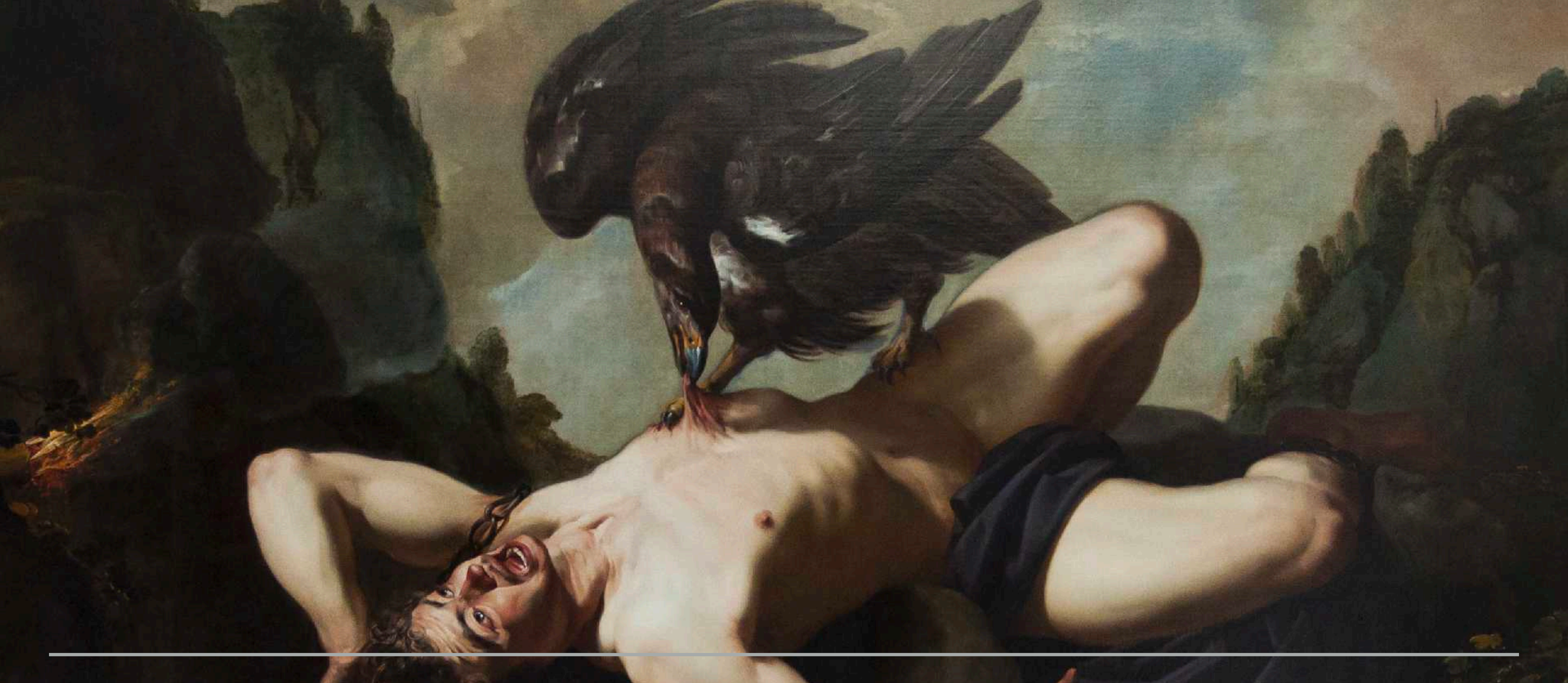




MR. POGREBA, PARKER SCHOOL

**UNIT 1: FOUNDATIONS—
THE US CONSTITUTION**



THE ENLIGHTENMENT

THE ENLIGHTENMENT LAYS THE FOUNDATION

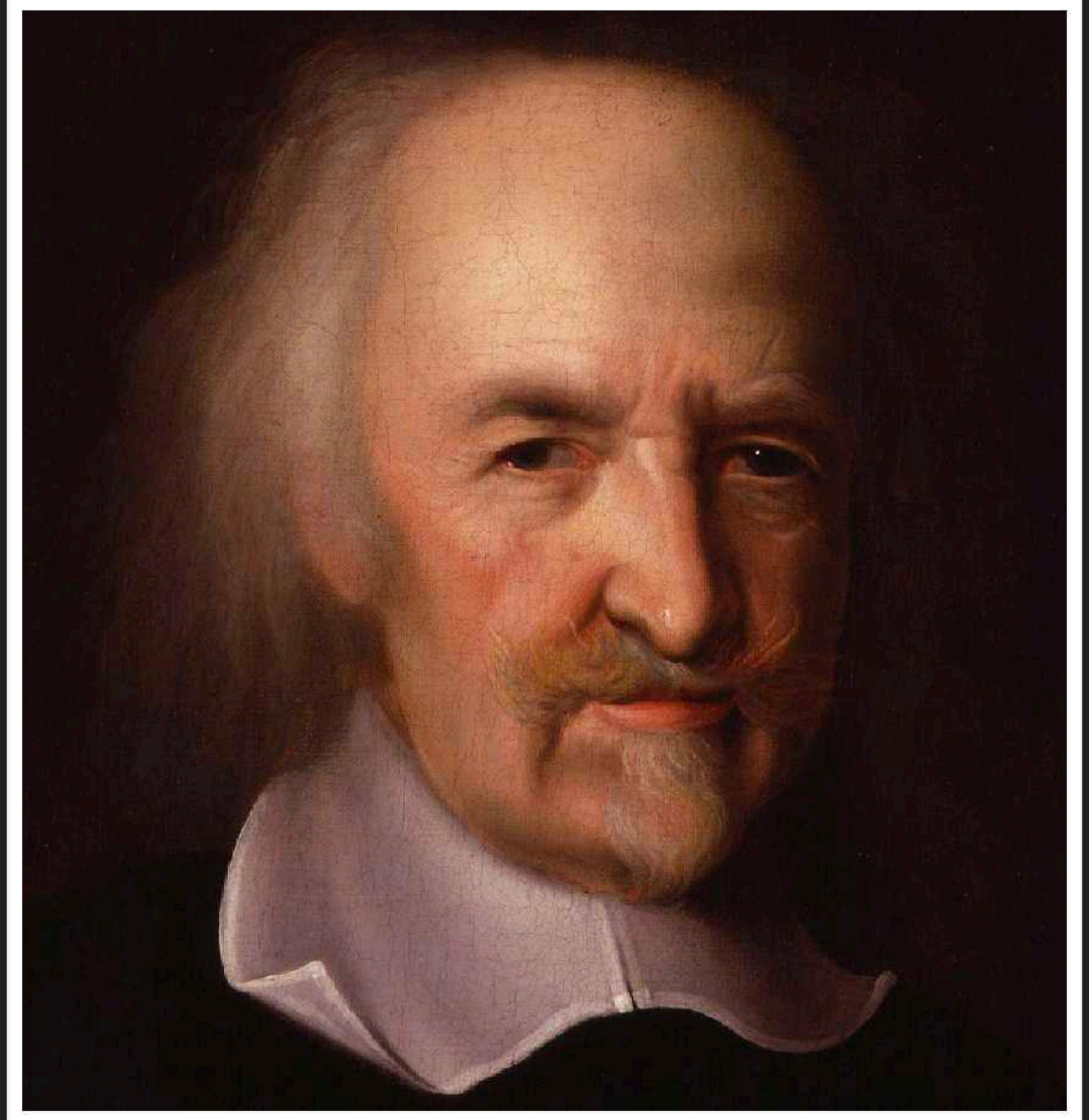
- Europe (and later the American colonies) experienced an era of intellectual, scientific, and humanistic thought called **The Enlightenment** in the 17th and 18th centuries.
- Its adherents called for a world **governed by reason, directed by science, and centered on rights.**
- Fueled by coffee and new ideas, its thinkers would revolutionize Western science and government.



READING OF THE WORKS OF VOLTAIRE

THOMAS HOBBS

- ▶ In his book **Leviathan**, Thomas Hobbes argued one of the first claims about the existence of a **social contract**, asserting that humans should give up rights for safety.
- ▶ Hobbes believed that in a the **state of nature** humans would fight, kill, steal, destroy without pause for causes ranging from greed to honor. We'd live in a state of constant war.
- ▶ This led him to believe we should accept a king as a rational transaction, not because of the **divine rights of kings**.

