ δύο κόσμων δικαίου», *Εφημερίς Έλλήνων Νομικών*, τ. 35, No. 5 (Αθήνα) Μάιος, 1968, σ. 336.

4. Ford, P. (ed.), *The Works of Thomas Jefferson*, 1 (New York), 1904.

man, Thomas Paine, an Englishman, who sailed to America in October of 1774 and after arriving in Philadelphia turned to journalism, published on January 10, 1776 his most famous and influential pamphlet under the title: *Common Sense*. The 47-page pamphlet which was published anonymously, sold approximately 120,000 copies in the first three months after its appearance, and at once attained great popularity. The political pamphleteer and revolutionary agitator from England launched a most severe attack upon the institution of British monarchy and at the same time advocated to the colonists the immediate separation from the mother country.<sup>1</sup>

We think it is important to review briefly some portions of Paine's work on the origin and design of government in general and his concise remarks on the English constitution. This will facilitate our understanding of the impact his pamphlet had in the critical year 1776. Paine's view of the government suggests a strong sentiment of suspicion and negativism against it. «Society is produced by our wants and government by our wickedness; the former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices... Society in every state is a blessing, but government, even in its best state, is but a necessary evil; in its worst state an intolerable one: for when we suffer, or are exposed to the same miseries by a government which we might expect in a country without government, our calamity is heightened by reflecting that we furnish the means by which we suffer. Government, like dress, is the badge of lost innocence; the palaces of kings are built upon the ruins of the bowers of paradises.» However, the strong dislike and negativism that Paine showed towards government, in his advocacy of a happy man in the state of nature, is substantially softened later when he sees the inevitability of government in an organized human society. «Thus, necessity, like a gravitating power, would soon form our newly arrived emigrants into society, the reciprocal blessings of which would supercede, and render the obligations of law and government unnecessary while they remained perfectly just to each other; but as nothing but Heaven is impregnable to vice... they will begin to relax in their duty and attachment to each other: and this remissness will point out the necessity of establishing some form of government to supply the defect of moral virtue.»

His advocacy for a government that ought to be

dictated by the voice of nature and reason is in agreement with the thoughts and beliefs expressed in the Declaration of Independence. For Paine then, the origin and rise of government is but a mode rendered necessary by the inability of moral virtue to govern the world. «And however our eyes may be dazzled with show, or our ears deceived by sound; however prejudice may warp our wills, or interest darken our understanding, the simple voice of nature and reason will say, 'tis right.» Yet Paine's explanation of the *raison d'être* of a governmental structure did not suggest acceptance of the Constitution of England. To the contrary, he attacked this constitution as no one else had done before. «That the so much boasted Constitution of England was noble for the dark and slavish times in which it was erected, is granted. When the world was overrun with tyranny the least remove therefrom was a glorious rescue. But that is imperfect, subject to conclusions, and incapable of producing what it seems to promise, is easily demonstrated.» Acknowledging «the difficulty to get over local or long standing prejudices» of a highly venerated constitutional edifice, he set out to examine the components of the English Constitution and in his attack against it to brand them as «the base remains of two ancient tyrannies, compounded with some new Republican materials.» There is no doubt whatsoever, that Paine's rationale for attacking the Constitution was to obliterate the institution of monarchy itself.

The solemn character and the ringing phrases of the Declaration of Independence of 1776, have been intended as the highest appeal to public opinion in the colonies and throughout the world. They were meant to create a climate most favorable to the revolutionary cause, and bring about the desired end: separation from the mother country and total independence. Paine's presence in America and his now famous pamphlet greatly assisted the great causes and substantially added to the momentum of the fateful year. However, the enthusiasm and revolutionary zeal expressed by Paine can also be judged in retrospect in historical terms. «The sun,» wrote Paine, «never shone on a cause of greater worth. 'Tis not the affair of a city, a county, a province, or a kingdom; but of a continent—of at least one eighth part of the habitable globe. 'Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected even to the end of time, by the proceedings now. Now is the seed-time of continental union, faith and honor. The least fracture now will be like a name engraved with a point of a pin on the tender rind of a young oak; the wound would enlarge with the tree, and posterity read in full grown characters... A government of our own is our natural

1. Wan der Weyde, W., (ed), *The Life and Works of Thomas Paine: Thomas Paine National Historical Association*, (New York), 1925, pp. 97-103, 121-123, 129-131. See also Conway, M. D., (ed.), *The Writings of Thomas Paine*, (New York) 1894-1896.

right: and when a man variously reflects on the precariousness of human affairs, he will become convinced, that it is infinitely wiser and safer, to form a Constitution of our own in a cool deliberate manner, while we have it in our power, than to trust such an interesting event to time and chance....»

Paine, it must always be remembered, possessed the incalculable advantage of living in the eighteenth century. It has been said that for Paine to have been generally informed regarding the great principles that made the latter half of the 18th century a hotbed of radicalism and reform, he need not have been an avid reader. As Professor Gilbert Chinard has so rightly pointed out: We shall have to admit that there are times when ideas are «in the air,» when they seem common property, and when the attribution to any one man of the paternity of any particular idea is well nigh impossible. The eighteenth century was undoubtedly such a period.<sup>1</sup>

Finally, it must be stated that the Declaration of Independence of July 4, 1776, constituted a formal denouncement against the British Crown in the person of King George III and not against the sovereignty of parliament whose very existence was denied by the colonists. In constitutional terms, the Declaration of Independence meant the transfer of power and sovereignty from the agencies of the Crown to the agencies of the thirteen sovereign states and of Congress. However, the constitutional change brought about by the American Revolution of 1776, was followed by the Revolutionary War of the American colonists, which was fought heroically and courageously in order to make the desired goal for independence a reality.

The history of America as an independent nation began on July 4, 1776, when the Declaration of Independence was signed by representatives of the thirteen colonies. At this point, although they declared themselves free of English rule, there was, of course, no system of national government, so the Second Continental Congress assembled to form one. The Congress elected a committee of twelve men to draw up a system of government and this committee wrote the Articles of Confederation. The Articles, presented to Congress in 1777 and ratified by all the states except Maryland in 1778 and 1779, became effective on March 1, 1781. Since the colonists' objections to the English King had centered around his use of arbitrary power, they were convinced that a strong central government would soon be guilty of the same abuses. The Articles were, therefore, written with the idea of restricting the power of the national government as much as possible and a forming a league of states

which would work together as separate entities. Under the Articles, the national government was virtually powerless. There was no Executive Branch of government, although there was a President of Congress, and consequently no one to enforce the laws which Congress passed. The states could and did ignore any national laws which did not suit them. The national government could only request the states to send money, troops and supplies to fight the Revolution.

