



# AMERICAN FOUNDERS

LEADERS AT THE CREATION  
OF THE REPUBLIC

Foreword by Kevin D. Roberts  
*President, The Heritage Foundation*

Colleen A. Sheehan  
*Editor*  
Gillian Richards Augros  
*Associate Editor*

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OF THE REPUBLIC



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Colleen A. Sheehan,  
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# Foreword

**T**WO HUNDRED FIFTY YEARS AGO, AN EXTRAORDINARY GENERATION of Americans swore their lives, fortunes, and sacred honor to the cause of freedom. Determined to hand down the long-standing tradition of American self-government, our Founders took up arms, triumphed in a hard-fought war against the world's strongest military power, and left us—their descendants—the greatest system of government the world has ever known. This is our inheritance. America is our birthright.

We can no more pay for such a princely gift than we can pay for the sunrise or the stars, but as G.K. Chesterton reminds us, the way to pay for the priceless is to live lives worthy of the gift. That is what Americans today are called to do—to claim our birthright and keep alive what George Washington called “the sacred fire of liberty.” Despite two and a half centuries of change, the United States is still at its best when its laws and policies—from immigration and national security to education and technology—reflect our founding principles.

This is impossible, however, if America's future leaders are not familiar with the aspirations that inspired those who fought in the American Revolution and the powerful ideas behind the Declaration of Independence and Constitution. Unfortunately, much of this history has been forgotten. Many Americans today have grown up watching their sports heroes kneel during the national anthem and seeing their teachers refuse to say the pledge of allegiance. They have been told that they should be ashamed of our country, founded as it is on racism and sexism.

To reverse these troubling trends, we would do well to learn from John Senior, a great, under-appreciated American, the father of Kansas University's Integrated Humanities Program, and one of my personal heroes. He believed that true learning ended “in wisdom” but began “in wonder.” Applying this principle to science, for example, he said that it was “criminal to teach astronomy to someone who has never looked at the stars.”



The same is true when it comes to restoring our founding principles today. Trying to teach Americans about those principles without first engendering a sense of wonder about our country and its Founders is foolish. To teach the new generation about the importance of the First Amendment, federalism, or the separation of powers, we must begin by instilling curiosity about the Founding in their minds and a sense of informed patriotism in their hearts.

The best way to accomplish this is by recounting the remarkable stories of our Founders' lives. That's where *American Founders: Leaders at the Creation of the Republic* comes in. More than a practical guide to history, *American Founders* is a reintroduction to the lives and statesmanship of our greatest leaders. It is my hope that the resources contained within this book—including the Calendar of Notable Events, reproductions of the Declaration of Independence and the Constitution, primary writings of selected Founding leaders, and of course the essays on the lives and ideas of these Founders—will restore civic literacy and engender appreciation and gratitude in the hearts of all the students, teachers, policymakers, and citizens who turn its pages.

Encountering the Founders' vision for America, the challenges of the colonial world they lived in, and the sacrifices they endured to change that world compel us to reject the Left's ahistorical accounts of their lives and legacies. But Americans should remember that it also compels us to let go of the notion—too often found on the Right—that it is impossible to recover America's founding principles and naive to believe our nation's best days lie ahead.

This notion begins with nostalgia and ends in cynicism. But the proper response to the courage that crossed the Delaware, the fortitude that outlasted that cold winter at Valley Forge, and the prudence that produced our Founding documents is not nostalgia or cynicism, but piety: a deep sense of gratitude for what we have inherited. The Romans considered piety great among the virtues, and it remains at the heart of any patriotic life. Unlike nostalgia and cynicism, which prompt passivity and stagnation, piety prompts action.

So whether you are working in the classroom to remind a new generation about the moral truths and enduring principles that make America great, working in Congress to channel those truths and principles into good policy, or working in the courts to defend our Constitution's original meaning, please take this book as an invitation from The Heritage Foundation to learn more about our nation's Founding, the patriotic piety that it rightly prompts in our hearts, and the civic action it spurs in our lives.

Let us never forget that, as Founding Father Benjamin Rush wrote, "Patriotism is as much a virtue as justice.... Amor Patriae is both a moral and a religious duty. It comprehends not only the love of our neighbors but of millions of our fellow creatures, not only of the present but of future generations."

KEVIN D. ROBERTS, PhD  
PRESIDENT, THE HERITAGE FOUNDATION  
JUNE 2025

## Prefatory Note

The idea for a volume on America's leading Founders intended for a general readership originated with Dr. Matthew Spalding and in 2004 resulted in *The Founders' Almanac: A Practical Guide to the Notable Events, Greatest Leaders & Most Eloquent Words of the American Founding*, published by The Heritage Foundation. This widely read and influential book inspired David Caldwell to request that the B. Kenneth Simon Center for American Studies at The Heritage Foundation put in motion a new and substantially expanded online volume devoted specifically to the American Founders. The essays on Benjamin Franklin, George Washington, John Adams, James Madison, and Alexander Hamilton, as well as Dr. Spalding's "A Note on Slavery and the American Founding," are based on original versions that appeared in the *Almanac*. We hope this work will be of interest and value to citizens and students of American history, government, and civics.

In the following pages, some of the nation's leading scholars discuss the lives, characters, careers, and accomplishments of key figures of the Founding generation. Together, they tell the story of men and women who envisioned a new order of the ages on American soil and who worked to found a Republic worthy of their beliefs, their sacrifices, and their aspirations.



# Acknowledgments

This volume has been made possible by David and Patricia Caldwell of St. Louis, Missouri, whose profound appreciation of the ideas and contributions of the Founding generation prompted their support. We are deeply grateful to them for their generosity and commitment to the civic cause we share. We also wish to thank John G. Malcolm, Vice President of The Heritage Foundation's Institute for Constitutional Government and Director of the Edwin Meese III Center for Legal and Judicial Studies and the B. Kenneth Simon Center for American Studies, and Paul Ray, former Acting Director of the Simon Center, for their invaluable editorial contributions, advice, and guidance throughout the project. In the final stages, William T. Poole, Heritage's Senior Editor, added his matchless knowledge and skill, correcting any errors and polishing the product. Our thanks also go out to Deniza Toma, graduate student and research assistant in Arizona State University's School of Civic and Economic Thought and Leadership, and Spring 2025 Simon Center intern Spencer LeStrange, both of whose capabilities and cheerfulness made the volume better and the work lighter.





## About David and Patricia Caldwell

David Caldwell of Creve Coeur, Missouri, is a longtime supporter of The Heritage Foundation and founder of the Caldwell Foundation, dedicated to educating Americans about our history and Founding principles. David previously served as President of Gran Prix Bowling Supply, one of America's largest bowling supply distributors, which he and his late wife Patricia founded in 1981.

David and Patricia met in night business school and were married in 1972. Patricia was a CPA and MBA and worked as a corporate accountant and controller early in her career. David holds a BSc in chemical engineering, an MSc in chemical engineering, and an MBA in finance.

David believes that “while Heritage has many worthy goals, many of which involve educating policymakers, the primary mission of the Caldwell Foundation is education of citizens about our nation's Founding, and the scholar will see this as his or her primary role.”



# About the B. Kenneth Simon Center for American Studies

The B. Kenneth Simon Center for American Studies is dedicated to preserving the intellectual and moral underpinnings of our nation's Founding. Self-government, ordered liberty, the institutions of republican governance, and civil society are vital in sustaining our nation. Through publications, public events, seminars, and other initiatives, our scholars seek to restore the principles of the American Founding in policymaking and public discourse. We also work to educate the next generation of conservative leaders in these enduring truths. We are, in a word, the center that safeguards the *heritage* of Heritage.



## Contributors

**Hadley Arkes, PhD**, earned his doctorate at the University of Chicago, where he studied with such luminaries as Hans Morgenthau, Leo Strauss, Herbert Storing, and Tang Tsou. He chose constitutional law as one of his fields and spent many days at the law school, developing a deep reverence for Philip Kurland. He taught at Amherst College for 50 years, the last 30 as Edward Ney Professor of Jurisprudence. He took leaves to visit at Georgetown and Princeton and to be a Fellow at the Woodrow Wilson Institute and a Bradley Fellow at The Heritage Foundation, where he wrote *The Return of George Sutherland*. He is the author of eight books, including *First Things*, *The Philosopher in the City*, *Beyond the Constitution*, *Natural Rights & the Right to Choose*, *Constitutional Illusions and Anchoring Truths*, and *Mere Natural Law*. In 2013, he became Founder/Director of the James Wilson Institute on Natural Rights & the American Founding.

**J. Jackson Barlow, PhD**, is Charles A. Dana Professor of Politics Emeritus at Juniata College, where he has taught since 1991. Earlier, he had been on the staff of the Commission on the Bicentennial of the U.S. Constitution and Managing Editor of *The New Federalist Papers*, the Bicentennial project of Public Research, Syndicated. He was the editor of *Securing the Blessings of Liberty: Selected Writings of Gouverneur Morris* and author of a number of scholarly articles. Dr. Barlow holds a BA from Carleton College and an MA and PhD from the Claremont Graduate School. He was a Fulbright Scholar to the Czech Republic and a Garwood Visiting Fellow in the James Madison Program in American Ideals and Institutions at Princeton University.

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**Jane E. Calvert, PhD**, is Founding Director and Chief Editor of the John Dickinson Writings Project (JDP). She received her doctorate in early American history from the University of Chicago. Her first monograph, *Quaker Constitutionalism and the Political Thought of John Dickinson* (2009), exemplifies her research interests in the intersection of theology and political thought in the Colonial and Founding eras. In 2024, after teaching at St. Mary's College of Maryland, the University of Kentucky, and Yale University, she began working full time on the JDP, which she founded in 2010 to produce *The Complete Writings and Selected Correspondence of John Dickinson*. She recently published *Penman of the Founding: A Biography of John Dickinson*. Her work has been supported by top research libraries around the country, including the American Philosophical Society, the Newberry Library, and the Huntington Library, and private foundations, as well as by the National Endowment for the Humanities and the National Historical Publications and Records Commission.

**John Patrick Coby, PhD**, is Esther Booth Wiley 1934 Professor of Government Emeritus at Smith College in Massachusetts, where he taught political theory and American political thought from 1985 to 2022. He is the author of six books, including *The Constitutional Convention of 1787: Constructing the American Republic*, and more than 100 journal articles, book chapters, encyclopedia entries, and book reviews. At Smith College, he was awarded three teaching prizes: the Smith College Faculty Teaching Award, the Sherrerd Prize for Distinguished Teaching, and the Board of Trustees Honored Professor Award.