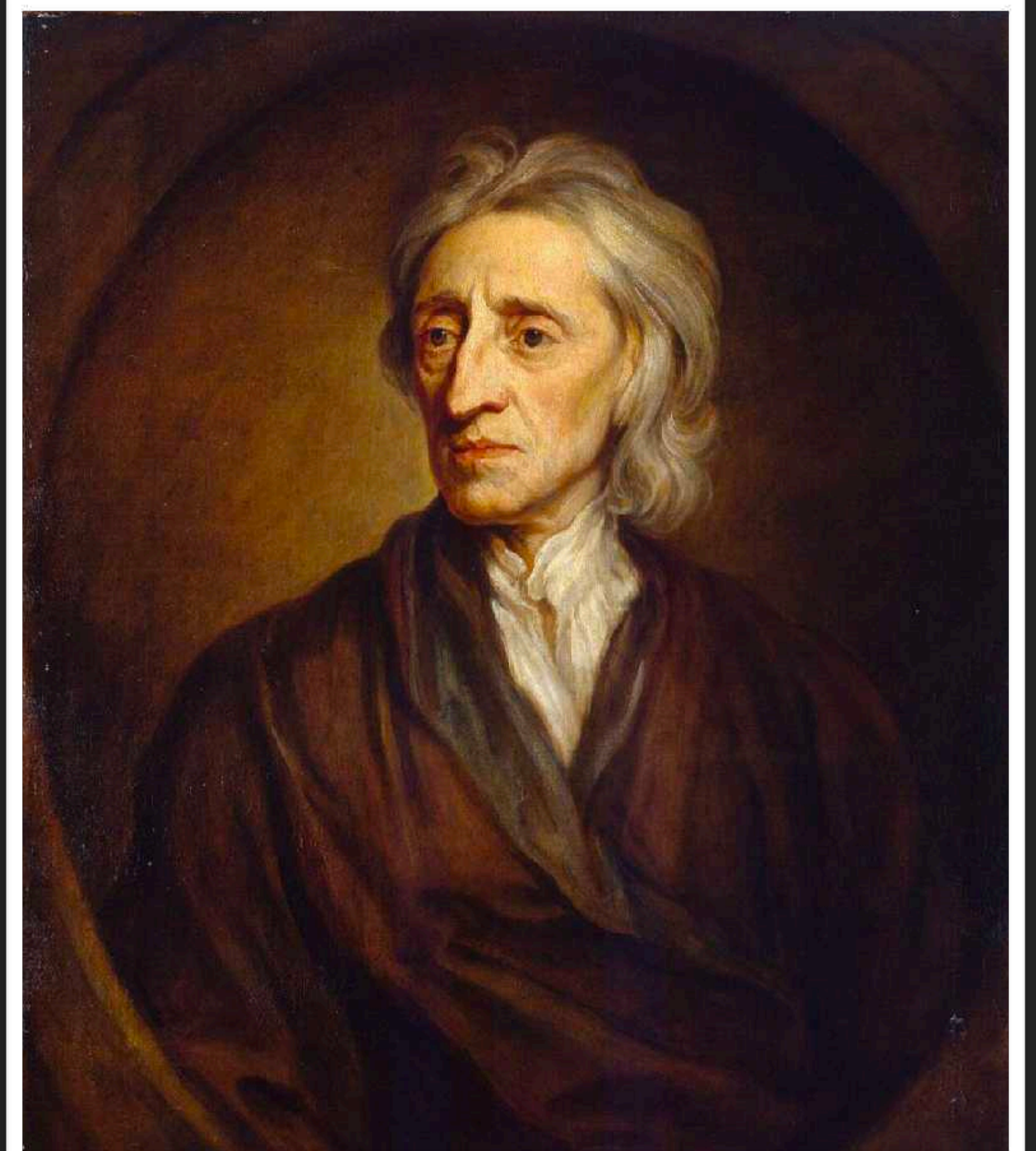


“No arts; no letters; no society;
and which is worst of all, continual
fear and danger of violent death;
and the life of man solitary, poor,
nasty, brutish, and short.”

Hobbes, describing the life of humans in the state of nature

JOHN LOCKE

- ▶ In his **Second Treatise on Civil Government** (1690), he argues:
 - ▶ Humans are **naturally free** but consent in a social contract to conditionally **give up some rights** to protect rights, lives, property, and safety.
 - ▶ **Natural rights to life, liberty, and property** exist.
 - ▶ **Citizens have a right to rebel** when government become abusive. Respecting the will of the people is key.
 - ▶ Defends the idea of **majority rule** and the **separation of the executive and legislative branches**.

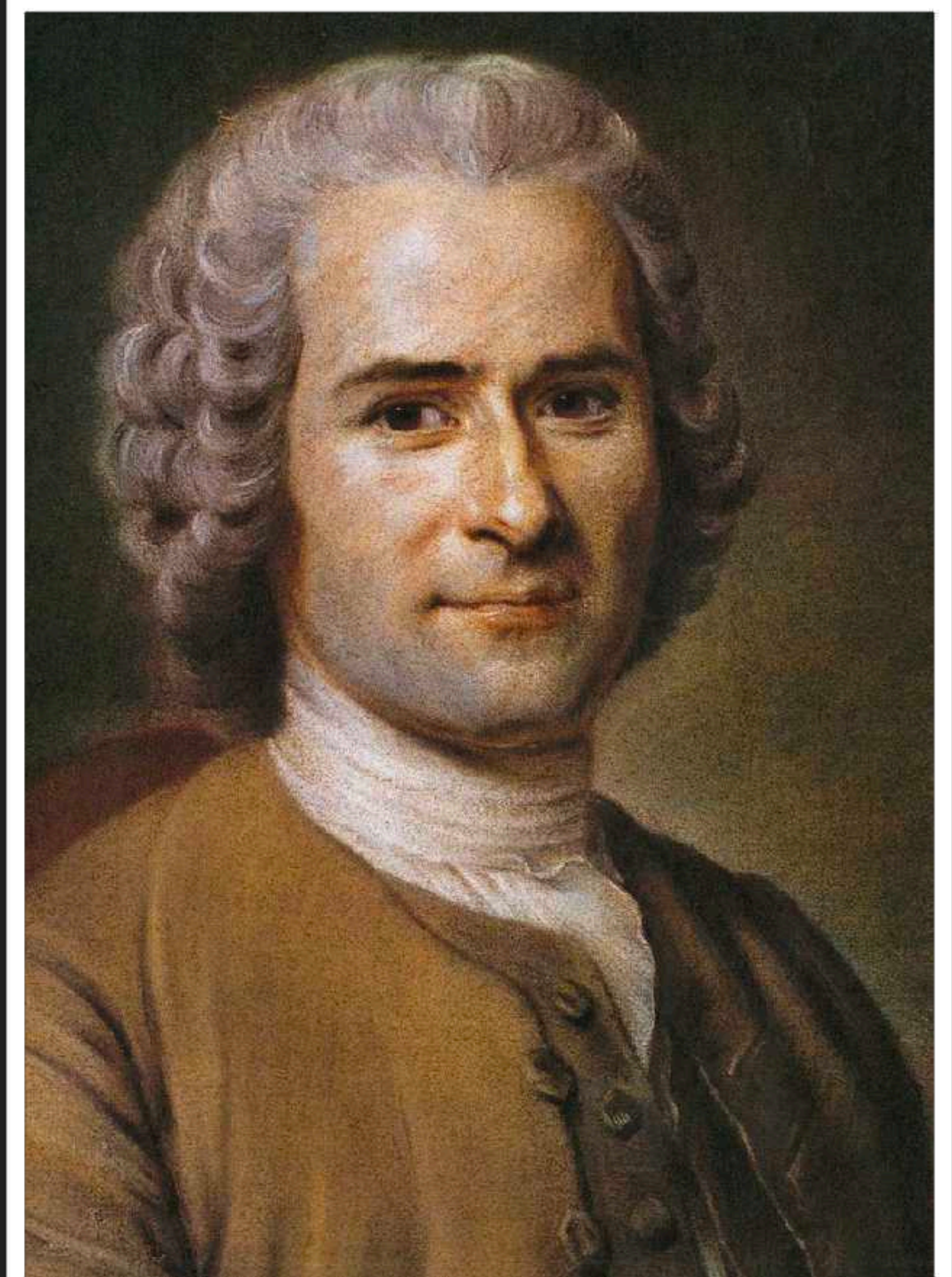


“Men being, as has been said, by nature, all free, equal and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent.”

John Locke, *Second Treatise of Government*

JEAN JACQUES ROUSSEAU

- ▶ Rousseau built on Locke's argument, but contended that the **social contract** should be with each other, not a government.
- ▶ The founders of the US Constitution ultimately rejected this belief in **direct democracy**, but they were inspired his argument that government functioned best with popular participation (at some level) to promote the **general will**.