This first experiment in nationhood presented a series of serious problems but it had its successes too. It is indeed a historical fact of great significance that most of the state constitutions during the period between 1777 and 1787 worked better than it was expected at the time of the Declaration of Independence. The Virginia Constitution of 1776, the New York Constitution of 1777, and particularly the Massachusetts Constitution of 1779-1789 worked exceptionally well and, for all practical purposes, provided a political model in the process of constitutional engineering of the new nation. The political life of the new nation, complicated as it was by simultaneous experiments in independence, republicanism, and expansion, generated lively and extremely sophisticated debates over the pattern and purpose of government.<sup>2</sup> There have been strong ideological clashes in the political spectrum and this was to be expected. However, the political antagonism between conservatives and radicals in the several states of the Confederacy never destroyed the agreement of such fundamentals in the American consensus as republicanism, declarations of rights, a strong legislature, and the principle of separation of powers. The conservative political element was more clearly committed to a divided and balanced government, while the radical political element had opted for a clear supremacy of the Legislature. Equally important was the division between these two political elements on the very significance and substance of the doctrine of popular sovereignty. Generally speaking, the conservatives appeared to have accepted the doctrine with some conditions and limitations, while the radicals showed an unhesitating commitment to it.

However, it was in 1787 that the newly born nation had its rendezvous with destiny. A group of men who came together in Philadelphia in May 1787 to «revise» the confederate, congressional form of common government, managed, in the course of a single season, to lay an almost complete political foundation for its unique form of nationhood.<sup>3</sup> From the stand-

2. Hofstadter, R., *The American Political Tradition and the Men Who Made It* (New York), 1948.

3. Rossiter, Cl., *1787: The Grand Convention* (New York), 1966. For his excellent presentation of the political and consti-

1. Chinard, G. (ed.), *The Correspondence of Jefferson and Du Pont de Nemours* (Baltimore), 1931, p. 1XI.

point of constitutional engineering, the range of choices to the members of the Philadelphia Convention was indeed very large. But in the very difficult constitutional process of creating a new governmental system and machinery, the Farmers in Philadelphia, combining in an admirable fashion reason and experience came up with a solution which appeared neither to ignore the reverence for the past nor the concern for the future of the Republic. The Great Compromise reached in Philadelphia was some sort of cross between confederacy and consolidation that would produce a system never before tried but one that would prove acceptable, workable, and enduring.

Imbued with a spirit of devotion to the self-evident truths of the Declaration, and seriously affected by the lessons of a decade of self-government under the pressures of governmental ineffectiveness and social disorder, the Farmers proceeded to their deliberations and sought solutions to the manifold problems of their political system without ever abandoning their commitment to the oldest and most famous of liberty-oriented political philosophies: the school of natural law and natural rights. It is, therefore, true that the Declaration of Independence and the Constitution of the United States of 1789, as John Quincy Adams stated on April 30, 1839, are parts of one consistent whole, founded upon one and the same theory of government. Yet the passage of time from 1776 to 1787, and the accumulated anxiety from governmental inefficiency and social disorders were instrumental in redirecting American political thinking. It was this refinement of the American consensus by the Farmers of the Philadelphia Convention that marked the brilliant success of the great political adventure in 1787.<sup>1</sup> They went into the Convention more tempered and sophisticated political psychologists than they had been in 1776; and able as they were to distinguish the possible from the impossible and then convert the boldest of possibilities into the most solid of realities, these men helped to make the Convention as John Adams put it so eloquently «if not the greatest exertion of human understanding, the greatest single effort of national deliberation that the world has ever seen.»

Undoubtedly, the major elements in the consensus of constitutional thought, as it developed during the Philadelphia Convention, appeared to be centered on certain fears as well as hopes and the ability of the American polity to find the constitutional means

to achieve its political ends.<sup>2</sup> The consensus manifested a true fear of legislative tyranny, the need for the protection of the principle of majority rule and minority rights, and the means by which political power could be effectively checked through a system of constitutional and institutional devices. And the net result of this consensus has been instrumental in the creation of a new political system whose underlying principles were: popular sovereignty, republicanism, representative form of government, federalism, separation of powers with checks and balances, and fundamental rights of the individual. The Great Compromise of Philadelphia went through the process of ratification by the states and in 1789 became the new Constitution. When two years later the first ten amendments to the Constitution were added—known as the Bill of Rights—a major constitutional engineering along the lines of liberal democracy had come to completion. Its historical significance in the new world has been immense; its impact on the «enlightened» circles of the old world, most remarkable.

It is highly significant that while the American Revolution was reaching its natural conclusion with Constitution of 1789, another great revolution of the eighteenth century was beginning that very same year. The French Revolution of 1789 was being fought in the Continent with the explicit aim to destroy the political and social foundations of the old regime in France. Obviously, no delegate to the Philadelphia foresaw the French Revolution or felt its imminence. But in the history of fateful events during the last quarter of the eighteenth century, it was probably a blessing for the American cause of nationhood that the Convention did not take place earlier than 1787. The accumulated until then experience of the states of the Confederacy was a primary factor and perhaps the great catalyst for the success in Philadelphia. However, it is equally true that had the Convention taken place only a few years later, it would have been engulfed in the violence of the French Revolution and the American dream for nationhood and constitutional government might have never become a reality.

Three great revolutions within a single century have changed substantially the form as well as the substance of the political world in modern times. The Glorious Revolution of 1688, the American Revolution of 1776, and the French Revolution of 1789, have greatly contributed to the development of the free, democratic states of the nineteenth and twentieth centuries. These revolutions did not only espouse fundamentally philosophical principles but they tested them as a basis for political organiza-

tional thought of eighteenth century America, see (Chapter 4: Materials and Choices, pp. 58-75) which Prof. Rossiter has drawn on his *Seedtime of the Republic* (New York), 1953, especially pp. 139-146, 326-449.

1. Bowen, C., *Miracle at Philadelphia* (Boston), 1966.

2. Dumbauld, E., *The Constitution of the US* (Norman, Oklahoma), 1964. See, Introduction.

tion. The English Revolution of 1688 espoused the principle that liberty can best be protected in a parliamentary system of government. The American Revolution of 1776 declared the right of the people to overthrow its own government. The French Revolution of 1789 through its Declaration of Rights of Man declared that the enjoyment of privileges was the trademark of political absolutism.

The rise of Parliament and the parliamentary reforms in England were greatly advanced by the success of the Revolution of 1688; the progressively stronger enjoyment of human rights by the English people and the great electoral reforms of the nineteenth century strengthened significantly the democratic development and processes of the British political system.

The American Revolution's fundamental principles of inalienable rights and self-government had a great influence of American and European political thought. The American Declaration of Independence of 1776 and the American Constitution of 1789 do not contain a dogmatic declaration of the principle of popular sovereignty. Yet one finds this very principle expressed in the determination of the American people to create an independent nation-state and in the Declaration which stated that «Governments are instituted among men, deriving their just powers from the content of the governed.»

The French Revolution of 1789 was destined to begin a new period in human history. The theoretic beauties of the Declaration of Rights of Man quickly affected the conscience of the people of the world.<sup>1</sup> Although it is true that human rights were more practically guaranteed in England long before the French Revolution, the general, abstract, and philosophical character of the Declaration of Rights of Man was destined to arouse the conscience of the oppressed people of Europe and elsewhere. It was also in this Declaration that the fundamental principle of popular sovereignty found its constitutional expression in solemn and dogmatic fashion.