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Practitioner in Residence at Pepperdine Law School. From 2010 to 2012, he was General Counsel for the U.S. Commission on International Religious Freedom. Mr. Malcolm has been active in charitable and civic organizations and was confirmed by the U.S. Senate to serve on the Board of Directors of the Legal Services Corporation, the largest funder of civil legal aid for low-income Americans. He received his JD from Harvard Law School.

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**Greg Schaller** is Director of the Centennial Institute at Colorado Christian University. Before joining the Centennial Institute, he served as President of the John Jay Institute, which tripled in size under his leadership. He previously served as an Associate Professor of Politics at CCU from 2009–2017, developing the politics major and working closely with Centennial Institute co-founder John Andrews on many initiatives. During his tenure, he launched a successful student internship program that has connected numerous students to the Colorado and U.S. capitals as well as such public policy organizations as The Heritage Foundation and the American Enterprise Institute. Schaller also has taught at Villanova University and St. Joseph's University. He holds a BA in political science and history from Eastern University and an MA in political science from Villanova University. His fields of expertise include American government, constitutional law, statesmanship, and public policy.

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# I

## THE FOUNDING ERA



# Timeline of the American Founding

1774



JULY 18 [Fairfax Resolves](#).

SEPTEMBER 5  
[First Continental Congress](#)  
established.



OCTOBER 26  
[First Continental Congress](#)  
disbanded.

OCTOBER 14  
[Declaration and Resolves](#) of First  
Continental  
Congress.

January

July

SEPTEMBER 9  
[Suffolk Resolves](#).



JULY 30 [Thomas Jefferson](#) writes  
*A Summary View  
of the Rights of  
British America* at  
age 31, establish-  
ing reputation as a  
political writer.

OCTOBER 20  
[Articles of  
Association](#).

# Timeline of the American Founding

## 1775



MARCH 23 [Patrick Henry](#) delivers “Give me liberty or give me death!” speech in Richmond, Virginia.



APRIL 19 [First battles of Revolutionary War](#) at Lexington and Concord.

MAY 10 [Fort Ticonderoga](#) captured from British; Americans’ first offensive victory in Revolutionary War is credited to Ethan Allen and Benedict Arnold.

JUNE 19 [Continental Army](#) formed; George Washington commissioned as Commander in Chief.

January

July



APRIL 18 [Paul Revere](#) rides on horseback through Boston, warns residents that the British are coming.

JUNE 17 [Battle of Bunker Hill](#), British victory but at great cost: 1,054 British casualties and approximately 450 colonial casualties.



MAY 10 [Second Continental Congress](#) formed.





# 1776



**JULY 4** [Declaration of Independence](#) adopted unanimously by Second Continental Congress.

**JULY 2** [Independence](#) declared.

**JULY 1** [Articles of Confederation](#) debated.

**JANUARY 10** [Thomas Paine's Common Sense](#) published; within three months, 100,000 copies have circulated in the colonies.



**DECEMBER 26** [Battle of Trenton](#) after Washington crosses the Delaware River; American victory boosts colonial morale after series of defeats earlier that year.

January

July

**MAY 20–26** George Mason drafts Virginia Declaration of Rights.

**MAY 27** Virginia Convention edits Mason's first draft, produces Committee Draft of the Virginia Declaration of Rights.

**JUNE 12** [Virginia Declaration of Rights](#) ratified.



**DECEMBER 3** Benjamin Franklin arrives in France, where he serves as a diplomat for the next nine years and his home near Paris becomes the center of U.S. diplomacy in Europe.



# Timeline of the American Founding

## 1777

JANUARY 3 [Battle of Princeton](#), culmination of Washington's 10-day campaign to defeat the British in New Jersey.



DECEMBER 16 [Virginia](#) becomes first state to ratify Articles of Confederation.

NOVEMBER 15 [Articles of Confederation](#) adopted by Continental Congress but not yet ratified by states.

January

July

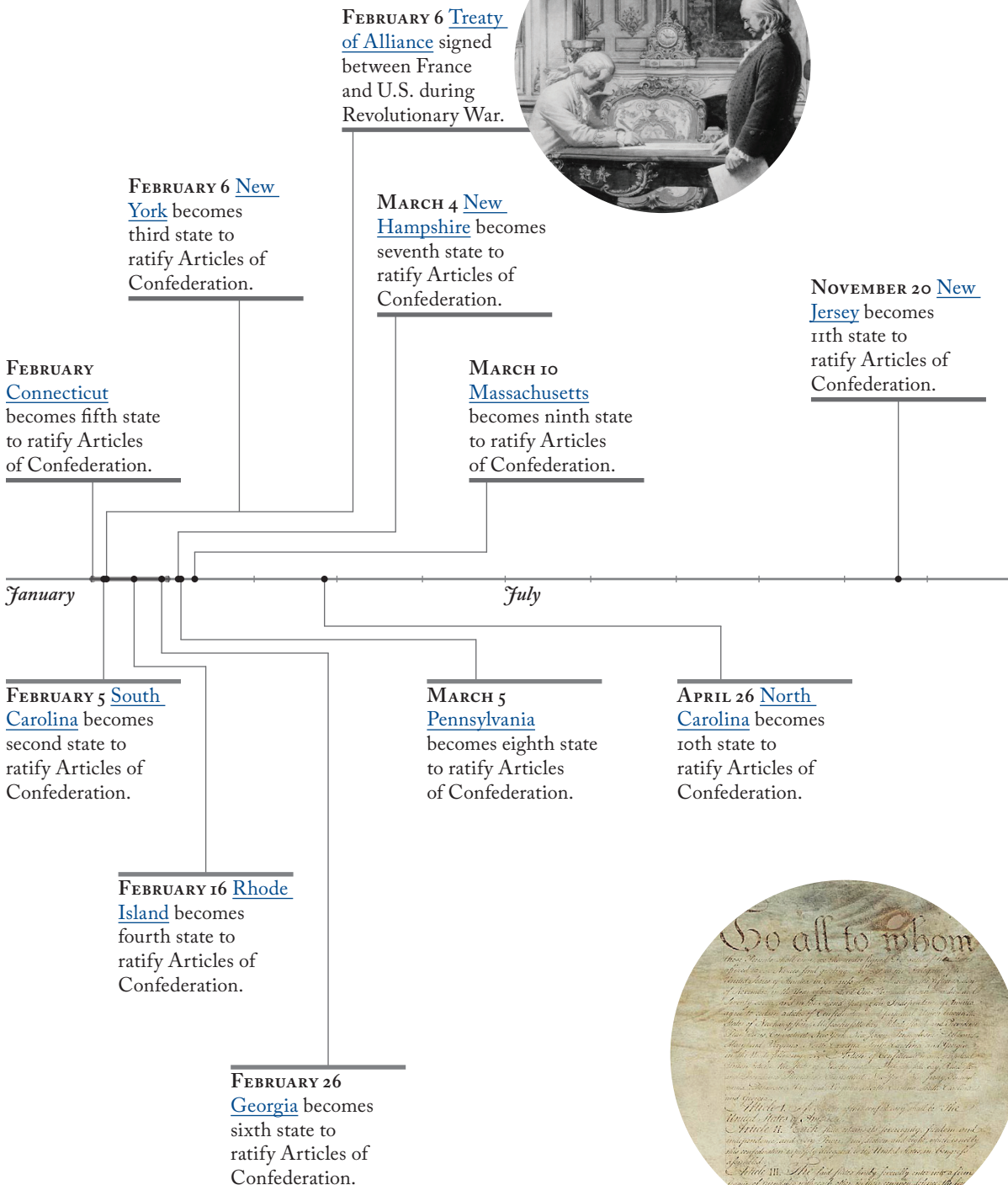


SEPTEMBER 19–  
OCTOBER 7 [Battle of Saratoga](#), turning point in Revolutionary War.



DECEMBER 19 Continental Army begins encampment at [Valley Forge](#) where it suffers severe privation over the winter.

# 1778



# Timeline of the American Founding

1779



SEPTEMBER 29  
[John Jay](#) appointed Minister Plenipotentiary to Spain.

FEBRUARY 1  
[Delaware](#) becomes 12th state to ratify Articles of Confederation.

January

July

JULY 16 [Battle of Stony Point](#).



---

# 1780

FEBRUARY 11–  
MAY 12 [Siege of  
Charleston](#), major  
British victory  
at Charlestown,  
South Carolina.