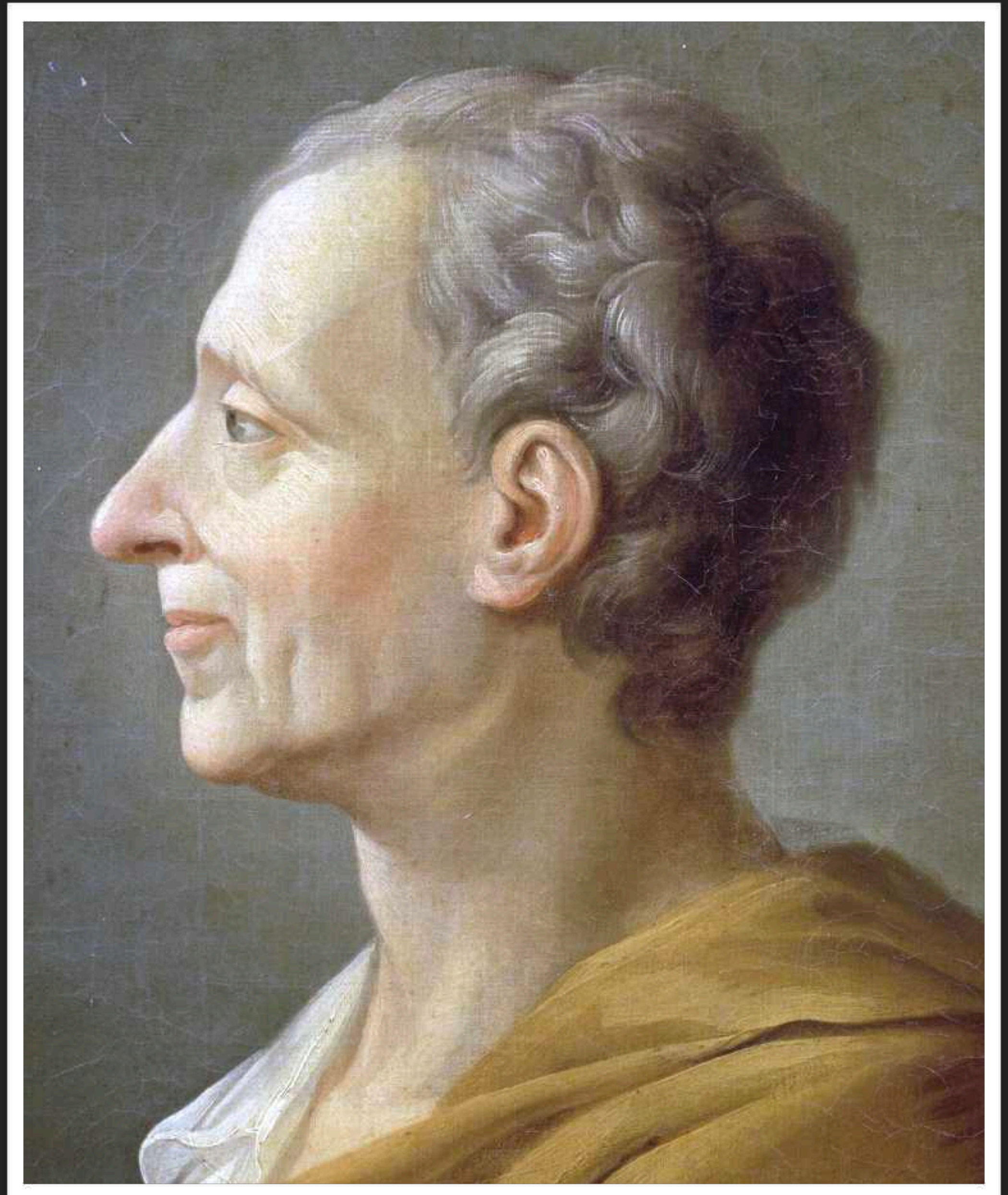


“The people of England regards itself as free; but it is grossly mistaken; it is free only during the election of members of parliament. As soon as they are elected, slavery overtakes it, and it is nothing.”

Jean-Jacques Rousseau, The Social Contract

BARON MONTESQUIEU

- ▶ Montesquieu contributed three major ideas to the founders of the US government:
 - ▶ A nation's laws must fit the people and their circumstances.
 - ▶ Political power is best when there is a buffer between the people and the government.
 - ▶ It is best to separate the legislative and executive functions of government.
 - ▶ He called this system **checks and balances**.



“If the legislative and executive authorities are one institution, there will be no freedom. There won’t be freedom anyway if the judiciary body is not separated from the legislative and executive authorities.”

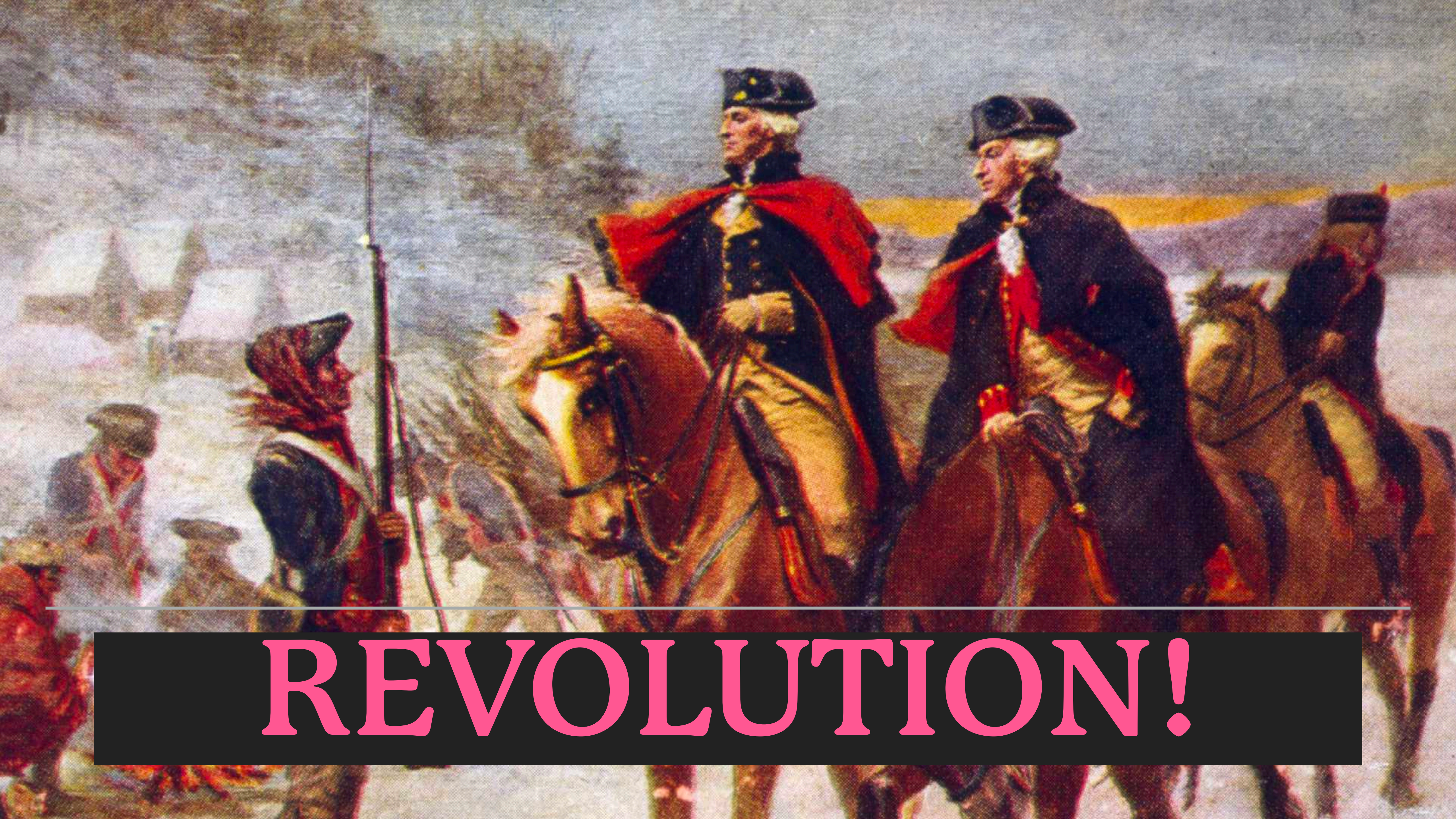
Charles de Montesquieu, *The Spirit of the Laws*

TWO MAJOR IDEAS

- ▶ From these Enlightenment thinkers, two major concepts begin to gain currency in the American colonies:
 - ▶ **Limited Government**
 - ▶ **Republicanism**



REPUBLICAN MOTHERHOOD



REVOLUTION!