The two great revolutions of the eighteenth century—American and French—present some striking similarities. Their fundamental principles were not narrowly conceived, and at the time they were solemnly declared, they were of universal nature and not specifically addressed to the citizens of America and France, respectively. The value and strength of these principles were not to be limited by place or time. They were expressed as self-evident truths emanating from reason and the natural order of things. They were not simple suggestions of living

experience gradually formulated in order to be used by the people of a certain period and in one country, as appeared to be the rules of English law. Right reason and not historical documents can establish the rights of a nation, declared the French Revolution. These rights said Mirabeau are «as ancient as time and as sacred as nature.» The universal character of the principles espoused by the two revolutions, was destined to exert a tremendous influence on the political world of the last two centuries and on the constitutional processes of modern democracy.

The great principles that made the latter part of the eighteenth century a hot-bed of radicalism and reform never remained isolated. America was aware that in certain circles French sympathy with the American Revolution had existed since the beginning. A French official gazette published the complete text of the Declaration of Independence; one news sheet even dared to reproduce long extracts from Thomas Paine's high diatribe against kingship, *Common Sense*. «It is really our cause the Americans plead,» said the witty advocate Linguet. Jefferson, in Paris, wrote home to Madison that the Virginia Act of Religious Freedom had been translated into French and inserted in the famous *Encyclopédie*. Paris developed a romantic affinity with the Pennsylvania Quakers and extolled their founder, Guillaume Penn, a famous illuminé. It was understood that any Frenchman who believed in liberty and equality must admire this Utopie de Pennsylvanie.<sup>2</sup>

The revolutionary ideas against illegitimate political power, absolutism, and traditional institutions, were first tested in the English Revolution of 1688. They were given later a much wider scope and content in the American and French revolutions of the eighteenth century. The intellectual intercourse between these two revolutions is an established historical fact. In seeking to embody that theory of natural rights in the form of the social contract, both revolutions opened the great, new chapter of world history toward a renovation of the natural order of things.

Thomas Paine's enthusiastic support of the American Revolution was destined to be repeated a few years later with an equally strong advocacy of the principles of the French Revolution. When after the outbreak of the French Revolution, Edmund Burke, the philosophical spokesman of British political conservatism, published in 1790 his *Reflections on the Revolution in France*,<sup>3</sup> it was Paine's forceful

2. Bowen, C., *Miracle at Philadelphia*, op. cit., p. 133.

3. See Hoffman, R., and Levack P. (ed.) *Burke's Politics: selected writings and speeches of Edmund Burke on reform revolution and «war»* (New York), 1944. Also, Laprade, W., *England and the French Revolution, 1789-1797* (Baltimore), 1909. Brown, P., *The French Revolution in English History* (London), 1918. Hazen, C., *Contemporary American Opinion of the French Revolution* (Baltimore), 1897, and «Dr. Joseph

1. Svolos, A., «L'influence des idées de la Revolution Française sur les constitutions helléniques de la Guerre d'Indépendance», *Revolucion Française* (Paris), New Series, IV, 1935.

counterattack against the British monarchy and for the French Revolution, that exerted a most unusual influence. Paine's publication of the Rights of Man was a most lucid and brilliant reply to Burke's criticism of the French Revolution. Published between 1791 and 1792, this work was the seasoned combination of Paine's social and political thinking emanating from his revolutionary experience in America and his new enthusiastic involvement in the French Revolution.

Paine left America in 1787, when apparently the conditions of peace prevailing there at that time were not well suited to his temperament and his perpetual revolutionary zeal. He returned to Europe and within a short period of time found himself again in the very center of a major revolutionary struggle. In Paris, he aided in drawing up the «Declaration of Rights of Man and of Citizen.» Being given French citizenship, Paine was elected to the National Convention where he sat as a member of the Girondine group. With the rise to power of Robespierre, Paine was deprived of these rights and imprisoned in December, 1793. Following the fall of Robespierre eleven months later, Paine was released from prison with his citizenship and Convention seat restored.

Paine, therefore, must be viewed as a principal agent in the intercourse between the two great revolutions of the eighteenth century. It has been stated remarkably well that today one reads Paine's work (The Rights of Man) with the keen realization that it could not have been written if Paine had not had back of him twelve years of experience in America, during which he had followed with intense interest every crisis of the Revolution, as well as many political and economic crises that had occurred thereafter. Paine had, indeed, been in the midst of democracy in the making, and as one of the «people of America» he felt privileged to speak with authority to England, still in the chains of monarchy... At least for Paine the American Revolution had cleared the air of tradition and conformity and had laid the groundwork for the political reformation of the world.<sup>1</sup>

It is not to be overlooked that Paine's refutation of Burke's criticism of the French Revolution, had as a result that his work was banned in England, and he himself was tried in absentia for treason and punished by being outlawed from the country.

Paine, the English-born political pamphleteer and revolutionary agitator, whose underpinning of political thought was the doctrine of natural rights, was destined by fate and history to become one of

«the people of America» and a citizen of France, perhaps thus symbolizing for ever the close unity of the two great revolutions in the life-time of a man as well as in the modern of the Western World.

We are of the opinion that the foregoing analysis clearly suggests the parallel development and the close relationship of the two major revolutions of the eighteenth century. Especially, we wish to observe that in both revolutions one finds a principal commitment to two fundamental principles; the principle of individual rights and the principle of separation of powers. We think, therefore, that we should briefly summarize the nature of these two principles, because both have had, as it will be pointed out later, their most significant impact of the constitutional engineering of the Greek revolutionary period.

The declaration of the rights of man, which served as a preamble to the French Constitution of 1791, contains a series of dogmatic pronouncements concerning the natural rights of every man. A very similar wording for natural rights one finds earlier in the bill of rights of many state constitutions of America, and most prominently in the preamble to the Constitution of the State of Massachusetts. Of course, the same holds true of the national bill of rights added in 1791 to the American Constitution of 1789. However, it is historically true that the protection of individual freedom, although basically limited to the «free men of the kingdom,» found its expression long before the American and the French Revolutions of the eighteenth century in English public law (historical documents of constitutional significance) still valid today, as well as in the actual practice of the English political system. The historical documents of the Magna Charta of 1215, the Petition of Rights Act of 1628, the Habeas Corpus Act of 1679, and the Bill of Rights Act of 1689, do not constitute in themselves a declaration of individual rights as much as they provide sufficient legal guarantees for the individual in actual political practice. From this standpoint, one could easily admit that the actual content of English public law, was, by far, more complete when compared with the French declaration of individual rights.

It is undoubtedly true that the idea of individual freedom as a natural right has its origin in the philosophy of the eighteenth century. The idea of individual freedom emanating from the law of nature, is not only the great legacy of natural law in its long historical process from the School of the Stoics to the modern times. It has been philosophically articulated by Locke, Wolff, Pufendorf, and Blackstone. It was also greatly strengthened by Voltaire, Montesquieu, and Beccaria, who became the great heralds of the personal, intellectual, and religious freedom of the individual. They do not only influenced the res-

Priestley, John Wilkinson and the French Revolution» in *The Transaction of the Royal Historical Society*, Series 5 (London), 1958.

1. Adkins, N. (ed.), *Thomas Paine: Common Sense and Other Political Writings* (New York), 1953, p. XXXII.



pect for human freedom in their own time, but they greatly affected the political ideology of the eighteenth century.