*January*

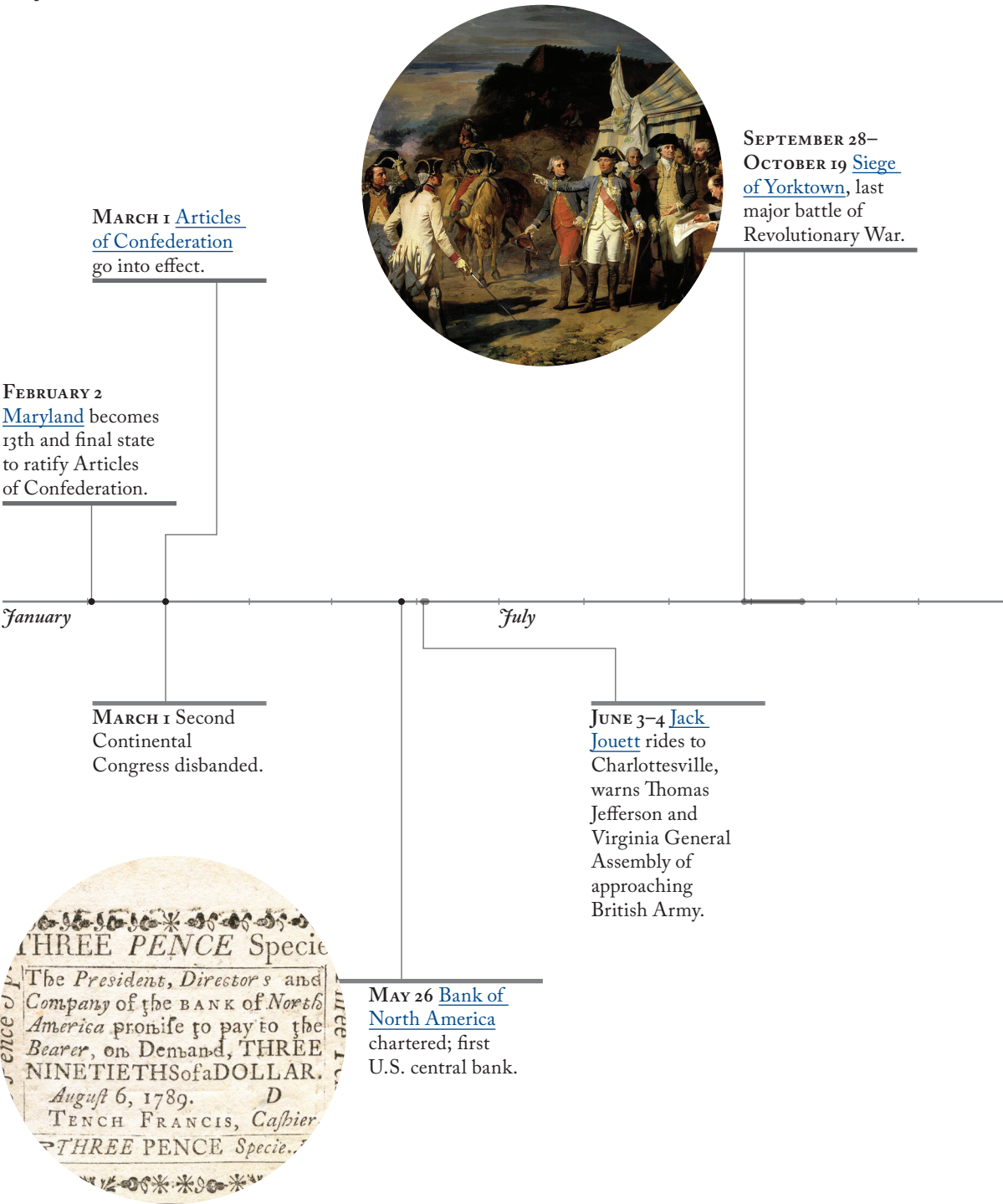
*July*



SEPTEMBER 21  
[Benedict Arnold](#)  
makes a pact with  
the British to  
surrender West  
Point in exchange  
for money and a  
command in the  
British Army; the  
plot is foiled; Arnold  
joins the British.

# Timeline of the American Founding

1781





# 1782



DECEMBER 5 [King George III](#) declares end to hostilities and recognizes American independence.

January

July



JUNE 20 [Great Seal](#) of the United States officially adopted by Congress with motto *E Pluribus Unum* ("Out of Many, One").

SEPTEMBER 6  
[Death](#) of Thomas Jefferson's wife Martha at age 33.

# Timeline of the American Founding

# 1783

JUNE 20–21 Several hundred Continental Army soldiers march to Philadelphia and take possession of the city’s arsenal. Mutineers barricade the Pennsylvania Executive Council inside the State House, demanding payment for their military service. The [Pennsylvania Mutiny of 1783](#) prompts Congress to relocate to a provisional capital in Princeton, New Jersey.

SEPTEMBER 3 [Treaty of Paris](#) signed between Britain and America, ending Revolutionary War.



January

July

JUNE 8 [Washington's Circular Letter](#) to the states.



DECEMBER 23 [Washington resigns](#) from Continental Army.

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# 1784



JUNE 3 [First American Regiment](#) established in peacetime army.

January

APRIL 23 [Land Ordinance of 1784](#) divides new land west of Appalachia into territories with option to become states.

July

JUNE 26 [Spain closes](#) lower half of Mississippi to Americans.





# Timeline of the American Founding

1785

MAY 20 [Land Ordinance of 1785](#) establishes settlement laws for the West.



January

July

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# 1786

APRIL [Northwest  
Indian War](#) begins.



SEPTEMBER 11  
[Annapolis  
Convention.](#)

*January*

*July*



AUGUST [Shays'  
Rebellion.](#)

# Timeline of the American Founding

1787



SEPTEMBER 17  
[Constitutional Convention](#)  
adjourns *sine die*.

DECEMBER 18 [New Jersey](#) becomes third state to ratify U.S. Constitution.

DECEMBER 7  
[Delaware](#) is first state to ratify U.S. Constitution.

NOVEMBER 22  
[Federalist 10](#) published, arguing for an extended republic as a safe-guard of liberty.

OCTOBER 27  
[Federalist 1](#) published.

SEPTEMBER 17  
[Three-Fifths Compromise](#) adopted.

JULY 16 [Connecticut Compromise](#) adopted.

JULY 13 [Northwest Ordinance](#)

JUNE 11 [Three-Fifths Compromise](#) introduced.

January

July



MAY 25  
[Constitutional Convention](#) at Philadelphia begins.

OCTOBER 5 [Anti-Federalist essays](#); first essay published.

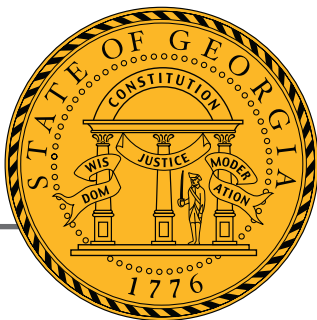
DECEMBER 12  
[Pennsylvania](#) becomes second state to ratify U.S. Constitution.

SEPTEMBER 17  
[Elizabeth Willing Powel](#) asks Benjamin Franklin as he's leaving Independence Hall, "Well, Doctor, what have we got, a republic or a monarchy?" Franklin credited with saying, "A republic, if you can keep it."

OCTOBER 22 Sarah and John Jay host a [dinner party](#) at their home in New York City five days before publication of the first *Federalist* paper. Guests include Alexander Hamilton and James Madison who, together with Jay, perhaps found time for a private conversation about their pending joint project as "Publius."

# 1788

JANUARY 2 [Georgia](#)  
becomes fourth  
state to ratify U.S.  
Constitution.



JANUARY 8  
[Connecticut](#)  
becomes fifth  
state to ratify U.S.  
Constitution.

FEBRUARY 6  
[Federalist 51](#)  
published, argu-  
ing for checks  
and balances on  
government power.

MAY 23 [South  
Carolina](#) becomes  
eighth state to ratify  
U.S. Constitution.

JUNE 26 [Virginia](#)  
becomes 10th  
state to ratify U.S.  
Constitution.

JULY 26 [New York](#)  
becomes 11th state  
to ratify U.S.  
Constitution.

January

July

MARCH 22 First 36  
*Federalist* papers  
published as a  
bound volume.

APRIL 28 [Maryland](#)  
becomes seventh  
state to ratify U.S.  
Constitution.

JUNE 21 [New  
Hampshire](#) becomes  
ninth state to ratify  
U.S. Constitution  
and the Constitution  
is adopted.

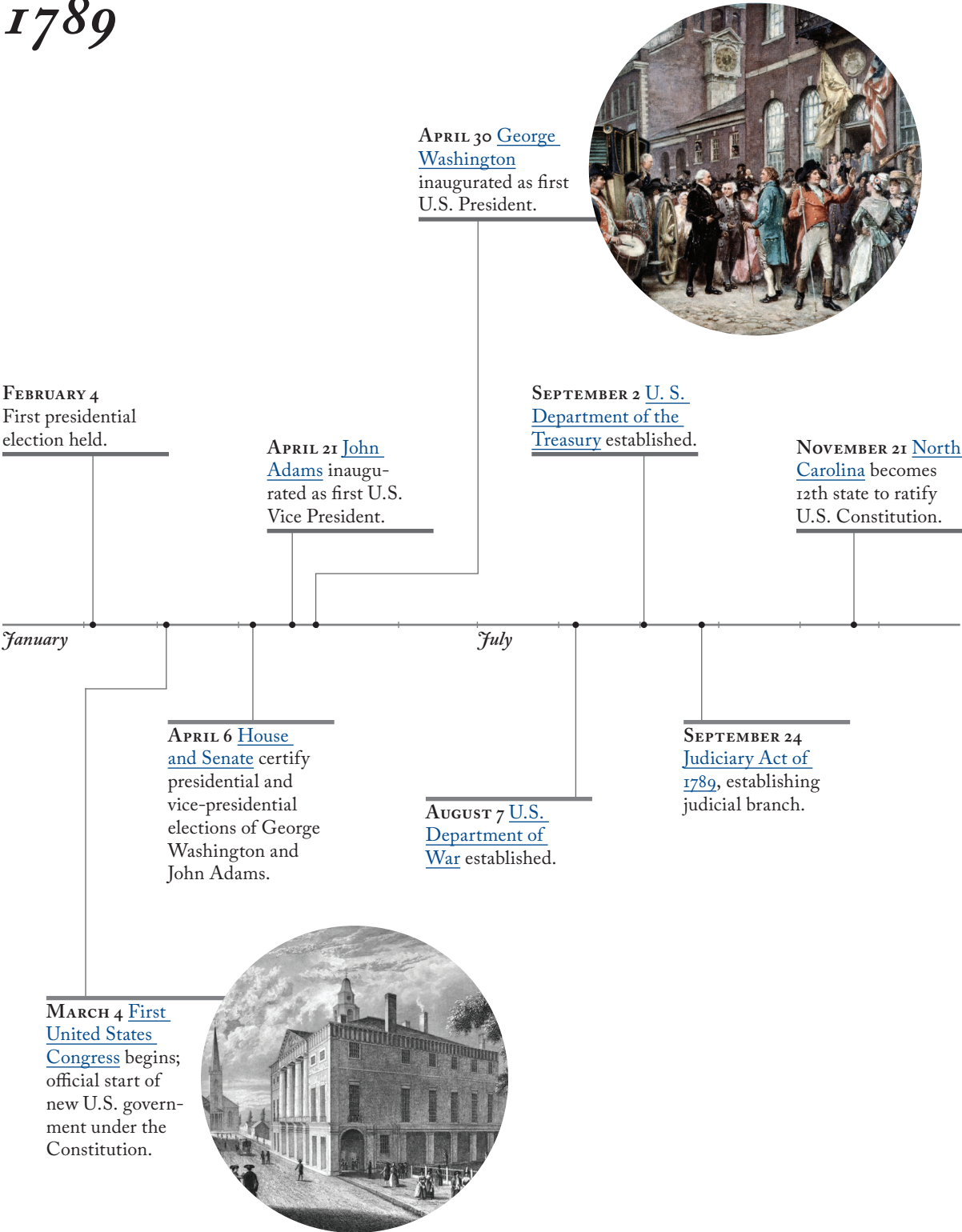


FEBRUARY 6  
[Massachusetts](#)  
becomes sixth  
state to ratify U.S.  
Constitution.