COLONISTS START TO GET FRISKY

- ▶ 150 years after the first English settlements in Virginia, colonists began to argue that Great Britain was abusing the colonies.
- ▶ Alexander Hamilton called England “an old, wrinkled, withered worn-out hag,” echoing those who condemned British greed.
- ▶ More important was the colonial perception that the Crown was violating **natural rights**.
 - ▶ As John Dickinson wrote, these rights are “born with us, exist with us, and cannot be taken away from us.”
 - ▶ Chief among them were life, liberty, and property.



JOHN DICKINSON, DELEGATE TO CONTINENTAL CONGRESS AND CONSTITUTIONAL CONVENTION

THE DECLARATION OF INDEPENDENCE

- ▶ **Thomas Jefferson** was the chief writer of the **Declaration of Independence**, which
 - ▶ Identified the violations of liberty by King George III;
 - ▶ Established the argument that certain rights are **unalienable**;
 - ▶ Asserted the **legitimacy and act of independence** from Britain.
- ▶ Jefferson's argument was a radical suggestion that government depended on the **consent of the governed**.



"THE PARADOX OF LIBERTY" AT SMITHSONIAN MUSEUM OF AFRICAN AMERICAN HISTORY

@KINGGEORGE3 DECLARATION

- ▶ In **six small groups**, you're going to rewrite the **Declaration of Independence as a tweet thread**.
- ▶ **Turn the language of the Declaration into the language of tweets**, including judicious use of hashtags (#) and references to users (@).
- ▶ Be creative, be bold, but be accurate in your translation.
- ▶ You can look up individual words, but try to avoid someone else's summary of the document.
- ▶ We'll review your responses once you complete them.
- ▶ **The Declaration is posted in Google Classroom**. Once you form your group, you can claim a section.





THE CONSTITUTION

THE ARTICLES OF CONFEDERATION

- ▶ After winning the Revolutionary War, the Founders nearly lost the peace with the **Articles of Confederation (1781)**, which they called a “**league of friendship.**”
 - ▶ The government had no power to tax, no power to draft a military.
 - ▶ It had no uniform currency.
 - ▶ It had no Supreme Court and a pointless Presidency.
 - ▶ Passing laws required 9/13 votes, and amendments required the consent of all states.
- ▶ The **Shays Rebellion** of 1786-87 was the final sign that the Articles could not succeed.



THE END OF SHAY'S REBELLION

CONSTITUTIONAL CONVENTION

- ▶ Called to reform the Articles of Confederation, the Constitutional Convention (1787) ended up with a wholesale change.
- ▶ The delegates—many quite young—drafted a Constitution unlike any ever seen, now the **oldest written Constitution in the world**.
- ▶ The core dilemma for the delegates: **how to craft a government strong enough to preserve order but not so strong that it would undermine liberty**.
- ▶ Madison's goal was to create a **balance between democracy and elite representation**.
- ▶ The final document rested on a series of major compromises.