Time and again the observation has been made that the American Revolution profoundly influenced the French Revolution. It appears, however, to be a political axiom that the striking similarity of the dogmatic declarations of the two major revolutions is not a mere historical coincidence. It can only be explained by the fact that both have taken place in history, at the time they did, as a result of the major conflict between the then existing political and legal order and a fast changing social and political world. The two revolutions were not only fought for human freedom, but also for the emancipation of their people along national, social, legal, and political lines. However, both revolutions rightly sensed that this overall emancipation, in order to be successful, would have to be based on the atomocentric ideal of human freedom.

The other common point of the two revolutions of the eighteenth century, was their commitment to the principle of separation of powers. First the American Convention of Philadelphia (1787) and later the French Constituent Assembly (1791) adopted this major constitutional principle as a result of the influence exerted on them by Montesquieu.

However, it is true that Montesquieu's theory of separation of powers was not completely incorporated either in the American or the French political system. The American Constitution of 1789, adopted the principle of separation of powers without specifically declaring it in its text. It was an expression of belief of the Philadelphia Convention that a system of fragmented and separated powers was guaranteeing a government of laws and not of men. Yet the separation of powers in the American Constitution was complemented by a system of checks and balances among the three branches of government. The French adoption, on the other hand, of the doctrine of separation of powers, constitutes a dogmatic declaration of the Constituent Assembly. This dogmatic declaration, however, failed to be implemented in actual political practice. Its failing was primarily due to the fact that the separation of the three powers was not conceived as a system of independent organs counterbalancing each other, but as one of total and complete separation.

It is historically significant that the adoption of the principle of separation of powers, by both the Americans and the French in late eighteenth century, was primarily viewed as one additional, but fundamental, guarantee of individual freedom. This ideal has inspired the American Revolution of 1776; it also inspired the French Revolution of 1789, at least in its first steps, as a means of protection of the

emancipated citizen from the aristocratic and absolutist old regime.

In the real political world, a world of conflict and permanent change, certain historic events are being singled out for their immense influence upon the course of human history. The American Revolution of 1776 and the Constitution that followed in 1789, as well as the French Revolution of 1789, are among those great happenings of history. Their combined influence has been felt for a long time the world over. The Greek Revolution of 1821 is no exception of their influence. We are of the opinion that the process of constitutional engineering of the revolutionary conventions during the Greek War of Independence, and their by-products, the Greek revolutionary constitutions, will clearly indicate the impact exerted upon them by the major events of the late eighteenth century.

At this point, we wish to turn our attention to the Greek Revolution of 1821, and examine the impact that the profound changes of late eighteenth century had on the constitutional order of the newly born Greek nation during its War of Independence. However, we feel it is necessary that this analysis should be preceded by an examination of the forces at work which were instrumental in bringing about the reorientation of the Greeks toward the West prior to the Revolution of 1821.

Long before the siege of Constantinople, and as a result of the Crusades, a serious political conflict arose between East and West in addition to the ecclesiastical dispute that brought about the schism of the churches in 1054. The invasion and domination of a large part of the Neareastern area by the Crusaders, resulted in the strong resentment and bitterness of the Latins by the Greeks. «To the Greeks,» Edward Gibbon wrote, «the Latins were the most odious of heretics and infidels; and the first minister of the empire, the great duke, was heard to declare that he had rather behold in Constantinople the turban of Mohammed than the Pope's tiara or a cardinal's hat. A sentiment so unworthy of Christians and patriots was familiar and fatal to the Greeks...<sup>1</sup> If one then recognizes at the time of the conquest of Constantinople three distinct civilizations, the Western, the New Eastern, and the Middle Eastern in their respective stages of development, one must ask the question: when and in what way the Near Eastern world made its mental reorientation toward the West? Historians seem to agree that about the third quarter of the seventeenth century

1. Gibbon, E., *The Decline and Fall of the Roman Empire* (New York, n. d.), Vol. III, p. 761.

this reorientation was well under way among both the Russians and the Greeks, and Toynbee strongly suggests that among the latter, where there was no «enlightened monarch» like Peter the Great to give it an impulse, its origins are more mysterious and more interesting.

It is reasonable to believe that since the end of the seventeenth century, the Western civilization has exerted a profound influence upon the Near Eastern world. The Western political idea of nationality undoubtedly has been a primary force in European politics throughout the eighteenth century, and its influence was soon felt in other areas of the world. The power of the Western political idea of nationality was too great to be ignored; in addition, the religious toleration manifested in the West affected most profoundly the political, economic, religious and intellectual life of the European societies and helped to create the image of an «Enlightened Europe» the world over. It was in this light of the image of Europe that the Greek hatred for the «Latins,» so fatal and detrimental to the destiny of the Greek Byzantine Empire, had completely disappeared.

Before the Greek Revolution of 1821, the Greeks of the Balkans and Asia Minor, strongly aspiring for freedom from the Turkish yoke, appeared to be unable to have their concept of national emancipation clearly defined. There was, in other words, among the Greeks a division as to the course of action. Certain leading Greeks who had achieved their material and cultural ascendance within the Ottoman society<sup>1</sup> (particularly those connected with the high clergy and the Fanariot families of Constantinople) were opposed to any action aiming at the violent destruction of the existing order. Nonetheless, and because of their rising influence within the fast decaying Ottoman Empire, these Greeks were hopeful that through the process of «hellenization» of the Empire, it could be eventually transformed into a free Greco-Turkish state. This view, however, was opposed by other Greeks like Rigas and the leading members of the Filiki Eteria,<sup>2</sup> who espoused the goal of revolution of the subject peoples of the Empire in order to bring about the creation of a free

Greek state made up of all the oppressed nationalities. This latter view was destined to become the most dominant one during the pre-revolution period.

As it has already been observed, the great principles that made the latter part of the eighteenth century a hot-bed of radicalism and reform, achieved form and substance through the American and the French Revolutions. The great success of the American Revolution and the theoretic beauties of the French Revolution aroused the conscience of the oppressed people everywhere and made them inspired fighters for the cause of freedom. It is in this very light that one must see the commitment and actions of the Greeks during the period that preceded the Revolution of 1821, as well as during the period of what has become known in history as the Greek War of Independence. The net result of a heroic revolutionary activity of almost nine years was not the creation of a Hellenic Empire but of a small Greek state.<sup>3</sup>

The Greek War of Independence was indeed a significant historical event not only in terms of a rebirth of the Greek nation, but primarily because a revolutionary movement in that part of the world had most consciously applied the Western national idea. This view is strongly shared by historian Toynbee who saw the Greek Revolution of 1821 as perhaps the first movement in this region by a conscious application of the Western national idea, «a movement more revolutionary than any other in that area at the time and the Western idea most dominantly expressed.»<sup>4</sup>

The Greeks throughout four centuries of Ottoman rule became attached to their religion by a double tie of faith and national sentiment. This became possible thanks to the policies of the Islamic Empire, and yet as Philips remarked «the most intolerable of all tyrannies is that which expressed itself, not in isolated acts of violence, but in a consistently applied system of contemptuous toleration... In dealing with a conquered people, Machiavelli had said, one must either crush or conciliate. The Turks had done neither. They had made their rule as galling as possible to the pride of the subject race, while they had neither destroyed its organization nor even, in some cases, deprived it of its weapons.»<sup>5</sup> Thus,

1. See Foster, E., *A Short History of Modern Greece, 1821-1956* (London), 1960. Pertusier, C., *La Valachie, la Moldavie et l'influence des Grecs du Fanar* (Paris), 1822. Filitti, J., *Rôle diplomatique des Phanariotes de 1700 à 1821* (Paris), 1901. Παπαρρηγόπουλου, Κ., *Ἱστορία τοῦ Ἑλληνικοῦ Ἔθνους*, Τόμος Ε, Μέρος Β. (Ἀθήναι), 1932 καὶ Μοσχολοῦλου Θ., *Οἱ Φαναριῶται ἀπολογούμενοι ἐκ τοῦ τάφου* (Βουκουρεστίου), 1898.