# Timeline of the American Founding

1789





# 1790

JANUARY 9  
[Alexander Hamilton](#)  
issues First Report  
on Public Credit.



JANUARY 8 [George Washington](#)  
delivers First  
Annual Message  
to Congress.

JULY 16 [Residence Act](#) signed into law,  
creating D.C. as  
nation's capital.



January

July

FEBRUARY 2  
[First Supreme Court session.](#)

MAY 29 [Rhode Island](#) becomes  
13th and final  
state to ratify U.S.  
Constitution.

AUGUST 2 [First U.S. Census](#) taken,  
counting 3.9 million  
Americans.

JUNE 20  
[Compromise of 1790](#);  
Secretary of State  
Thomas Jefferson  
hosts dinner party  
for Secretary of the  
Treasury Alexander  
Hamilton and de  
facto House of  
Representatives  
leader James  
Madison during  
which a bargain is  
made to locate the  
national capital on  
the Potomac River.



# Timeline of the American Founding

1791

OCTOBER 31  
[National Gazette](#)  
established.



MARCH 1 [Whiskey Rebellion](#)  
begins following Congress's passage of whiskey tax.

DECEMBER 15 [Bill of Rights](#) ratified.

January

July

MARCH 4 [Vermont](#)  
admitted to the Union as the 14th state.

DECEMBER 5  
[Hamilton's Report on Manufactures](#)  
presented to Congress.



DECEMBER 12  
[First Bank of the United States](#) opens for business.

# 1792

JUNE 1 [Kentucky](#)  
admitted to the  
Union as the  
15th state.



January

July

FEBRUARY 20  
[U.S. Post Office](#)  
[Department](#)  
established.





# Timeline of the American Founding

1793



**AUGUST 23**  
[Citizen Genêt Affair](#): George Washington's Cabinet requests recall of Edmond Charles Genêt as French minister to the United States because, contrary to U.S. neutrality policy, Genêt had been using U.S. ports to organize private raids on British merchant ships.

**FEBRUARY 12**  
[Fugitive Slave Act](#) signed into law.

January

July

**APRIL 22**  
[Proclamation of Neutrality](#) proclaiming American neutrality in war between France on one side and Britain, Austria, Prussia, Sardinia, and the United Netherlands on the other.

1793 [Eli Whitney](#) invents the cotton gin.



# 1794

JUNE 5 [Neutrality Act](#) signed into law, codifying U.S. policy of neutrality toward conflict between Britain and France.



OCTOBER 24  
[Whiskey Rebellion](#)  
ends as federal troops suppress rebellion.

January

July



AUGUST 20 [Battle of Fallen Timbers](#)  
near the Maumee River ends native resistance to settler expansion in the Ohio Valley, ending the Northwest Indian War.

NOVEMBER 19 [Jay Treaty](#) signed, resolving lingering issues from Paris treaty between U.S. and Britain.

# Timeline of the American Founding

1795



OCTOBER 27  
[Pinckney's Treaty](#)  
signed; land  
treaty between  
Spain and U.S.

January

July

AUGUST 3 [Treaty of Greenville](#) between  
U.S. and indig-  
enous nations.



# 1796



JUNE 1 [Tennessee](#)  
admitted to the  
Union as the  
16th state.

AUGUST 2  
[Pinckney's Treaty](#)  
proclaimed.

January

July



SEPTEMBER 19  
[George](#)  
[Washington's](#)  
[Farewell Address.](#)

# Timeline of the American Founding

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1797

MARCH 4  
[Inauguration of John Adams](#) as second President of United States.



January

July

# 1798



**JULY 7** Congress approves the use of military force against French warships in American waters; Quasi-War begins.

**DECEMBER 24** [Virginia Resolutions](#) likewise oppose the Alien and Sedition Acts as unconstitutional.

**JUNE 25** Alien Act (also known as Alien Friends Act).

**JULY 6** Alien Enemies Act.

**JULY 14** Sedition Act (last of the four Alien and Sedition Acts).

January

July

**JUNE 18** [Naturalization Act of 1798](#) (first of four Alien and Sedition Acts that Congress passes).

**NOVEMBER 16** [Kentucky Resolutions](#) declare the Alien and Sedition Acts unconstitutional.

**APRIL 3** [XYZ Affair](#): President Adams releases dispatches from diplomats in France revealing demands by French agents for bribes in return for negotiations; the dispatches are eventually published in newspapers, and public opinion turns against France.





# Timeline of the American Founding

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1799



DECEMBER 14  
[Death of George Washington.](#)

January

July

# 1800



OCTOBER 31–  
DECEMBER 3  
[Revolution of 1800](#)  
(election of Thomas  
Jefferson to presiden-  
cy in February 1801).

AUGUST 4 [Second  
U.S. Census](#),  
counting 5.3 million  
Americans.

January

July



SEPTEMBER 30  
[Treaty of  
Mortefontaine /  
Convention of 1800](#)  
ending Quasi-War  
between France and  
United States; not  
proclaimed until  
December 1801.





"The Nation Makers" by Howard Pyle, 1902,  
public domain.

# Introduction: Why the American Founding Matters

**T**HE AMERICAN FOUNDING IS A UNIQUE AND REMARKABLE moment in human history, marking the beginning of a new order of the ages. It was the first time the people, as the only earthly source of political authority, exercised their right to establish government based on their consent. As Alexander Hamilton observed in the opening salvo of the first *Federalist* paper, Americans were “to decide the important question, whether societies of men are really capable or not of establishing good government on the basis of reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.” The Founding generation understood that they were *dramatis personae* on the world stage, cast and called to prove the capacity of mankind for self-government. If they succeeded, the forces of despotism would never again find their ambitions unobstructed.

## The Founding Era

We generally think of July Fourth as signifying the origins of our nation, and emblematically, this is surely true. According to Abraham Lincoln, though, the American Union predates the Declaration of Independence and the Constitution. The years 1774 through 1800 encompass the American Founding era, beginning with the Articles of Association and extending to the transfer of power from the Federalist Administration of John Adams to the new Republican President, Thomas Jefferson.

These were extraordinary years of political creativity, struggle, and institution-building. The era begins with the strife of the late colonial era and moves into the Revolutionary War, the Declaration of Independence, and the adoption of the Articles of Confederation. Acknowledging the weaknesses of the confederation under the Articles, men known as Federalists called for a convention to be held in Philadelphia in the summer of 1787. A few

years after ratification of the Constitution and establishment of the new government with George Washington as first President, a battle between Alexander Hamilton on the one side and Thomas Jefferson and James Madison on the other emerged, leading to the first political parties in America.

The 1790s tested the stability and durability of the new nation. Aaron Burr's secessionist plot involving the New England states underscored the fragility of the Union, and Washington's agreement to serve a second term as President provided solidity and assurance during uncertain times. Under the presidency of John Adams, however, the Alien and Sedition Acts threatened the very liberties the Revolution had sought to secure, and the election of 1800 proved a grueling test for civic cohesion in the nascent republic. In a peaceful and orderly transfer of power, Thomas Jefferson's assumption of the presidency—dubbed the “Revolution of 1800”—reaffirmed the nation's commitment to constitutional principles. “We are all Republicans, we are all Federalists,” Jefferson declared in his Inaugural Address.

## The Uniqueness of the American Founding

America is part of the New World. It has no Parthenon, knights at round tables, or chosen tribes. Nevertheless, Americans have always looked to their historical origins for inspiration and guidance. There are two ways to think about the origins of polities: in time and in principle. The first is important historically; the second matters for as long as the nation exists. The American Founding is more than a chronological point in history, just as the United States is more than a geographical place. It is a body politic with a soul that defines its purpose. The Founding of the American Republic is the moment when the people declared that purpose and began the American story.

Lincoln reminds us of that purpose when he proclaimed:

All honor to Jefferson—the man who, in the concrete pressure of a struggle for national independence by a single people, had the coolness, forecast, and capacity to introduce into a merely revolutionary document *an abstract truth, applicable to all men and all times*, and so to embalm it there that to-day, and in all coming days, it shall be a rebuke and a stumbling-block to the harbingers of reappearing tyranny and oppression.

Jefferson could have limited his words in the Declaration of Independence to the assertion of American independence from Great Britain, but he elected not to stop there. He chose to proclaim the universal truth that “all men are created equal.” These now-familiar and resonant words mark the first time in history that a people formed a political association that was not based on religion or ethnicity or an ancestry that set them apart from others, but rather was based on what they shared with all human beings at all times and in all places. It was the first time a people declared themselves a people based on the universal attributes and aspirations of humanity.

The universal inclusivity of the American Founding is what makes it and the republic it defined exceptional. The central tenet of the Declaration of Independence—that

“all men are created equal”—meant that no one was excepted; no one was excluded. By “men” the Founders meant “mankind”—*all* human beings. *All* human beings are equal, and *all* have the right to govern themselves. This is the central meaning and purpose of the Founding, of its central declarations and documents, and of the nation’s envisioned way of life. The revolutionary principles and pursuits of the American Founders were a call to all humanity, ushering into the world an order intended to track “[a new and more noble course](#).”

## The Challenge of Self-Government

The experiment in self-government is the logical culmination of the claim that all human beings are created equal. The idea that all human beings are equal does not mean that all people are the same in every respect. It means that no human being is the natural ruler of any other human being; no human being has the right to govern another human being without that person’s consent. This is why the Declaration of Independence says that consent is necessary to the just powers of government and why the Preamble of the Constitution begins with declaring the source of its authority: “We the People.”

The proposition that all men are created equal implicitly establishes the challenge of self-government. It sets the challenge for each human being to live a life of self-mastery and for the people collectively to govern in accordance with justice and the general good. The trial of self-government, then, occurs at two different levels: at the level of the individual and at the level of society.

The political equality of all human beings is also the grounds of popular sovereignty. This sovereignty is, however, inherently limited by the same principle that makes the people sovereign in the first place: Those who have the right to rule themselves must recognize that all other human beings possess that right as well and act accordingly. In his first Inaugural Address, President Washington [argued](#) that the success of the experiment in self-government depends on the justice of our national policy, which is contingent on the morality of the individuals composing the nation:

I behold the surest pledges...that the foundations of our national policy will be laid in the pure and immutable principles of private morality.... I dwell on this prospect...[s]ince we ought to be no less persuaded that the propitious smiles of Heaven, can never be expected on a nation that disregards the eternal rules of order and right, which Heaven itself has ordained....