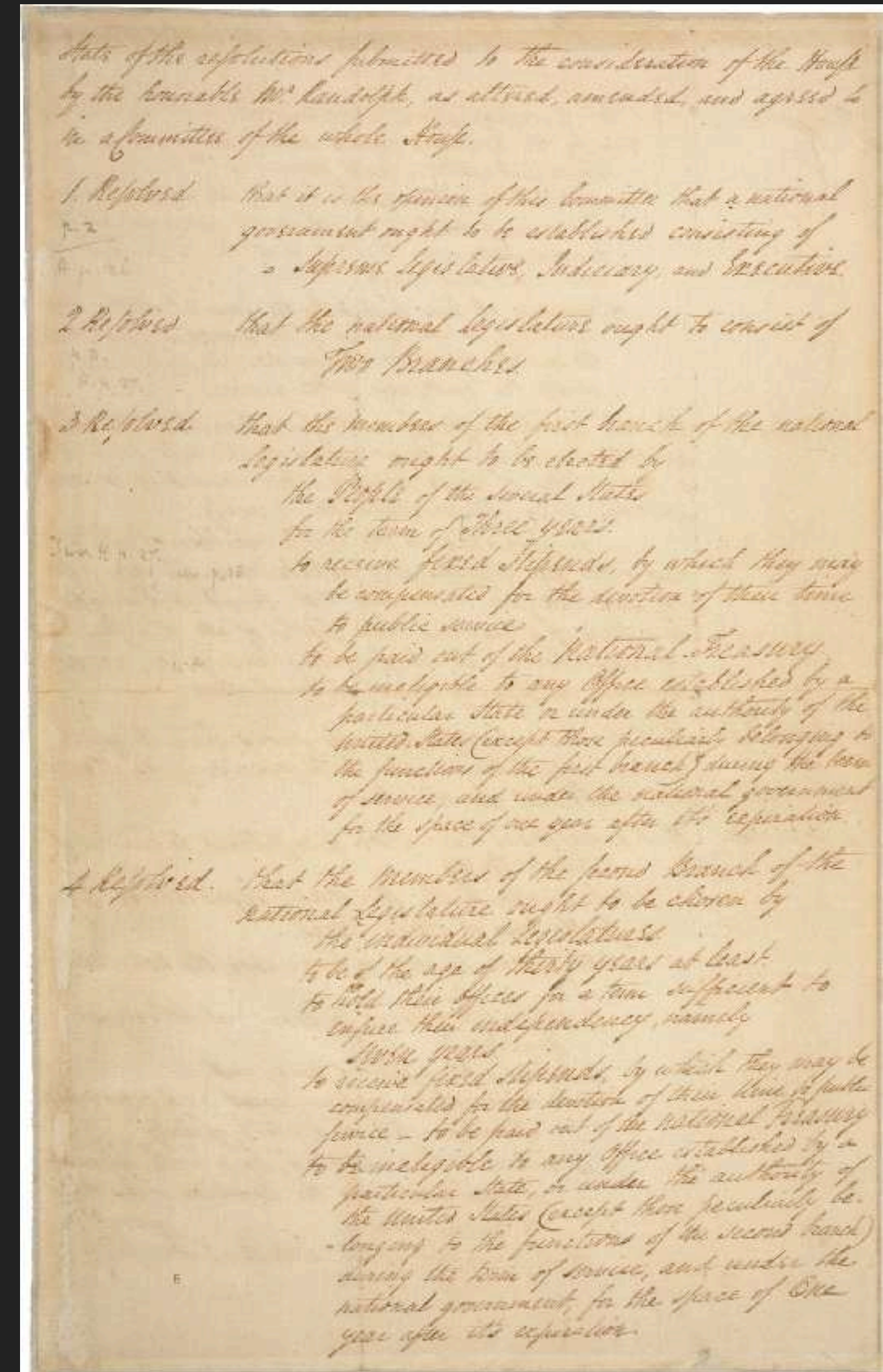
BENJAMIN FRANKLIN

“But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

James Madison, Federalist 51

THE VIRGINIA PLAN

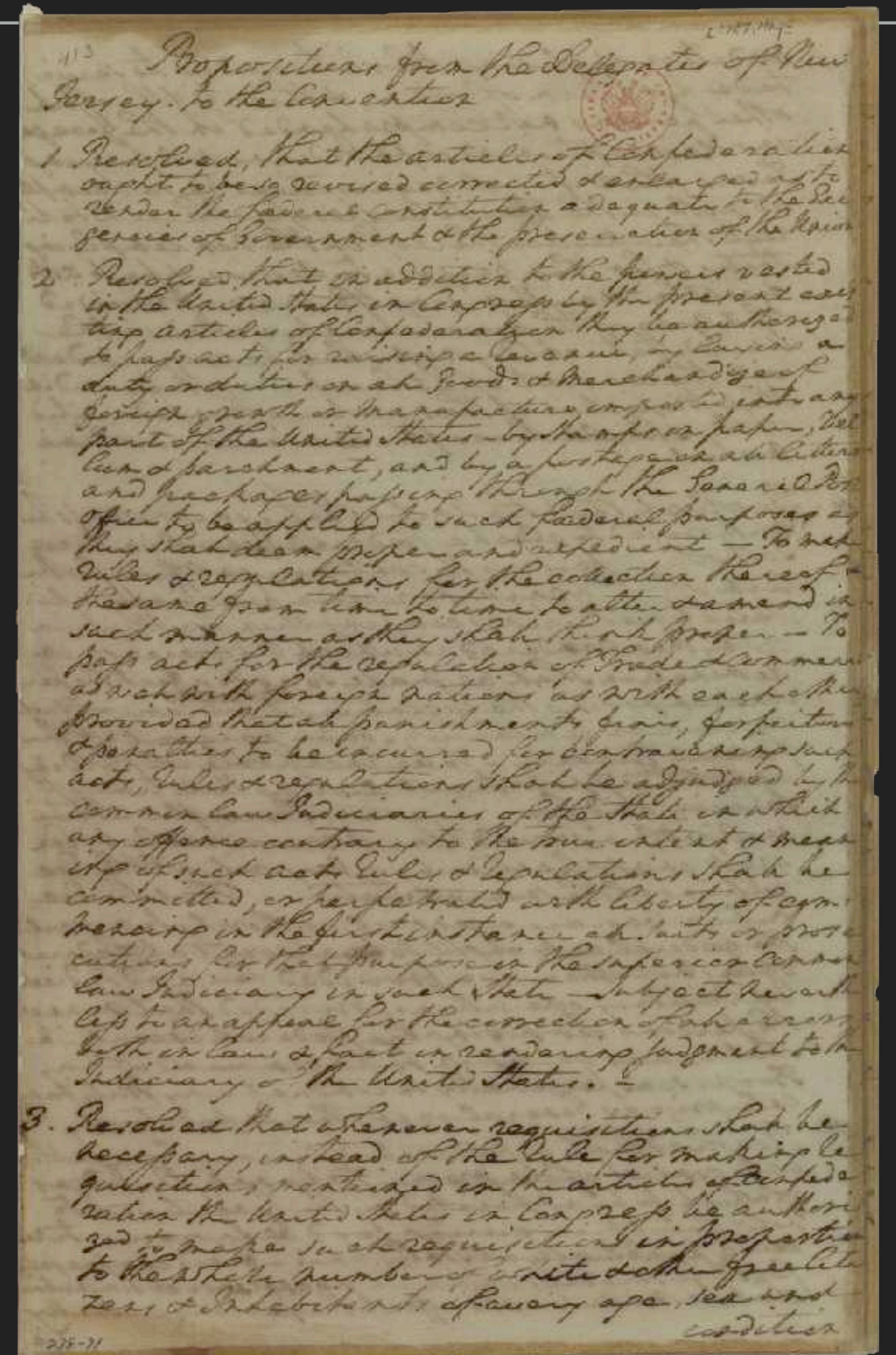
- ▶ 3 Branches of Government
- ▶ Bicameral Legislature (one chosen by the people)
- ▶ Representation Based on Population
- ▶ Congress would choose a National Executive and the Judiciary, which could revise/veto legislation from the Legislative branch.
- ▶ Thoughts? Who held power?



THE VIRGINIA PLAN

THE NEW JERSEY PLAN

- ▶ Unicameral Congress, with additional powers to tax and regulate trade.
- ▶ Equal representation for each state.
- ▶ A plural executive, elected by Congress, with the power to appoint officers and direct the military. This executive could be removed by a majority vote of the states.
- ▶ Thoughts? Who held power?



THE NEW JERSEY PLAN

THE GREAT COMPROMISE

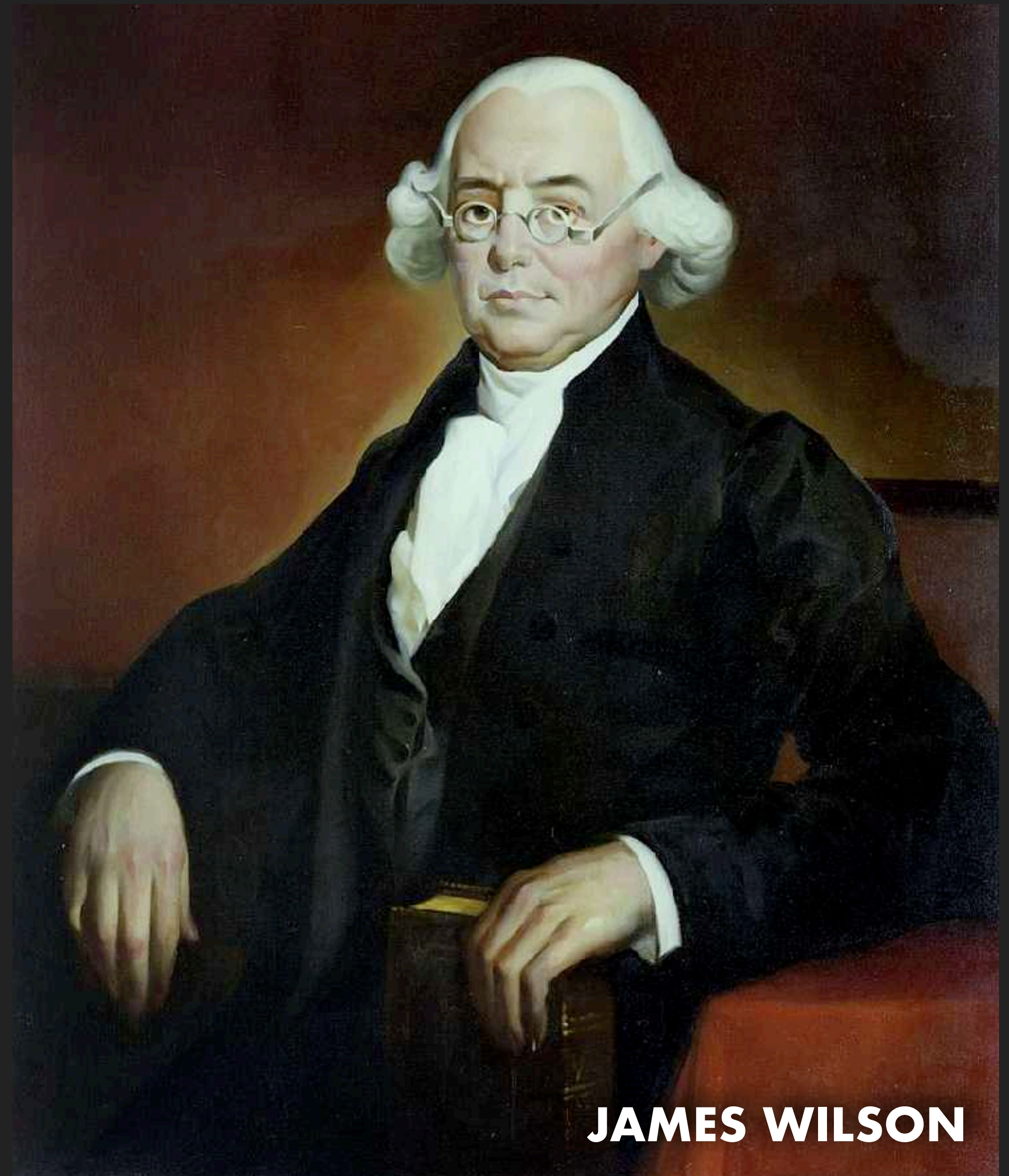
- ▶ Also known as the **Connecticut Compromise**, was adopted by a 5-4 vote of the states.
 - ▶ A House of Representatives based on the population of the states.
 - ▶ A Senate of two members from each state.
 - ▶ Both houses must agree on all legislation.
- ▶ This opened the door for compromises on the election of the President (the **Electoral College**) and the **appointment of judges** (chosen by the President but confirmed by the Senate).



ROGER SHERMAN SAVES THE DAY

THE THREE-FIFTHS COMPROMISE

- ▶ The delegates already saw that slavery would divide the new nation and adopted the **3/5th Compromise**, which counted slaves as 3/5th of a person for population and taxation without giving them rights.
- ▶ The **Commerce and Slave Trade Compromises** held that Congress could not tax exports or touch the slave trade for 20 years, but allowed for the end of slave importation in 1808.



JAMES WILSON

“Elbridge Gerry, a delegate from Massachusetts, used the same logic to oppose the clause. Gerry argued that slaves “are property, and are used to the southward as horses and cattle [are] to the northward.” He sarcastically wondered “why should their representation be increased to the southward on account of the number of slaves,” when the convention was not willing to allocate representation in the Northern states on the basis of their “horses or oxen”?

Paul Finkelman, 2013

BASIC PRINCIPLES OF THE CONSTITUTION

- ▶ The American government should be a **republic**, a system of **representative democratic government**.
 - ▶ They feared demagogues.
 - ▶ They believed that natural rights should never be subject to popular will or vote.
 - ▶ They feared that democracy would devolve into **mob rule** or **oligarchy**.
- ▶ **Popular Sovereignty**: government can only rule with the consent of the governed.
- ▶ **Checks and Balances**: the power of each branch should be limited by the powers of the other branches.