2. Several important works have been written about Filiki Eteria, especially by Φιλῆμων, Ἰ., *Δοκίμιον ἱστορικὸν περὶ τῆς Φιλικῆς Ἐταιρείας*, (Ναύπλιον) 1834. Μελάς, Σ., *Φιλικοί* (Ἀθήναι), 1960. Πρωτοψάλτης, Ε., *Ἡ Φιλικὴ Ἐταιρεία* (Ἀθήναι), 1964.

3. William Miller, a historian remarked: «The poorest portion of Hellenism was awarded to Greece, the richest was left to Turkey, the seeds of four future wars were sown, and a feeling of unrest created, for the cramped body of Hellenism lay uneasily upon the Procrustean bed which diplomacy had cynically constructed for it.» Miller, W., *Greece* (New York), 1928, p. 28.

4. Toynbee, A., *The Western Question in Greece and Turkey* (New York), 1922, p. 17.

5. Philips, W., *The War of Greek Independence, 1822-1833*, (London), 1897, p. 6. «The creation or toleration of such an imperium in imperio,» Philips wrote, «might from the first

the loose organization of the dominions of an Empire, whose companions for over two centuries were decay and degeneration, was seriously challenged by a national revival of the Greeks who demanded their freedom and their political independence.

It is significant to note that the first declaration of constitutional nature prior to the Greek Revolution of 1821, was the work of Rigas, perhaps the most influential and most admired man in Greek revolutionary thought. Rigas not only managed through his revolutionary songs to arouse the conscience of people in captivity and to commit them to the cause of freedom against the Ottoman rule. He also became the author of a revolutionary proclamation in 1797, and of a constitution known as «Δημοκρατική Προπαίδεια του Ρήγα».<sup>1</sup>

The text of this constitution is preceded by a preamble in which the revolution against the despotic and ruthless tyrant is being fully justified. The preamble is followed by a declaration of the rights of man (the most important part of Rigas's work) and the main-part of the constitution.

The preamble of Rigas's constitution, written in a highly emotional and revolutionary language that he mastered admirably well, constitutes a brilliant attack against the inhuman and tyrannical Ottoman rule. It is a moving plea to the oppressed and suffering people to revolt and reclaim its natural rights.

However, it is in the declaration of Rights of Man that Rigas shows his complete familiarity with the great principles emanating from the two major revolutions of the eighteenth century, and the constitutional engineering that followed. Article 1 of the Rights of Man speaks of the fundamental value of the social contract as a basis for political organization, and stresses the enjoyment of inalienable natural rights. Article 2 defines these natural rights as the rights to equality, freedom, life, and property. Article 3 establishes equality under law for both Christians and Turks, as well as for rich and poor. Article 4 defines that the making of the laws must always be based on the consent of the people. Article 6 stresses the notion of freedom under law. Article 7 establishes the right of free expression of opinion, thought, and of the press; also, freedom of assembly and freedom of religion without any hindrances in the practice of the religions of Christianity, Mo-

have seemed of doubtful wisdom... but throughout the Ottoman dominions, the theocratic basis of Greek unity had been deliberately maintained by the policy of the Ottoman conquerors. Marriot also remarked that «to the Turks the social and political differential has always been not race but religion. Every one who was not a Moslem, unless he was an American or a Jew, was a Greek.» See Marriot, J., *The Eastern Questions* (Oxford), 1924, p. 197.

1. Κυριακόπουλος Ε., *Τὰ Συντάγματα τῆς Ἑλλάδος* (Ἀθήναι), 1960, σελ. 5-35.

hamedanism, and Judaism. Articles 8 and 9 clearly state the need for the protection of human rights under just laws, and the right of the people to overthrow an unjust and tyrannical government.

It is not our intention to examine in detail Rigas's declaration of Rights of Man. What has already been stated should suffice, however, to indicate the strong impact the theories of social contract and natural rights, galvanized through revolution and constitutional engineering in America and France, had on Greek revolutionary thought. We would like, nevertheless, to stress that Rigas's declaration not only constitutes a most detailed account of human rights of substantive and procedural nature, but that it is written in a magnificent language and in a didactic manner of supreme quality. After all, it was never conceived as a dry, legal document of a legal expert, but rather as an inspiring invitation for men to revolt against an unspeakable and despotic tyranny in order to enjoy the fruits of liberty.

We think it will serve a useful purpose to cite here a few articles of Rigas's Rights of Man in the language he wrote them. There are translated verbatim by the author of this study and to indicate, we believe the didactic and exegetic nature in which Rigas expressed these rights, as well as the rationale behind them. Thus, in Article 9 Rigas states: «Only the law can provide protection of our freedoms as a nation and of the freedoms that each person should enjoy against the possible oppression and despotism by those who govern us; when they govern us well, the law should afford them protection, but when they govern us tyrannically, the law should throw them out.» In Article 23 Rigas states: «The enjoyment of one's rights and the security of every person in our nation is the common concern of all its citizens. We should know, therefore, that when one person suffers an injustice, we all suffer, and that is why we must provide for the rights of every person and their protection. This security is based upon the very notion of the nation, that is to say the entire nation suffers, when one of its citizens suffers unjustly.» Article 34: «Even when a single person in our nation suffers an injustice, the whole nation suffers; and again when our nation is being treated unjustly or is being attacked, every single person should feel the injustice or suffer from the attack. That is why no one can ever say that when another country is being attacked, it does not concern me, because I live in peace in my country; I am being attacked when another country is being attacked and suffers, as part of the whole that I am; the Bulgarian must come to the aid of the Greek when the latter suffers, and the Greek likewise for the Bulgarian, and both for the Albanian and the Vlach.» Finally, in Article 22 Rigas states: «All citizens of our nation must receive an education, and the

nation has the obligation to create in all villages schools for boys and girls. It is only through learning and education that progress can be achieved and the happiness of the free nations can be secured.»