Emphasizing the finality no less than the significance of the venture awaiting his countrymen, the President added: “[a]nd since the preservation of the sacred fire of liberty, and the destiny of the Republican model of Government, are justly considered as *deeply*, perhaps as *finally* staked, on the experiment entrusted to the hands of the American people.”

## The Founders and Their Contributions

Who were these men and women who played the leads in the political drama to prove humanity capable of self-government? In the following pages, we highlight 16 of the American Founders, all of whom were leaders in the Revolutionary cause, the task of constitution-making, or both. We present them in terms of their general chronological contributions and offer an overview of their lives, achievements, and ideas and a representative selection of their writings and/or speeches.

We begin with George Washington, known in his lifetime as “Father of the Country.” As Matthew Spalding points out, Washington was *the* Founder who was indispensable. Without Washington, there would likely not have been a United States of America. When his first term of office as President was nearing completion and he contemplated returning to his farm at Mount Vernon, Jefferson [wrote](#) to him:

When you first mentioned to me your purpose of retiring from the government...I felt all the magnitude of the event.... Pursuing my reflections too I knew we were some day to try to walk alone; and if the essay should be made while you should be alive & looking on, we should derive confidence from that circumstance, & resource if it failed.

Given the political rivalries and animosities that now agitated the public mind, however, Jefferson felt he had to ask Washington to serve another term. The young republic was not yet ready to “walk alone.”

Salvatori Professor and Scholar Harry V. Jaffa once said that “Washington was a public-spirited man before there was any public to be spirited about.” He was, in effect, America’s First Citizen. He led the cause for independence on the battlefield, presided over the Constitutional Convention, and was the unrivalled choice of Americans for first President of the United States. Washington was, indeed, “[first](#) in war, first in peace, and first in the hearts of his countrymen.”

Second to Washington in public esteem was Benjamin Franklin. The elder statesman of the Founding generation, Franklin played a critical role as diplomat, inventor-scientist, author, printer, and pundit. At home, he proffered his wit and wisdom as guides for his fellow citizens, and abroad, his political and social acumen secured crucial alliances with France. According to Steven Forde, “economic self-reliance and public-spirited citizenship” undergirded Franklin’s advice to others—and grounded his own character. For Franklin, these qualities produce a public character able to sustain a civic way of life in which liberty flourishes. This view was famously expressed by Franklin at the close of the Constitutional Convention of 1787. When exiting the hall, a woman asked him whether America would have a monarchy or a republic. Franklin responded, “A republic, if you can keep it,” stressing the perpetual duty of citizens to be vigilant in protecting their rights and living up to their republican duties.

Along with Washington and Franklin, Thomas Paine and Patrick Henry were decisive in leading the way toward American independence from Great Britain. In his publication *Common Sense*, Paine rallied the colonists to see independence as a necessity rather than a



distant hope. His [declaration](#) that “the cause of America is in a great measure the cause of all mankind” framed the Revolution in terms of the human struggle for liberty. As Patrick Coby shows, Paine highlighted the natural, equal rights of individuals unencumbered—as the English were—by historical and hereditary “banditry” and “plunder.” According to Thomas Kidd, Patrick Henry was among the most radical leaders of American resistance against British policies, displaying his skill as an orator in the fateful ultimatum he [delivered](#) to his fellow Virginians in 1775: “This is no time for ceremony. The question before the house [is] one of awful moment to this country. For my own part, I consider it as nothing less than a question of freedom or slavery.... [G]ive me liberty or give me death!”

Along with Franklin and Jefferson, John Adams was a member of the committee charged with drafting the Declaration of Independence. He was an indefatigable advocate for independence—called by one contemporary “the man to whom the country is most indebted for the great measure of independence,” as C. Bradley Thompson notes. For Adams, the American Revolution was not simply a war; it was a transformation in thought and governance. Author, diplomat, first Vice President, and Second President of the United States, Adams took pride in being both a thinker and a statesman. Even he would admit that some of his philosophical and political views unnerved his compatriots. Yet to his outspokenness he added unswerving integrity and a forgiving and conciliatory nature by which he managed to repair more than one damaged friendship over the years.

Tracing the political career of George Mason from the 1750s on, Jeff Broadwater discusses his contributions as a “learned defender of American rights” and “staunch republican.” Crafting Virginia’s Declaration of Rights within the context of human freedom and equality, Mason laid the groundwork for the central ideas expressed in the Declaration of Independence and Bill of Rights. An attendee and active participant at the Constitutional Convention of 1787, Mason was one of three delegates present at the close of the convention who refused to sign the document. One can only imagine what September 17, 1787, was like for Mason and fellow dissenters Edmund Randolph of Virginia and Elbridge Gerry of Massachusetts. Having given so much of themselves to the creation of the new Constitution over those four long, uncomfortably hot months but so dissatisfied with the outcome that they could not join their friends and colleagues in the signing must have left them feeling deeply disappointed, if not completely miserable. What was going through their minds on that fateful day? Where did they go and what did they do when their fellow delegates were all assembled and celebrating at the City Tavern?

Mason’s guiding principles and expressions in the Virginia Declaration of Rights influenced Thomas Jefferson’s articulation of the philosophical foundations of the American Revolution in the central idea that “all men are created equal.” This idea and those that flowed from it were not his alone, he said, but “[an expression of the American mind](#).” Carson Holloway claims that Jefferson’s most noted contribution to his country, the Declaration of Independence, “function[s] as a kind of touchstone of American politics, a moral standard that statesmen and citizens can consult from generation to generation, especially when grappling with issues in relation to which the nation seems to have strayed from its Founding commitments.” Jefferson’s deep commitments to religious freedom, education, and limited government can be seen throughout his life, both in his home state of Virginia and at the national level. Nonetheless, his legacy is complex, especially the contrast between his abstract

defense of human rights and his personal and practical failures regarding the institution of slavery. Some choose to downplay Jefferson's inconsistency; others consider his actions inexcusable. Holloway concludes that "[n]o one, not even his critics, can deny that to understand America fully, we must understand the political career and ideas of Thomas Jefferson."

As Jefferson was the chief penman of the Declaration, John Dickinson was considered the "Penman of the Revolution." In the 1770s, he sought to unify the colonies through his persuasive *Letters from a Farmer in Pennsylvania*; during the next decade, he penned the thoughtful Fabius letters in support of ratification of the Constitution. Jane Calvert, Chief Editor of the John Dickinson Writings Project, presents a glowing portrait of Dickinson's Enlightenment principles, substantial contributions, and reputation among his peers. Calvert also offers a probing assessment of the practical and ideological reasons why the man known as "Penman of the Revolution" refused to sign the Declaration of Independence.

By contrast, another staunch advocate for religious freedom, Charles Carroll of Carrollton, Maryland, enthusiastically put his "John Hancock" to the Declaration of Independence—the only Catholic to sign the document. As Bradley Birzer tells us, Carroll understood that most men tend to be reluctant agents of radical change, even in the face of political oppression—that they "must overcome their own natures to reach true republican happiness." While there is no evidence that Carroll and Dickinson were acquainted, they certainly knew of each other, and Carroll's analysis of the reluctant revolutionary cannot help but bring John Dickinson to mind.

Neither hesitant nor halting, Mercy Otis Warren was a leading and forceful voice for American independence, setting forth the principles of equality, liberty, and inalienable rights in a variety of genres, including history, prose, plays, and poetry. In her discussion of Warren and her work, Brenda Hafera vividly shows us her classical educational background and fiery spiritedness. Friends or acquaintances with a great many contemporaries showcased in this volume, Warren carried on an active correspondence about principles, politics, and life with several of them. However, her ardent opposition to the Constitution in 1787–1788 because of her perception of its insufficient safeguards for individual rights became a cause of dissension between her and those who adopted the Federalist mantle. Among those with whom she took issue were James Madison, Alexander Hamilton, and John Jay, the pseudonymous authors of *The Federalist Papers*. Her robust opposition to the Constitution for its lack of a bill of rights has led one contemporary scholar to call her the "[Secret Muse of the Bill of Rights](#)." During the Washington Administration, Warren joined forces with the Republicans in opposition to the Federalists, causing a fallout with old friends, especially Washington and the Adamses (both John and Abigail).

James Madison has traditionally been known as the "Father of the Constitution" and as one of the most scholarly of the Founding generation. He is also remembered for his practical political leadership, including his service in the continental, state, and national legislatures, as Secretary of State under Jefferson, and as fourth President of the United States. As a political thinker and scholar, Madison is best known for the solution to the problem of majority factionalism that he claimed to find in America's extended republic. More than any of the other Founders, Madison devoted his life to thinking through the political philosophy of republicanism, determined to find a way to solve its challenges and achieve its aims in the new world.

Given his brilliant mind, depth of philosophical and legal thoughtfulness, and substantial contributions to the framing and exposition of the Constitution, combined with the fact that few Americans know anything at all about him, James Wilson of Pennsylvania is probably the most unjustly neglected of the Founding Fathers. Wilson emphasized the idea that government derives its power from the people and that they must play a part in the ordinary governing processes of a republic. At the Constitutional Convention, he, Madison, and Hamilton worked together to defeat the New Jersey Plan in a kind of “one-two-three punch” from June 15–18, 1787. As Hadley Arkes argues, Wilson’s views, including especially the expression of them in his *Lectures on Law*, still serve as an anchor for the first principles and permanent things that form the grounds of free and republican government.

Gouverneur Morris served on the Committee of Style and drafted much of the Constitution’s final text, including the Preamble. He was a strong advocate for national unity and a fierce and outspoken opponent of slavery, delivering an animated speech denouncing the institution of slavery as the “curse of Heaven” at the Constitutional Convention. One can easily imagine him dramatically raising his arms in divine supplication and stamping his peg leg on the floor for emphasis! Morris and his good friend, Alexander Hamilton, both attended King’s College (now Columbia University) and shared many of the same concerns regarding the need for a stronger national government and an upper house composed of the “better sorts,” as J. Jackson Barlow so assiduously shows. They also enjoyed one another’s sociable characters and keen wit. The episode of the dare between them at the Convention is an example of their camaraderie—and perhaps of their shared propensity for adventure and risk-taking. According to the story, Hamilton dared Morris to walk over to the reserved and highly respected Washington and casually slap him on the shoulder. Morris accepted the dare, at which performance Washington looked Morris directly in the eye with a serious countenance and grave stare, causing Morris to retreat, embarrassed and sheepish. It was a dare accepted and one that Morris vowed never to repeat.