SCENE FROM THE FRENCH REVOLUTION

BASIC PRINCIPLES OF THE CONSTITUTION

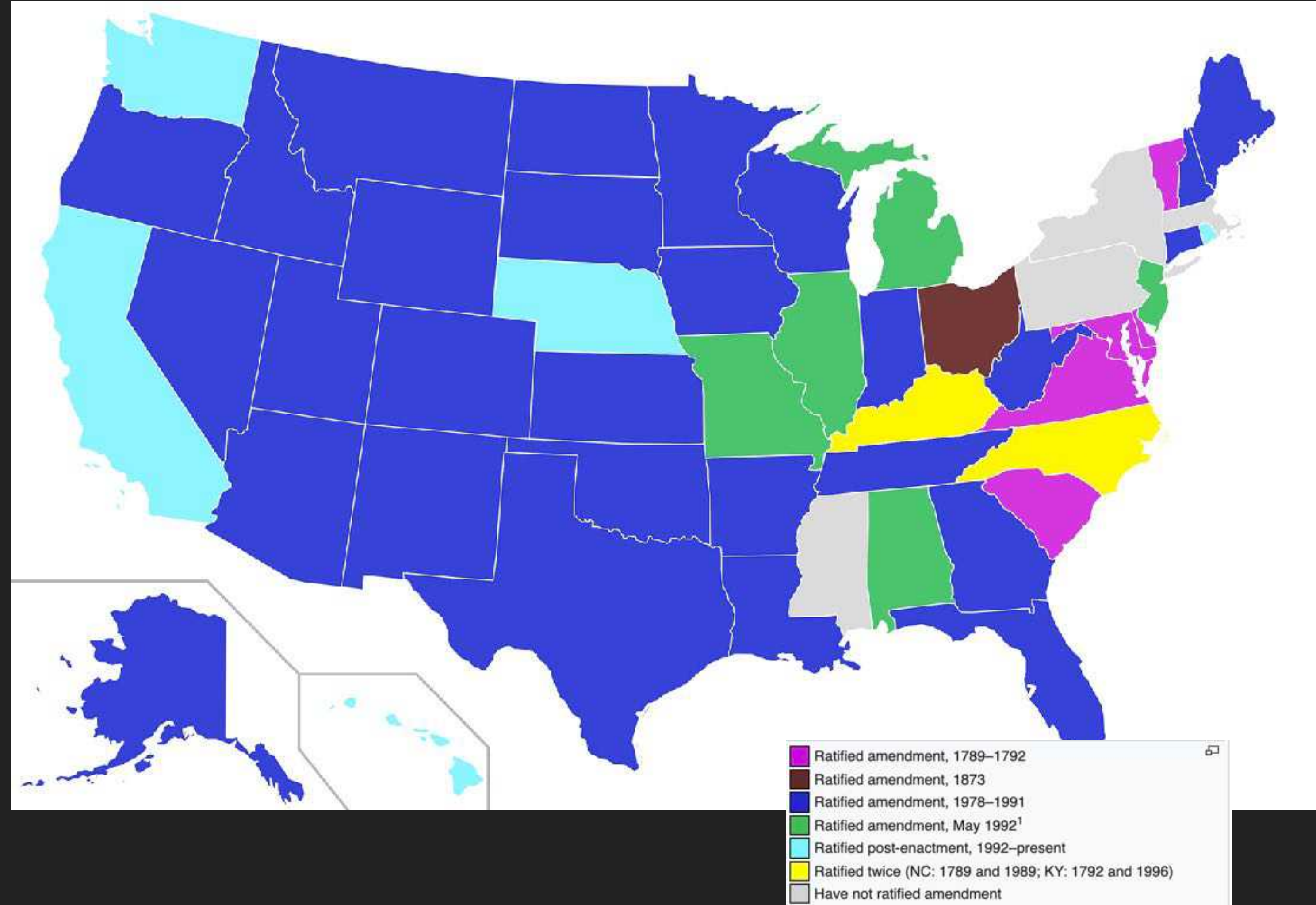
- ▶ **Federalism:** The power of government should be divided between the federal government and the states.
- ▶ **Limited government:** There should be written and explicit limits to the power of government.
- ▶ **Separation of Powers:** power should be divided between the legislative, executive, and judiciary.
- ▶ **Amendments:** The Constitution should be able to change, though change should be difficult.



ARGENTINA DEBATES FEDERALISM, 1873

AMENDING THE CONSTITUTION

- ▶ There have been over 12,000 Congressional proposals to amend the Constitution.
- ▶ 27 have passed.
- ▶ Mechanism:
 - ▶ **2/3 of both houses of Congress** must adopt the amendment and **3/4 of the states** must ratify it.
 - ▶ Or a convention can be called. That's never happened.
- ▶ Why so complicated?



“It therefore astonishes me, Sir, to find this System approaching so near to Perfection as it does; and I think it will astonish our Enemies, who are waiting with Confidence to hear that our Councils are confounded, like those of the Builders of Babel, and that our States are on the Point of Separation, only to meet hereafter for the Purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure that it is not the best.”

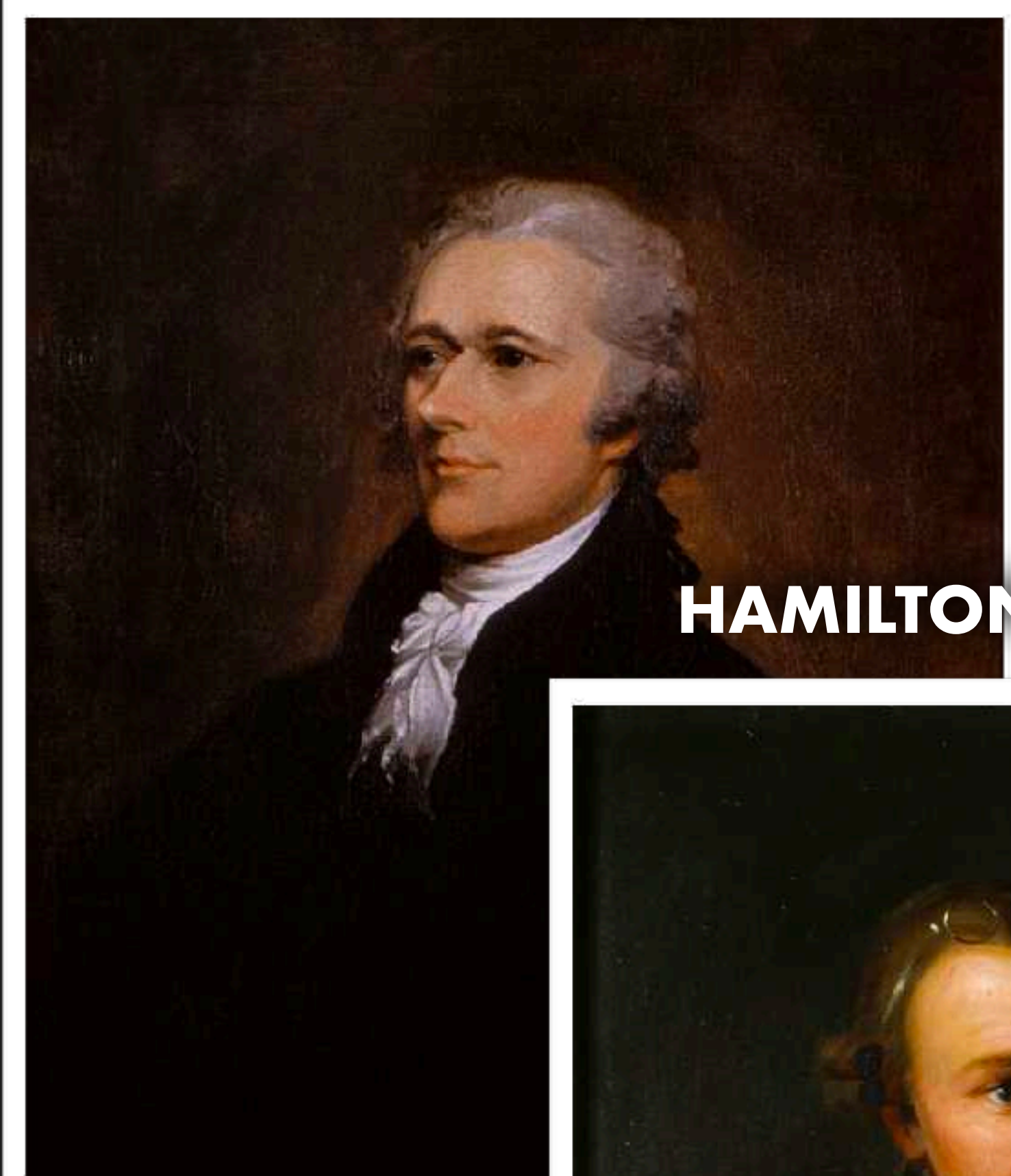
Ben Franklin, Final Speech at the Constitutional Convention (1787)