From what has already been stated, it should be clear that the democratic political system proposed by Rigas in 1797, was based on his conception of a Greek nation substantially enlarged by other nationalities freely associated with it after a successful revolution of all against the despotic Ottoman rule. His dream was not destined to become a reality, but his revolutionary zeal and enthusiasm were successfully injected into the blood of Hellenism. The great ethnomartyr died in 1798, in the hands of the agents of the despotic empire that hated so much; but he had already been given the opportunity to arouse the nation in captivity. The heart-beat of the nation, since Rigas's heroic death, was getting faster and stronger, signalling the forthcoming Revolution.

As it has already been observed, a period of enlightenment has preceded the two great revolutions of the eighteenth century. Particularly in the case of France, the Revolution of 1789 was preceded by the social and ethical criticism of the then existing socio-political order. The influence exerted by the philosophers was indeed remarkable, and the struggle for independence in America greatly affected the expression of political thought during the pre-revolutionary period in France.

A similar phenomenon of enlightenment preceded the Greek Revolution of 1821. It reached its high point during the period of 1770-1820, and greatly facilitated the intellectual and cultural re-orientation of the nation in captivity toward the West.<sup>1</sup> This was the period during which Hellenism became fully con-

scious of the role which it was destined to play in its historical process. Dimaras characterized that period as «an epoch of critical scientific inquiry and renovation of ethical values... Fifty full years during which one sees the Greek soul and the Greek mind surfacing again... blessed years of our great legacy.»<sup>2</sup> Adamantios Korais put it even more forcefully when he wrote in 1807 that «it is either true that we witness Greece's renaissance, or nothing is any longer certain in this world.»<sup>3</sup>

The Greek enlightenment, prior to the Revolution of 1821, was, for all intents and purposes, a profound commitment to the ideals of freedom, humanism, and learning, as well as to the ideals of political liberalism and democratic life. As such, it came naturally to a head-on collision with the tyrannical, despotic rule of the Ottoman empire and reached its climactic point in the struggle for national liberation. And, as it has already been observed, the process of that enlightenment (1770-1820) had already produced, only three years before the end of the eighteenth century, Rigas's magnificent declaration of the Rights of Man.

It is important to note, however, that the Greek Revolution of 1821 was not a simultaneous uprising of all the Greeks throughout the captive land. This primarily explains the reason why the creation from the very beginning, of a unified, common leadership in the struggle against the Turks remained impossible. This inability for the creation of a common revolutionary leadership, was also complicated by another important factor. It has already been observed that throughout the long period of the nation in captivity, the traditional units of local government had been maintained intact by the Ottoman conquerors. This was instrumental in the creation of strong, localistic tendencies throughout the land. Thus, when the Revolution began to spread from one locality to another, it gave rise to a number of local conventions which resulted in the adoption of constitutions of local character. The three separate entities which were created during the second half of the first year of the Revolution (1821) became known as the Peloponnesian Senate, the Senate of Western Greek Mainland, and the Senate of Eastern Greek Mainland. The end objective of all three was the temporary administrative and military organization of these territories in order to advance the revolutionary cause. However, they were also making provision for the creation in the near future of «The Parliament of the Nation» to which all legislative power was to be given and under whose control and three «Administrations» were to function.

2. Δημαράς, Κ., *Ἱστορία τῆς νεοελληνικῆς λογοτεχνίας*, τ. Α (Ἀθήναι), 1948, σ. 140.

3. Φιλίμμων, Ἰ., *Δοκίμιον ἱστορικῶν περὶ τῆς Φιλικῆς Ἐταιρείας* (Ναύπλιον), 1834, σ. 67.

1. A great number of works have been published on the subject of Greek Enlightenment. We note here especially the following: Δημαράς, Κ., *Ὁ Ἑλληνικὸς Διαφωτισμὸς* (Νέα Ἐκδόσεις τοῦ 10ου τόμου τῆς Μεγάλης Ἑλληνικῆς Ἐγκυκλοπαίδειας (Ἀθήναι), 1964, καὶ *Ψυχολογικαὶ παράγοντες τοῦ Ἐικοσιένα* (Ἀθήναι), 1957. *Ὁ Κοραΐς καὶ ἡ Ἐποχὴ του*, «Ἐισαγωγή», ἔκδοσις τῆς Βασικῆς Βιβλιοθήκης (Ἀθήναι), 1953. Δασκαλάκης, Α., «Οἱ Ἕλληνες λόγιοι τῆς προ-επαναστατικῆς περιόδου», *Ἐπιστημονικὴ Ἐπετηρὶς τῆς Φιλοσοφικῆς Σχολῆς Πανεπιστημίου Ἀθηνῶν*, περίοδος Β, τ. Ε (Ἀθήναι), 1954-1955. «Ἡ Ἑλληνικὴ Παιδεία κατὰ τὸν ἀγῶνα τῆς ἐλευθερίας», *Ἐπιστημονικὴ Ἐπετηρὶς τῆς Φιλοσοφικῆς Σχολῆς Πανεπιστημίου Ἀθηνῶν*, περίοδος Β, τ. Η (Ἀθήναι), 1957-1958. Παπανούτσος, Ε., *Νεοελληνικὴ Φιλοσοφία* «Ἐισαγωγή» τῆς Βασικῆς, Βιβλιοθήκης, τ. Α καὶ Β (Ἀθήναι), 1953. Βρανούσης, Α., *Ρήγας, «Ἐισαγωγή» τῆς Βασικῆς Βιβλιοθήκης*, τ. Α καὶ Β (Ἀθήναι), 1953. Παπασιταύρου, Ἰ., «Παράγοντες συντελέσαντες εἰς τὴν ἐξέγερσιν τοῦ '21», *Ἐπιστημονικὴ Ἐπετηρὶς τῆς Φιλοσοφικῆς Σχολῆς Πανεπιστημίου Ἀθηνῶν*, περίοδος Β, τ. Θ (Ἀθήναι), 1958-1959. Λαῖος, Γ., *Ὁ ἑλληνικὸς τύπος τῆς Βιέννης ἀπὸ τοῦ 1784 μέχρι τοῦ 1821* (Ἀθήναι), 1961. Ἀργέλου, Α., «Πῶς ἡ νεο-ελληνικὴ σκέψις ἐγνώριστο τὸ Δοκίμιον τοῦ John Locke», *Ἀγγλο-Ἑλληνικὴ Ἐπιθεώρηση*, 7 (Ἀθήναι), 1954. Βακαλόπουλος, Α., *Ἱστορία τοῦ Νέου Ἑλληνισμοῦ*, τ. Α (Θεσσαλονίκη), 1961.

This is, therefore, the explanation for the fragmentation and localism that one observes in the process of constitutional engineering during the first year of the Greek Revolution. It should be added here that the above mentioned political entities are indeed remarkable from a constitutional standpoint, because all three do manifest, even though imperfectly, the adoption of the principles of self-determination and individual freedom to which the fighting nation was committed; but also because they do show the strong tendency to have their local affairs managed democratically by elected officials.

The Greek National Assembly meeting in the ancient port of Epidaurus (Peloponnesos) on January 27, 1822, «the first year of independence» to work out its first provisional constitution, issued a manifesto to the peoples of Europe. Western culture and influence were strongly manifested in the appeal of the people who took arms against their tyrant.