Alexander Hamilton was nothing short of a financial genius, ably serving as the first Secretary of the Treasury in the Washington Administration. Prior to this, he served his adopted country (he was born in the West Indies) as Washington’s aide-de-camp during the Revolution. Between the two there existed a close personal relationship, their difference in age making them more like father and son than bosom friends (and perhaps even more so because Washington had no natural children and Hamilton was, as John Adams once brashly put it, “the bastard brat of a Scotch Pedler”). Hamilton’s life was short and colorful, with nary an insipid interval. He had good friends and strong enemies, the latter including not only Burr, but Adams and Jefferson. It is not surprising that of all the Founders, he is the one for whom a very popular and successful Broadway musical has been created.

The contributions made by John Jay, co-author with Hamilton and Madison of *The Federalist* and first Chief Justice of the U.S. Supreme Court, span the fields of politics, foreign policy, diplomacy, and law. Former John Jay Institute Director Greg Schaller explores Jay’s chief concerns and commitments: “the establishment of a strong national government, the need for unity amidst the people and the states, and the providential guidance which ultimately created a moral mandate to secure its preservation.” The last of these was for Jay the ultimate mandate issued to the new nation; second to this was the challenge of self-government.



Probably America's most influential Supreme Court justice, John Marshall wrote the majority opinion in *Marbury v. Madison*, asserting that "a constitution is, in fact, and must be regarded by the judges, as a fundamental law." In his essay, John Malcolm delineates the contours of Marshall's legal mind, showing him to be an ardent nationalist and brilliant, innovative constitutionalist. In addition to writing the majority opinions in numerous highly influential court cases, including *McCulloch v. Maryland*, *Gibbons v. Ogden*, *Fletcher v. Peck*, and *Dartmouth College v. Woodward*, Marshall authored the prestigious five-volume *Life of George Washington*, which captured the tumultuous political battles between the Federalists and Republicans in the early republic.

All of these people played significant roles in founding the American Republic. They were leaders in the political forum of action and ideas. They had a vision for America—a story they had written in their minds' imagination before they imprinted it upon the land. How it turned out, we know. But they did not and could not know. In his [Lyceum Address](#), Abraham Lincoln reminded us that during the Founding era, the American experiment was undecided: There was no guarantee that it would succeed. But the Founders were undeterred:

Then, all that sought celebrity and fame, and distinction, expected to find them in the success of that experiment. Their all was staked upon it:—their destiny was as *inseparably* linked with it. Their ambition aspired to display before an admiring world, a practical demonstration of the truth of a proposition, which had hitherto been considered, at best no better, than problematical; namely, *the capability of a people to govern themselves*.

"If they succeeded," Lincoln contended, "they were to be immortalized; their names were to be transferred to counties and cities, and rivers and mountains; and to be revered and sung, and toasted through all time." But should they fail, they would be "called knaves and fools, and fanatics for a fleeting hour; then to sink and be forgotten."

"They succeeded," Lincoln said. "The experiment is successful; and thousands have won their deathless names in making it so."

They succeeded—but this does not mean that the work was completed. Each new generation must take up the challenge of self-government, breathing new life into the old words, renewed spirit into the old cause. Lincoln said the Founders' names would be writ upon landmarks and monuments across the land, and so they are: Washington, D.C.; the Jefferson Memorial; Hamilton College; Madison Avenue; Franklin and Marshall University, to name but a few. But the Founders knew, as Lincoln knew, that their work was "unfinished," that succeeding generations must step up to the challenge if government of, by, and for the people is not to "perish from the earth."

## The Founding as Our Heritage and Guide

Events shape ideas, but they do not determine the future. Real people dedicated to real things are always the driving force behind preservation and change in politics and human affairs. The American Founders were an exceptional generation who lived in exceptional

times. As Washington said of the “Citizens of America” in his circular letter to the states in June 1783, they were “Actors, on a most conspicuous Theatre” whose actions would decide the fate of millions yet unborn.

The notion that all human beings have the right to liberty and self-responsibility is not an old idea; it is an eternal idea. These aspirations were the glue that held Americans together in the past and are the bonds that make us one people and give us hope for the future. There has never been a time in the history of our country in which defining our common cause was more needed than it is today. Our nation is fractured and troubled, unsure of its future path, unsure whether it has a real future. The question of whether to reclaim the principles of the Declaration and the Constitution or to reject them and adopt a new vision of human and political life is part of the raging political controversy of our time. It reveals itself in various policy battles, including those over abortion, marriage, and the administrative state. The forces behind these battles are insistent and demanding as Americans attempt to navigate life in a broken land.

Today, there are some who want to tear down monuments to the Founders—the tributes Lincoln anticipated as so justly deserved—because they think that the Founders and what they stood for deserve our unmitigated contempt. We at The Heritage Foundation’s B. Kenneth Simon Center for American Studies see it differently. We try to look with honest eyes at our country’s past, and we choose to bring all that is good and just forward in order to continue the story that may one day include new monuments and new memories. We pay the sacrifices of our ancestors forward when we rededicate ourselves to the cause for which they lived and fought.

At the heart of our nation’s origins is both a proposition and a promise. Each American makes that promise, whether explicitly as the Founders did or tacitly as later generations have done. Each citizen enters into the social compact with his fellow citizens based on the truth of human equality, thereby promising to treat each other with the respect due to beings capable of self-government. With rights and freedoms, then, come responsibilities—to respect the humanity of others, to govern with measure and restraint, and to keep the promises we make.

This is what Martin Luther King, Jr., meant when he spoke of the nation’s Founding documents as our “promissory note.” The principles of the Declaration and the Constitution are our hope and the inspiration for that hope. And as these maxims become part of who we are and how we live, we become, in the truest and best sense, American.

This is why we study the American Founding and why the Founding still matters today.

COLLEEN A. SHEEHAN



## II

# LEADING FOUNDERS



“Writing the Declaration of Independence 1776” by Jean Leon Gerome Ferris, 1900, public domain.

## They Knew They Were Founders

**H**ISTORICALLY SPEAKING, NOT ALL MOMENTS ARE CREATED EQUAL. Yes, things are happening all around us, everywhere, a nonstop flood of passing moments, but history does not happen equally in all places and times. There are many places and times of which history takes little or no notice.<sup>1</sup> It generally does not deal with the vast stretches of ordinary time during which life goes on normally, during which men and women fall in love, have families, raise their children, bury their dead, and carry on with the many small acts of heroism, sacrifice, and devotion that mark the conduct of everyday life—the “unhistoric acts,” as George Eliot wrote in the closing words of her great novel *Middlemarch*, of those “who lived faithfully a hidden life, and rest in unvisited tombs.”

No, what we call history is more likely to concern itself with outbursts of the extraordinary, with those events and persons that invade the flow of ordinary time and alter the direction of its currents. The history of ideas, in particular, revolves around certain vital nodes of concentrated human activity—time periods and places in which the torpor of the everyday is interrupted by a concentrated surge of fresh intellectual energy and creative force, and thoughts and discussions and debates and institutions converge in ways that change the way we think and change the world. That is generally what we mean when we call events or persons historic: that their significance is not merely confined to the past, but that they have an ongoing presence beyond their own time and help add to the enduring treasury of civilization. These nodes generally find their natural homes in cities: Jerusalem, Athens, Rome, Florence, London, Paris, New York...and Philadelphia.

These nodes of concentrated activity come to life in groups of people—circles, salons, debating societies, political parties, schools, and universities—and not merely in the minds and words of solitary geniuses. Thus it is that we speak in the plural of the Founders of the American nation or the Framers of the American Constitution. There were singular geniuses in those groups, to be sure, and the pages of this book pay them homage in the

form of individual biographies. But it is also important to stand back and think of the group as a whole, a group that embodies the wider circle of discourse: a circle that was capable of sustaining the remarkably wise insights into the nature of political society without which the things we celebrate as Americans would likely never have come to pass.

It is likewise important to remember that, although we often speak of “the Founders” as if they were all of the same mind, that was definitely not the case. You could drive a truck through the differences between Alexander Hamilton, whose enthusiasm for commerce and skepticism about republics were well-known, and Thomas Jefferson, whose radical democratic sympathies coexisted with a vision of America’s future as an agrarian empire. A great deal of conflict, debate, jostling, wrestling, and other forms of vigorous intellectual interchange were important elements in the emergence of the constitutional arrangements that carried the American nation forward into a successful independent existence. Nobody got exactly what he wanted, and yet, as we will see, that state of contention, far from being regrettable, has ultimately been all to our good because it helped to model the kind of political order the Constitution would seek to establish, one built upon the recognition of conflict as a fundamental organizing principle.

Yes, but what kind of conflict? That is an interesting question. To begin answering it, consider the titles of three highly interesting and well-regarded recent books on the Founding period: *Founding Brothers: The Revolutionary Generation*, by Joseph J. Ellis, winner of the 2000 Pulitzer Prize; *Founding Partisans: Hamilton, Madison, Jefferson, Adams, and the Brawling Birth of American Politics*, by H.W. Brands; and *Friends Divided: John Adams and Thomas Jefferson*, by Gordon S. Wood, arguably the dean of living historians of the United States.<sup>2</sup>

One can’t miss the unifying theme here. These founding brothers were also quarrelsome ones: They were friends, but friends divided, and the political was also the personal. Ellis even argues in his book that the constitutional system of checks and balances that permitted the infant American Republic to survive and thrive should be thought of not solely as a political or institutional theory, but also as a practical measure grounded in the experience of leaders and regions with quite different visions and values. In this view, the Constitution served in part to codify in law the way that these quarreling brothers settled their disputes.

What held it all together and made it possible for the nation to endure a gauntlet of challenges to the emergence of a free and independent America? What did these figures all have in common? The ground they shared was their awareness of the grave and glorious task that history had set before them and their understanding that this task was a responsibility they could not evade. They knew that a distinct American people now existed and that it was up to them to devise a political regime suitable to the government of that people—and that their actions would determine to a large extent what kind of future lay ahead for this great experiment.

In short, they knew they were Founders. They understood the consequentiality of what they were doing. That understanding was a source of joy, but it was also a source of responsibility. Writing on July 3, 1776, John Adams predicted to his wife Abigail that:

The Second Day of [independence] will be the most memorable Epocha, in the History of America.—I am apt to believe that it will be celebrated,



by succeeding Generations, as the great anniversary Festival. It ought to be commemorated, as the Day of Deliverance by solemn Acts of Devotion to God Almighty. It ought to be solemnized with Pomp and Parade, with Shews, Games, Sports, Guns, Bells, Bonfires and Illuminations from one End of this Continent to the other from this Time forward forever more.