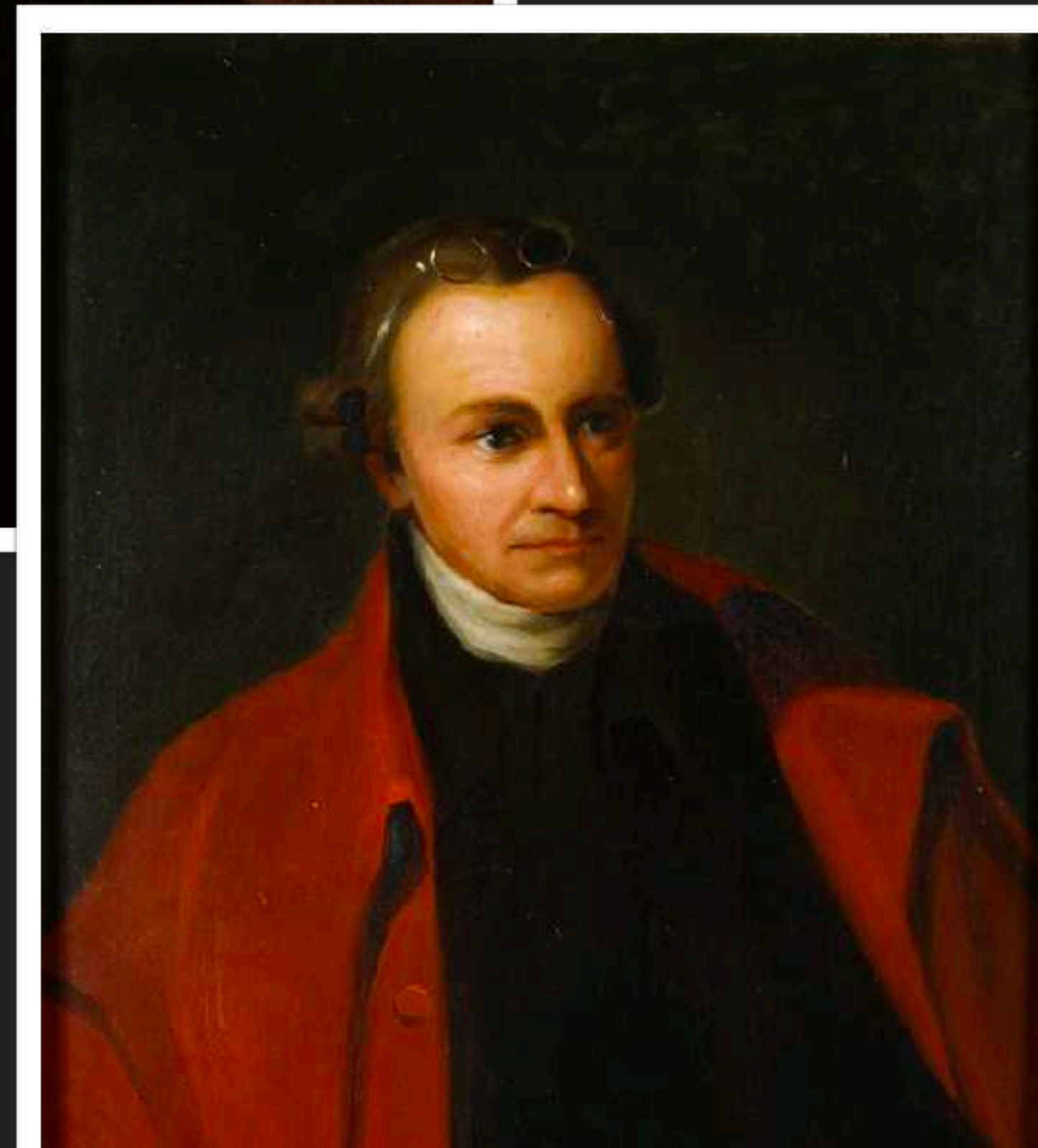
RATIFICATION DEBATE

RATIFYING THE CONSTITUTION

- ▶ All 12 states in attendance voted to adopt the Constitution.
- ▶ **9 states** were required to ratify the Constitution; if 9 passed the Constitution become the law for the whole country.
- ▶ Ratification was done in special conventions in each state, not legislatures.
- ▶ **Anti-Federalists** argued against the power of the the government, the absence of term limits, and high taxes.
- ▶ **Federalists** argued that centralized government was crucial for good governance and trade.