The war we are carrying on against the Turks is not that of a faction or the result of a sedition. It is not aimed at the advantage of any single part of the Greek people; it is a national war, a war the object of which is to reconquer the rights of individual liberty, of property and honor, rights which the civilized people of Europe, our neighbors, enjoy today.... Building upon the foundation of our natural rights, and desiring to assimilate ourselves to the rest of the Christians of Europe, our brethren, we have begun a war against the Turks... firmly resolved to attain our end, to govern ourselves by wise laws... believing it to be unworthy of us, as descendants of the glorious peoples of Hellas, to live henceforth in a state of slavery fitted rather for unreasoning animals than for rational beings... It should not, therefore, appear astonishing that we were not able from the very first to proclaim our independence and take rank among the civilized peoples of the earth, marching forward side by side with them...<sup>1</sup>

The first National Convention<sup>2</sup> had no basis either on an electoral law or a uniform system of representation. It was, however, considered as the lawful

representation of all the people, in spite of the fact that the aristocratic element of the nation, known as proestoi, had achieved a most prominent place in that Convention. The Constitution of Epidaurus, the first national constitution of the fighting nation, created a central government, while at the same time it preserved existing local administrations and even created a few additional ones. The political power was divided between the Legislative body (Vouléfition) and the Executive body (Ektelestikon). Thus a representative system was created, made of a unicameral legislative body and a multi-member executive authority. The legislative function was placed in these two organs. The Executive was given the power not only of promulgating the laws voted by the Legislative body, but also an absolute veto power over all legislation, while the Executive had no power of dissolution of the Legislative body. There were two separate and indirect methods of election for the members of the Legislative and the Executive in order to guarantee their independence from each other. The term of office for the members of both bodies was one year. The independence of the judiciary was constitutionally guaranteed. Finally, in the section of individual rights, the Constitution of Epidaurus states that all Greeks are equal before the law, and that the property, honor, and security of all Greeks are under the protection of the laws.

The obviously polyarchic character of this constitutional system was instrumental in increasing the conflict between the legislative and the executive branches of government. This institutional tension, however, was intensified by the division between the existing political factions as well as the decision between the political and the military leadership of the Revolution. By March, 1823, an overall conflict<sup>3</sup> was clouding the horizons of the first political system of a nation fighting for its independence; its democratic development was in danger, and the very success of the Revolution in great doubt. These unfortunate developments precipitated the revision of the Constitution of Epidaurus by the Second National Convention of Astros at the end of March, 1823.

The Second National Convention expressed its commitment to the fundamental principles of the Constitution of Epidaurus, but decided to amend the powers of the Executive in its role of law-making.

3. Φραγκοϋδης, Γ., *Τὰ Ἑλληνικὰ Πολιτεύματα, 1821-1864* (Αθήναι), 1887. Σγουρίτσας, Χρ., *Ἐπαναστάσις, Πολιτική και Δίκαιον* (Αθήναι), 1925. Γ. Ἀσπράς, *Πολιτική Ἱστορία τῆς Νεωτέρης Ἑλλάδος*, τ. Α (Αθήναι), 1930. Κ. Παράρρη-τόπουλος, *Ἱστορία τοῦ Ἑλληνικοῦ ἔθνους*, τ. 6 (Αθήναι), 1932. Δασκαλάκης, Γ., *Ἑλληνική Συνταγματική Ἱστορία, 1821-1935*, ἐκδόσεις Β (Αθήναι), 1947. Κορδάτος, Γ., *Ἱστορία τῆς Νεώτερης Ἑλλάδος*, τ. Α (Αθήναι), 1950. Καρολίδης, Π., *Ἱστορία τοῦ Ἑλληνικοῦ ἔθνους—Νεώτεροι Χρόνοι*, τ. Α (Αθήναι), 1959.

1. *British and Foreign State Papers* (London), 1829, Vol. IX, p. 629. See also: Δασκαλάκης, Α., *Ἡ ἐναρξίς τῆς Ἑλληνικῆς Ἐπαναστάσεως τοῦ 1821* (Αθήναι), 1962, τοῦ ἴδιου, *Κείμενα, Πηγὴ τῆς Ἱστορίας τῆς Ἑλληνικῆς Ἐπαναστάσεως* (Αθήναι), 1966. Τρικοϋπης, Σ., *Ἱστορία τῆς Ἑλληνικῆς Ἐπαναστάσεως τ. Α, Β* (Αθήναι), 1925-26. Τενεκίδης, Γ., *Ἡ Πορεία τοῦ ἔθνους πρὸς τὴν πλήρη ἀνεξαρτησίαν, 1821-1830* (Αθήναι), 1957. Βακαλόπουλος, Α., *Τὰ αἶτια τῆς Ἑλληνικῆς Ἐπαναστάσεως τοῦ 1821* (Θεσσαλονίκη), 1971, and Dakin, D., *British and American Philhellenes during the War of Greek Independence, 1821-1833* (Thessaloniki), 1962. Καλατζής, Κ., *Ἱστορία τῆς Μεγάλης Ἑλληνικῆς Ἐπαναστάσεως*, τ. Α (Αθήναι), 1963. Κόκκινος Δ., *Ἡ Ἑλληνική Ἐπανάστασις*, τ. 1-12 (Αθήναι), 1956-1960.

2. Σαρίπολος, Ν., *Ἡ πρώτη Ἐθνοσυνέλευσις καὶ τὸ Πολιτεῦμα τῆς Ἐπιδάουρου τοῦ 1822* (Αθήναι), 1907. Βλ. ἐπίσης, Κοραΐ, Α., *Σημειώσεις εἰς τὸ προσωρινὸν πολιτεῦμα τῆς Ἑλλάδος τοῦ ἔτους 1822*. Ἐκδόσις Θ. Βολιδου (Αθήναι) 1933. Ἀρχαία τῆς Ἑλληνικῆς Παλιγγενεσίας μέχρι τῆς ἔγκυρας ἀστάσεως τῆς βασιλείας, τ. 1 (Αθήναι), 1857. Θέμιδος, Κώδιξ Ἐκατονδεκαετίας (Αθήναι), 1932.

The power of absolute veto in the promulgation of the laws enjoyed by the Executive under the Constitution of Epidaurus was changed to a suspensive veto. This, of course, resulted in the strengthening of the Legislative body, and for all practical purposes, abolished the previous equal standing of the two political organs. The weakening of the Executive became more pronounced, when the Convention decided, by constitutional decree, that the hiring and firing of all top administrative officers in the provinces of the liberated territories was to be jointly decided by both branches of government, and not by the Executive alone as was the case before. Another constitutional decree of this Convention abolished the three local «administrations» or political entities, created by local revolutionary conventions during the first year of the Revolution.

With particular reference to individual rights, the Convention of Astros contributed to their remarkable improvement. The property, honor, and security of any person was guaranteed. A much wider constitutional protection than the one afforded by the original Constitution of Epidaurus which limited that protection only to Greek citizens. The Convention also introduced for the first time the freedom of the press, and abolished the institution of slavery. Equally remarkable are the provisions relating to ministerial responsibility and jurisdiction of the courts, including the introduction of a jury system. Finally, the Convention of Astros made the electoral law more democratic when it decided that the qualification for election of the electors was not any longer one of proestos (aristocratic element) but of any man. It also lowered their age from 30 to 25 years. Thus, the Law of Epidaurus (the name given to the Constitution of Epidaurus after its revision) had shown a strong tendency toward a more systematic structuring of governmental powers, based on the model of liberal democracy at that time in history, while preserving the political system's commitment to fundamental constitutional norms.