Adams erred only in expecting that July 2 would be the appointed day. He continued:

You will think me transported with Enthusiasm but I am not.—I am well aware of the Toil and Blood and Treasure, that it will cost Us to maintain this Declaration, and support and defend these States.—Yet through all the Gloom I can see the Rays of ravishing Light and Glory. I can see that the End is more than worth all the Means.<sup>3</sup>

A few years later, after a war had been fought and a new Constitution had been drafted, Alexander Hamilton amplified the theme, arguing in the heat of the debates over ratification of that new Constitution that:

[I]t seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force. If there be any truth in the remark, the crisis, at which we are arrived, may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act, may, in this view, deserve to be considered as the general misfortune of mankind.<sup>4</sup>

A year later, George Washington, the greatest hero of the Revolution and the one man to whom all quarrelling factions were able to bow their heads, took the oath of office as President on a second-floor balcony of Federal Hall in New York City where an assembled crowd could witness the historic event. Speaking minutes later before a joint session of the new Congress, he declared that “the preservation of the sacred fire of liberty, and the destiny of the Republican model of Government are justly considered as *deeply*, perhaps as *finally* staked, on the experiment entrusted to the hands of the American people.”<sup>5</sup>

So they knew they were Founders, leaders of citizens rather than subjects, and they grasped the magnitude of what they needed to found. They were committed to the creation of a regime that protected the rights and liberties of self-governing citizens. They also well understood the fragility of such arrangements, of all republics throughout history, and understood that anything meriting the label of “experiment” was bound to be a perilous thing, a voyage into uncharted waters, as likely to fail as to succeed.

## Jefferson and the Declaration

Let us go back to the beginnings of this foundational voyage, beginning with the document we celebrate every Fourth of July, the Declaration of Independence, and its chief author, Thomas Jefferson.

Here a bit of a surprise awaits us. Jefferson's intellectual brilliance was widely attested, and he was not a particularly modest man. Nonetheless, in a famous [letter of 1825 to Henry Lee](#), he insisted upon taking a modest approach to his role as the principal draftsman of the document that has come to stand for the heart and soul of the American Revolution. He could have done otherwise. He could have claimed brilliant originality for himself. In fact, he could have made himself out to be a visionary. Many have done just that. Or he could have complained, as he had on other occasions, about the fact that the crabbed souls on the drafting committee changed the soaring prose in his brilliant original draft in ways of which he disapproved. He also chose not to do that.

So what did he say? The passage in question deserves to be quoted at length as the best account we have of his considered view of the matter, offered in his old age in the year before his death:

[W]ith respect to our rights and the acts of the British government contravening those rights, there was but one opinion on this side of the water. [A]ll American whigs thought alike on these subjects. [W]hen forced therefore to resort to arms for redress, an appeal to the tribunal of the world was deemed proper for our justification. [T]his was the object of the Declaration of Independ[e]nce. [N]ot to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject; [. . .] terms so plain and firm, as to command their assent, and to justify ourselves in the independ[e]nt stand we [. . .] compelled to take. [N]either aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the [A]merican mind, and to give to that expression the proper tone and spirit called for by the occasion. [A]ll its authority rests then on the harmonising sentiments of the day, whether expressed, in convers[atio]ns in letters, printed essays or in the elementary books of public right, as Aristotle, Cicero, Locke, Sidney Etc. [T]he historical documents which you mention as in your possession, ought all to be found, and I am persuaded you will find, to be corroborative of the facts and principles advanced in that Declaration.<sup>6</sup>

There are various ways that we can interpret Jefferson's words here, but there is nothing in them that can support the idea that the sources of the Declaration were few in number and easily enumerated. Everything points the other way. Even John Locke, whose [Second Treatise of Government](#) has long been taken as a likely source for some of the most famous language in the Declaration's preamble, although a strong case can also be made for the

influence of George Mason's [Virginia Declaration of Rights](#),<sup>7</sup> is mentioned only in passing as one of several influential but diverse writers, half of them ancient and half of them modern. Of equal weight, in Jefferson's estimation, were a multitude of various unspecified documents that, taken together, expressed the "harmonising sentiments of the day."

## Religion and the "Ancient Constitution"

In short, Jefferson's account tells us something important about the diffuse and mingled elements coursing around and through the words of this great document. There were a great many voices in the air. To understand the Declaration better, and to understand the various sources of its strength and enduring appeal, we will benefit from a little disentangling so that we can better discern the distinct voices.

First of all, we should acknowledge that Jefferson was very much a man of the Enlightenment, and the Declaration is in many ways a document of the Enlightenment. This is evident in its emphasis on the natural rights of all human beings, as well as the consensual basis for a free and legitimate civil society, and its service as an important inspiration both for the French Revolution 13 years later and similar social movements elsewhere even unto the present day.

At the same time, we also have to remember that, as Jefferson insisted to Lee, the Declaration was a product of its times, a creature of its historical moment, a *political* document serving as a kind of press release to the world, disclosing the "Facts" of creeping British tyranny that had been usurping the habits of self-rule that had been the lifeblood of the colonists' customary way of life. In other words, it should not be read only as a stirring expression of republican principles—although it was that too—but also as an explanation of the revolutionary response by the American people to these particular circumstances. It is at the same time both abstract and concrete.

So it was an Enlightenment document...but not *only* an Enlightenment document. There were many pre-Enlightenment elements in it, background assumptions that have to be taken into account—both in reading it and in assessing how it was received and understood by Americans—if it is to be fully understood and its authority credited.

For example, this apologia for the radical act of American independence drew upon a highly historical and tradition-bound element: the cultural muscle-memory of a century and a half of colonial American self-government, which in turn drew upon a long tradition of English legal and constitutional practices dating back at least as far as Magna Carta. This element is what figures most prominently in the list of grievances that forms the bulk of the Declaration. Nearly all of them had to do with the deprivation of *customary* self-rule and the violation of *inherited* rights that were due to colonists as Englishmen.

Such appeals differ fundamentally from appeals to unalienable natural rights, because these former sets of rights are established by precedent and are claimed as an inheritance from forebears. They are also claimed as fundamental to the exercise of liberty. In the Declaration's grievances, the king is accused of having "refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only." He is also

accused of weakening or dissolving representative bodies, inhibiting the exercise of judicial powers, obstructing immigration, imposing unelected and unaccountable imperial officials, quartering standing armies, rendering troops unaccountable to law, and so on.<sup>8</sup>

The force behind such language is less the notion of abstract natural rights than it is a notion of specific inherited rights grounded ultimately in an “ancient constitution” traceable back through the legal thought of Sir Edward Coke and Sir John Fortescue to Magna Carta itself, and even further back to a shadowy “Anglo–Saxon constitution,” and forward through the political struggles of the 17th century all the way to the Glorious Revolution of 1688, which finally established the supremacy of Parliament over the monarchy.

Needless to say, the distinction between the two understandings of rights is clearer in definition than in actual practice; Jefferson himself believed that the Anglo–Saxon constitution was the “rightful root” of the English constitution even as he believed that Americans had enjoyed the unique advantage of being able to appeal to nature directly and find its instructions “engraved in our hearts.”<sup>9</sup> Call it an inconsistency if you like, but it is the kind of inconsistency in which active political thought abounds.

The larger point here is that an idea of the ancient constitution and the historical and traditional transmission and elaboration of its liberties through many centuries of British history forms a vivid and powerful reference point in the background of 18th century Anglo–American thought.

Legal scholar John Phillip Reid offers a telling illustration of this fact in an essay on the subject. In the spring of 1779, as the Revolutionary War raged, a British general established an outpost in what is today Maine, attempting to restore the jurisdiction of the Crown in a rebellious American area. He invited the support of those loyal citizens who “are well affected to his Majesty’s person, and [to] the ancient constitution under which they can alone expect relief from the distressed situation they are now in.” Later that same year, an American general intent upon destroying the British outpost fired back with this challenge: “I have thought proper to issue this Proclamation...declaring that the allegiance due to the *ancient constitution* obliges [us] to resist to the last extremity the present system of tyranny in the British Government.”<sup>10</sup> A rhetorical skirmish, yes, but also a highly illustrative one—because each side sought to claim tradition and the ancient constitution for its own cause!

Finally, we should stress the immense influence of Biblical religion as a background element in American revolutionary sentiment. To be sure, in keeping with his well-established reputation as a skeptic and critic of religious orthodoxy, Jefferson does not mention it in his letter to Lee. However, it is also the case that, when asked to submit a proposal for the design of the Great Seal of the United States, both Jefferson and Benjamin Franklin recommended a depiction of the Exodus, which they described as follows:

...Moses standing on the Shore, and extending his Hand over the Sea, thereby causing the same to overwhelm Pharoah who is sitting in an open Chariot, a Crown on his Head and a Sword in his hand. Rays from a Pillar of Fire in the Clouds reaching to Moses, to express that he acts by Command of the Deity.

Motto, *Rebellion to Tyrants Is Obedience to God*.<sup>11</sup>

Nor was this offered as a form of pandering to the great unwashed. Jefferson liked the motto so much that he used it on his personal seal.<sup>12</sup> The story of the Exodus, one of the greatest defining moments in the story of the Jewish people and a crucial figuration for Christians of God's promise of redemption and salvation, was to be incorporated into the American story as the symbolic expression of America's quest for liberty against the tyranny of kings. It not only echoed the Biblical self-understanding of the Pilgrims and Puritans who migrated to Massachusetts in the 17th century—they too believed themselves to be leaving behind an imprisoning Egypt of their birth to take up residence in a new Zion—but also would go on to serve as a leitmotif in the lyrics of many African-American slave songs, such as “Go Down, Moses,” expressing the yearning of the enslaved for liberation from bondage. The Exodus is part of the American nation's mental and spiritual architecture.