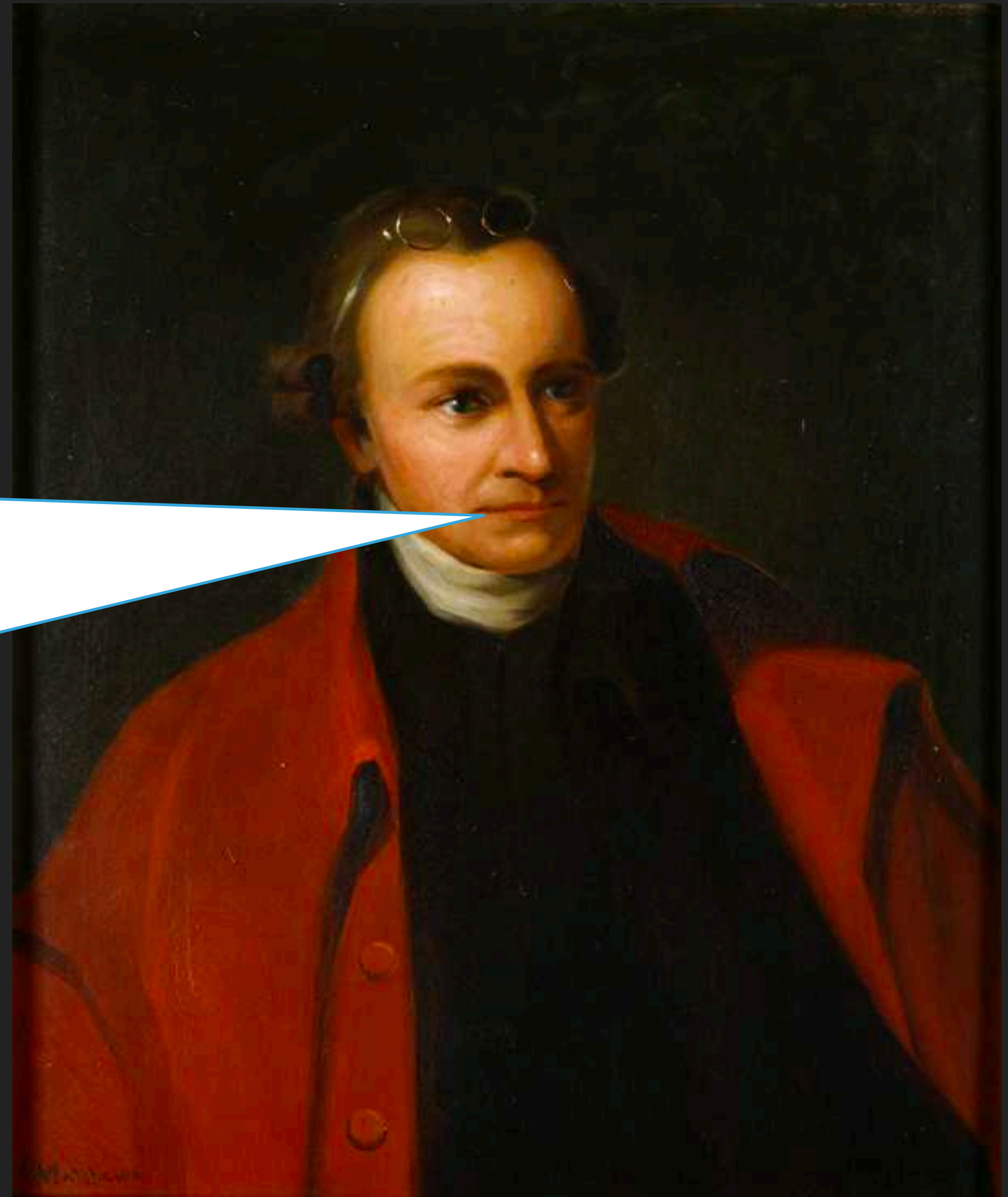
HAMILTON AND HENRY



THE DEBATE

▶ The **Antifederalists**

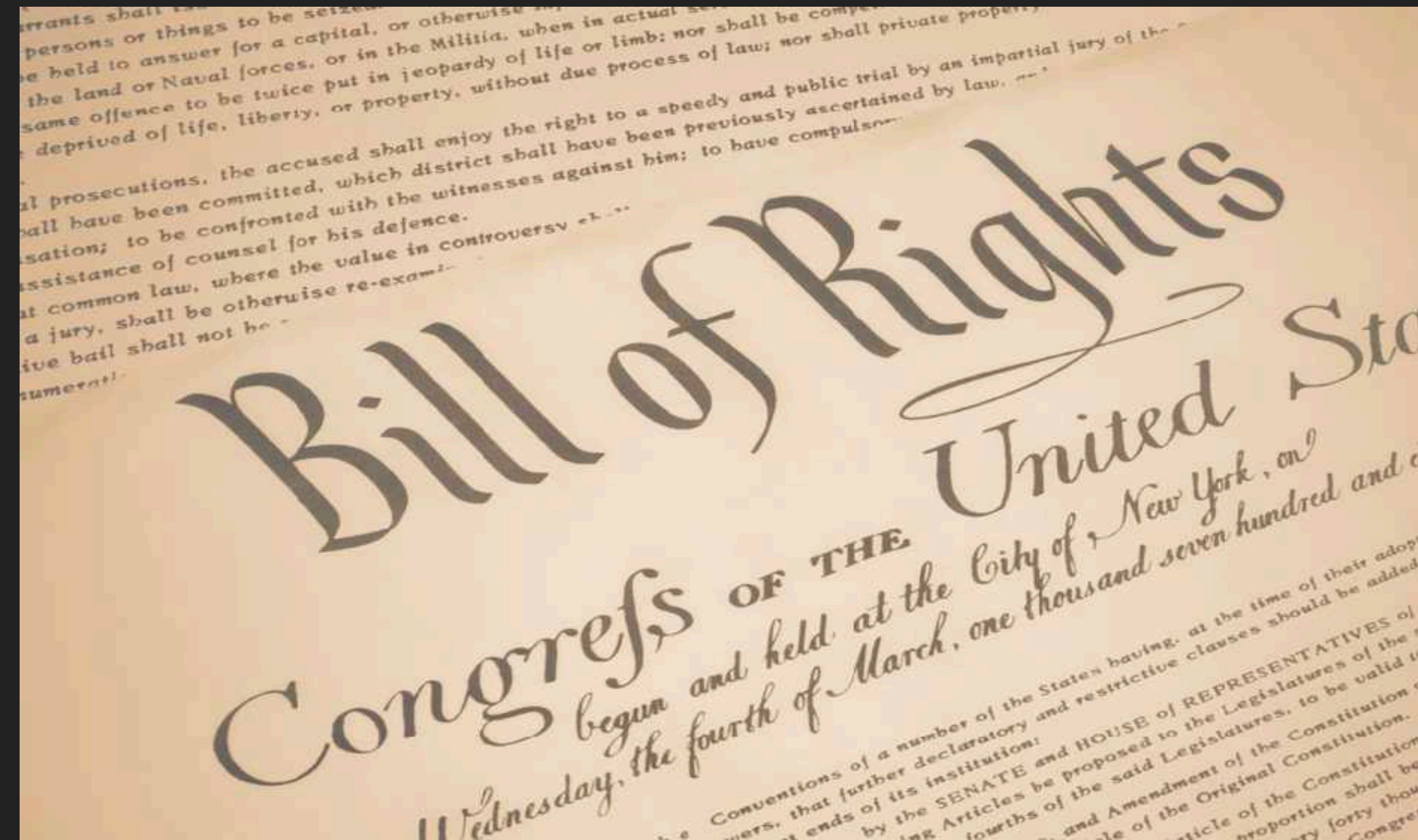
“This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints toward monarchy, and does not this raise indignation in the breast of every true American?”



PATRICK HENRY

CORE ANTI-FEDERALIST ARGUMENTS

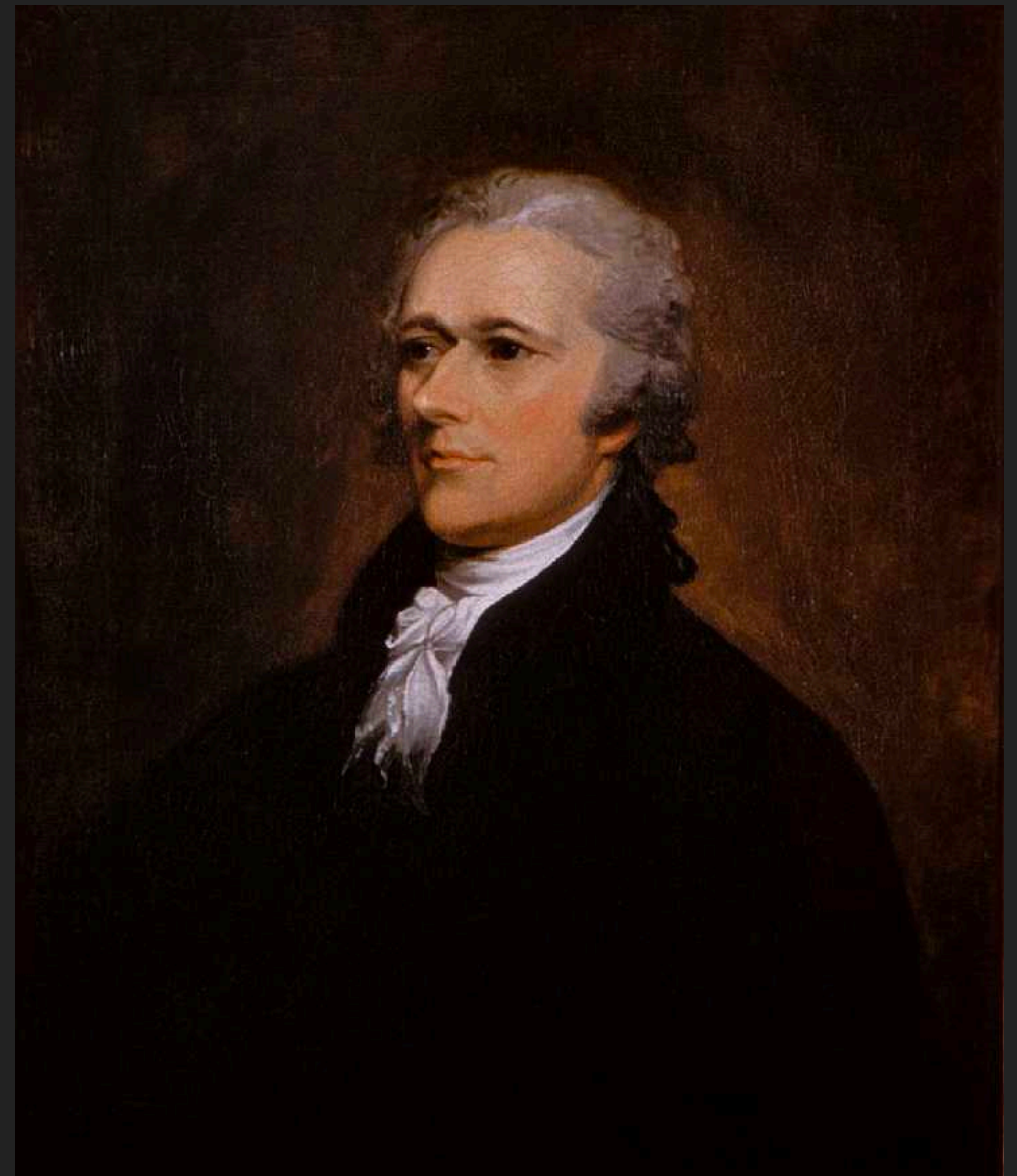
- ▶ They believed **a large government**, remote from the people **could not secure liberty**.
- ▶ They argued that this government would **raise a huge military** and **massively raise taxes**.
- ▶ They complained about the lack of a **Bill of Rights** in the new Constitution. It was added in 1791.
- ▶ They correctly argued that the Constitutional Convention violated the law.



BILL OF RIGHTS

FEDERALIST RESPONSE

- ▶ Madison argued in **Federalist** No. 10 and 51 that **liberty is safest in large republics**.
 - ▶ His argument rests on the belief that in a large society one with unconventional views will have her rights better protected.
 - ▶ Why?
- ▶ He argued that the new Constitution will encourage the development of **coalitions** and avoid the danger of **factions**.
- ▶ They also argued that the new government was critical for **military defense, national unity, and economic interests**.
- ▶ Their arguments in the **Federalist Papers** became foundation for our understanding of the Constitution.



ALEXANDER HAMILTON