Nevertheless, the preservation of the polyarchic character of the Constitution of Epidaurus helped to further intensify the conflict between the Legislative and the Executive organs. And the ever increasing cleavage between the then existing political factions, led inevitably to a civil war during the years immediately following the Convention in Astros, and placed the whole revolutionary effort in great jeopardy.<sup>1</sup>

The best of all constitutions of the Greek Revolution was the one voted by the Third National Convention of Troizen in May, 1827. This Convention made

an extraordinary effort to give to the nation, still fighting the war for its political independence, a constitution so highly inspired by democratic and liberal ideas that it was rightly said of it that it was superior to all other constitutions then in existence in Europe. It is an impressive document from the standpoint of both substance and form. For the first time in Greek constitutional history it is being declared (article 5) that «the sovereignty belongs to the nation; all powers emanate from it and they are being exercised for it.» The constitution had also provided for the clear separation of the three powers in which «the nation's sovereignty is divided.» The legislative power belongs to a body of people's representatives called Parliament. The executive power belongs to a single Executive, the Governor, who enjoys only a suspensive veto over legislation passed by Parliament and no power for its dissolution. The complete independence of the judiciary is also constitutionally guaranteed.

All responsibility for the administration of the country belongs to the ministers of state working under a Governor, whose person is inviolable, and whose responsibility for his own public actions is being assumed by them. The ministers, when invited and inquired by Parliament, must give all pertinent information, and they are entitled to a free entry to all meetings of Parliament and they may be heard by Parliament whenever they request it. That was in essence the beginning of an interrelationship between the legislative and executive branches of government, which was to facilitate the creation of a parliamentary relationship between them. Finally, the ministers are responsible, and they may be called to account before Parliament, for treason, improper spending of public money, and for signing executive decrees which might violate fundamental laws. It is obvious, therefore, that the Constitution of Troijen had established once again the political supremacy of the people's representative assembly.

The Constitution of Troijen is particularly remarkable for its systematic improvement in the area of individual rights. The substantive and procedural rights of the Law of Epidaurus were substantially strengthened by the Constitution of Troijen. Article 14 states that in all criminal proceedings a person has the right to know the cause and the nature of the accusation against him, the right of cross-examination of his accusers and witnesses, the right to a legal counsel, and the right to a speedy trial. Article 15 states that a person is innocent until proven guilty. Article 16 states that no person can be tried twice for the same crime, thus establishing its protection from double jeopardy. Article 17 states that property can be taken away only for public use, duly proven, and only after indemnification. Article 18 forbids

1. Dakin, D., «British Intelligence of Events in Greece, 1824-1827». A Documentary Collection, *Δελτίον τῆς Ἱστορικῆς καὶ Ἐθνολογικῆς Ἐταιρείας τῆς Ἑλλάδος* 13 (Ἀθήνα), 1959.

cruel punishment and confiscation of property. Article 19 states that ex-post facto laws are unconstitutional. Article 23 states that no person can be put in prison more than twenty-four hours without official information relating to the cause of his imprisonment; and no more than three days, if the examination of his case has failed to begin. Article 21 repeated the provision of the Law of Epidaurus that the institution of slavery is being abolished. The Constitution of Troijen added that any slave, regardless of his point of origin and his religion, becomes free as soon as he enters the Greek territory and he could never be reclaimed by his master.

When John Capodistrias<sup>1</sup> assumed the power of Governor in January 1828, he expressed his belief that the constitutional system created in Troijen was not well suited to the needs of the nation and of the revolution. He recommended to the Parliament the postponement of implementation of the constitution. The Parliament by decree voted, in what amounted to a constitutional coup, the postponement with the justification that «the most difficult conditions that presently affect our nation and the duration of the war had not excused and do not excuse the constitution's full implementation... the salvation of the country is the supreme law.» By the same decree, the Parliament, which was dissolved, was replaced by the «Panhellenion,» a consultative body that together with the Governor, by his proclamation to the nation, announced the temporary change in the system of government and promised the immediate convocation of a national convention.

In his message to the Fourth National Convention of Argos in July, 1829, Governor Capodistrias stressed that the postponement of the Constitution of Troijen would only last «until the fate of Greece is definitely decided.» In the meantime, he suggested, the National Convention ought to prepare, after careful thought, mature consideration, and thorough debate, the creation of a definitive constitutional order. The National Convention of Argos, in its promise to revise the Constitutions of Epidaurus, Astros, and Troijen, expressed its strong determination to

show its full respect to the principles which had become accepted by the three national conventions during the revolutionary war. The Convention of Argos also promised the reorganization of the two political branches of government «in line with the spirit which permeated and determined the actions taken by the Convention of Troijen.»<sup>2</sup> Thus, both the Governor of Greece and the Fourth National Convention of Argos, which was destined to be the last one of the revolutionary period, at least appeared not to have ignored the significance, importance, and political symbolism generally attached to the Constitution of Troijen.

One is truly impressed by the Constitution of Troijen, the best of the entire revolutionary period. One finds in it an excellent articulation of liberal democratic idealism prevalent during that time in history. Its constitutional norms undoubtedly mirror the powerful and profound impact of the principles of separation of powers, individual rights, and popular sovereignty, enunciated by the American and the French Revolutions of the eighteenth century and institutionally crystallized in their respective political systems. Finally, the Constitution of Troijen is even more remarkable, when one considers the fact that the Third National Convention was so strongly desirous of establishing a truly democratic polity, at the very time the Greek nation was still fighting for its liberation in the midst of so many difficulties of both internal as well as external nature.

In conclusion, the foregoing analysis of the three revolutionary constitutions during the Greek War of Independence does manifest the combined influence of the two major revolutions of the eighteenth century. More specifically, however, it appears reasonable to suggest that the Constitutions of Epidaurus and Astros were more influenced by the French Revolution, whereas the Constitution of Troijen shows a more profound impact of the American Revolution and its constitutional order. It should be pointed out that the elaborate protection of individual rights, substantive and procedural, under the Constitution of Troijen, constitutes the closest approximation of this constitution to the constitutional norms and values of the American political order and tradition.

1. Laskaris, S., *Kapodistrias avant la Révolution Grecque* (Lausanne), 1918. Μανράκης, Ε., *Ο Καποδίστριας και η Έποχή του* (Αθήναι), 1928. Γατόπουλος, Δ., *Ιωάννης Καποδίστριας, ο πρώτος Κυβερνήτης της Ελλάδος* (Αθήναι), 1932. Λάσκαρις, Μ., *Αυτοβιογραφία Ιωάννου Καποδίστρια* (Αθήναι), 1940.

2. Πρακτικά Ε' και Η' Συνεδρίας, §§ Α', Δ', και ΣΤ' των «Βάσεων» (Ιανουάριος, 1828).