The influence of religion on the revolutionary cause went much, much deeper than the ideas of elite leaders like Jefferson and Franklin. It is only recently that historians have begun to appreciate the breadth and depth of the religious sentiments of the time and how they affected popular politics. As Barry Alan Shain argued in *The Myth of American Individualism*, 18th century British North American religious life was dominated by reformed Protestant beliefs expressed vividly in Revolutionary-era sermons, public documents, newspaper editorials, and political pamphlets.<sup>13</sup> In such communities, a robust conception of original sin and a commitment to communitarian values helped to undergird a suspicious view of concentrated power, driving opposition to imperial intrusions into American life, particularly when coming from a mother country whose culture was seen as arrogant and corrupt, and making it fodder for countless sermons. Harvard scholar Alan Heimert argued that powerful evangelistic sermons were a major contributor not only to the rising sense of American national self-consciousness, but especially to the rising revolutionary sentiment of the 1770s, when it is estimated that as many as 80 percent of political pamphlets were reprinted sermons.<sup>14</sup> Clearly, the connection between religious sentiments and political activity was strong.

John Adams was no stranger to questions of political theory, and his 1776 *Thoughts on Government* became a guide to the drafting of state constitutions.<sup>15</sup> But Adams understood that a growing undercurrent of popular disaffection was a far more potent cause of the Revolution than any particular question of political theory. As he wrote in his retrospective view, offered to influential journalist Hezekiah Niles in 1818:

The Revolution was effected before the War commenced. The Revolution was in the Minds and Hearts of the People. A Change in their Religious Sentiments of their Duties and Obligations. While the King, and all in Authority under him, were believed to govern, in Justice and Mercy according to the Laws and Constitutions derived to them from the God of Nature, and transmitted to them by their Ancestors—they thought themselves bound to pray for the King and Queen and all the Royal Family, and all the Authority under them, as Ministers ordained of God for their good. But when they Saw those Powers renouncing all the Principles of Authority, and bent up on the destruction of all the Securities of their Lives, Liberties and Properties, they thought it their Duty to pray for the Continental Congress and all the thirteen State Congresses, &c.<sup>16</sup>

The Declaration, then, needs to be understood as a great river of oratory that is fed by various streams, a document that holds together a variety of perspectives by the forcefulness and skill of its rhetoric and by the demands of the moment in which it appeared. Its enduring appeal as it approaches its 250th anniversary is nothing short of remarkable. A lingering question, though, and one that the coming years will have to answer is whether the elements that have increasingly faded into its background—namely, its reliance on traditional and religious factors, including a belief in the authority of nature, that previously limited the reach of its sprawling abstractions—will need to be restored in a postmodern culture that is rapidly losing touch with them.

It should be clear too that the Declaration cannot be read only or even primarily as a freestanding document. It needs the nourishing soil of those concrete, limiting factors drawn from its history and its immediate context if it is to retain its full potency. We need to recover the passionate immediacy of the document, which Jefferson's words to Lee can help us do. This was not a seminar paper. This was a work of political rhetoric, composed at a time of immense urgency and addressing itself to fires of controversy, drawing upon the multiple streams of thought and sentiment that made up the American mind. Jefferson set out to draft a message that could command the full range of ideas and sentiments that were extant in a revolutionary moment, but it did so in a way that fortified and unified the Patriot cause in such a way that even wealthy and well-placed men found themselves willing to pledge "our Lives, our Fortunes and our sacred Honor" to the cause of liberty.

## Fulfilling the Revolution's Objectives

But declaring independence was the easy part. Prevailing in a war of independence against the greatest military power in the world was much harder. Without the brilliant and indefatigable military leadership of George Washington and the indispensable assistance of America's French allies, it could not have been accomplished.

Hardest of all was the task of creating political institutions that would endure and fulfill the objectives for which the war was fought. The newly independent Americans were determined to get along without a monarch and to demonstrate the feasibility of republican self-rule. But how to do it? Those among the Founding generation who knew about the history of previous republics, especially those in classical antiquity, knew that the single most common characteristic of a republic was its instability. Everything depended on the virtuous character of the citizenry, on their willingness to live as George Washington had done and place the public's well-being above their own personal interests. Such civic virtue was exceedingly rare and hard to sustain in a whole society.

Declaring independence and winning a war against the world's greatest colonial power to secure it: These were great achievements. But those achievements would count for little if it were not possible to devise a form of government that could fulfill the aspirations that had fired the Revolution in the first place while providing the unity needed to carry out the functions of a true national government, and it was not obvious how that could be accomplished. Remember that the Declaration had said only that the colonies were now "Free and Independent States," having "full Power to levy War, conclude Peace, contract



Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.” Were they doing this together or separately? How was it possible for the newly born states to be united while being free and independent?

While the war was going on, this question had not yet become urgent. There had not even been a national constitution properly in place during most of the war years. The [Articles of Confederation](#) had been drafted in 1777 but had not been ratified by all the states until 1781. It mattered very little; the Continental Congress had already been operating as if the Articles were in place anyway, so their formal adoption did not change much. Almost everyone agreed that the states should continue to be the principal sources of political power and authority, guarantors of individual rights, and exemplars of the principles of separation of powers, which they employed to protect against abuses of power by any particular individuals or groups.

So what kind of national union *did* these “free and independent” states envision for themselves? An examination of the Articles sheds light on that question. The Articles thought of the combination of states as a “league of friendship” rather than as a firm union, let alone an incorporation of the states into some larger whole. The states came first, and their primacy was spelled out in Article II: “Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.”<sup>17</sup> Each state, whatever its size, would have a single vote in Congress, and for the passage of the most important measures (currency, tariffs, military matters) either a unanimous vote or a supermajority was required. Moreover, the national government was not given any coercive tools—no courts, no executive strength, no power of taxation—that would allow it to act independently or to force the individual states to do anything they did not want to do.

In retrospect, it is easy to see why the Articles’ approach was unlikely to succeed, but it is also important to try to understand why the Revolutionary generation felt as it did. No one wanted to duplicate the same kind of centralized government from which they had just fled. That outcome was to be avoided at all costs.

The historical example of Rome haunted the early Americans for that very reason. As they saw it, the Roman Republic had become strong through the martial and civic virtues of its hardy citizenry; the Roman Empire had fallen into dissolution because of the decadence and corruption of its spoiled and self-interested inhabitants. Many Americans feared that Great Britain in the age of George III was following that same downward path, and they wanted above all else to spare America that fate.

These preoccupations blinded the Articles’ framers to the larger range of issues that a new government would have to confront if it were to be effective. They overreacted, creating for themselves an unworkable central government: one that could not conduct foreign policy, regulate interstate trade, defend the nation’s borders, or put the nation’s economic and financial house in order.

In the western frontier areas, the British refused to withdraw from the several military posts that they had established even though the terms of the Treaty of Paris had required it. Who was going to force them? In the Southwest, the Spanish similarly refused to yield their control of the Mississippi River, the commercial lifeline to the country’s midsection. Such actions were a blatant thumb in the eye of the Americans, who simply lacked the means to respond to them effectively.



That was not all. The British succeeded in badly damaging the American economy by severely restricting American imports and flooding American markets with their own low-priced manufactured goods. This came as the United States was already reeling from a postwar economic depression and a thoroughly debased currency. The sharp decline in commodity prices meant that debtors, especially farmers, suddenly found themselves without enough income to meet their fixed obligations, including the mortgages on their property. Foreclosures on mortgaged property became more and more common. Debtors pleaded for relief in the form of credit extension and currency inflation—at the same time that bankers and politicians were trying to pay down debts and stabilize the currency. Conditions were ripe for an eruption. In several places, desperate mobs attempted to stem the tide of foreclosures by force, blocking courts from meeting and preventing them from doing their business.

One particularly notable uprising took place in western Massachusetts in the summer of 1786 when Revolutionary War veteran Daniel Shays led a march on Springfield to shut down the state supreme court and then attack the Springfield arsenal. Although the incident died down quickly and had little lasting effect in Massachusetts, it was widely noticed by some of the nation's leaders, who saw it as an alarming indication that the country was coming apart. A worried George Washington feared, as he put it in a letter to James Madison on November 5, 1786, that the new nation was tearing apart at the seams:

No Morn ever dawned more favourable than ours did—and no day was ever more clouded than the present! Wisdom, & good examples are necessary at this time to rescue the political machine from the impending storm.... Without some alteration in our political creed, the superstructure we have been seven years raising at the expence of much blood and treasure, must fall. We are fast verging to anarchy & confusion!<sup>18</sup>

The deficiencies of the Articles had long been apparent; Shays' Rebellion gave a sense of urgency to the task of addressing those deficiencies. As Washington [wrote](#) to John Jay of New York on August 1, 1786:

Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own. What the event will be is also beyond the reach of my foresight. We have errors to correct. We have probably had too good an opinion of human nature in forming our confederation. Experience has taught us, that men will not adopt & carry into execution, measures the best calculated for their own good without the intervention of a coercive power. I do not conceive we can exist long as a nation, without having lodged somewhere a power which will pervade the whole Union in as energetic a manner, as the authority of the different state governments extends over the several States.<sup>19</sup>

Even as Washington wrote to Jay, plans were afoot, spurred by Washington's brilliant young aide Alexander Hamilton, to bring together "a Convention of Deputies from the different States, for the special and sole purpose of [devising] a plan for supplying such

defects as may be discovered to exist” in the Articles.<sup>20</sup> That convention would finally gather in Philadelphia on May 25, 1787, and nearly four months later, on September 17, would emerge from its deliberations with an entirely new Constitution for the United States. A challenging path to ratification lay ahead, but there was good reason for guarded optimism about what this Convention had achieved.

## The Caliber of the Founders

Catherine Drinker Bowen’s widely read and justly popular 1966 book on the Constitutional Convention was extravagantly titled *Miracle at Philadelphia*, and yet the title hardly seems an exaggeration.<sup>21</sup> The high caliber of the men who represented the respective states at the Constitutional Convention was staggering, bordering on the miraculous, particularly given how young they were with an average age of 42. Washington, by then 55 years old, was the unanimous choice to preside over the deliberations, and Benjamin Franklin, then a spry 81, was an active delegate. But most of the work was done by a handful of delegates under the age of 50, men such as James Wilson of Pennsylvania (42); Gouverneur Morris of New York (35); and, perhaps most important of all, James Madison of Virginia (36), who was by all accounts the central figure of the Convention and principal architect of the Constitution itself.

Unlike the tall and physically imposing Washington, James Madison did not look the heroic part he was given by history to play. His nickname was “Little Jemmy,” because he was such a tiny, frail man, just a little over five feet tall with a squeaky voice and a reticent, bookish manner. But no one doubted his high intelligence, his encyclopedic knowledge of political history, and his eloquence and persuasiveness in debate. His intelligence was of the rarest sort, combining the shrewdness of an effective practical politician with the reflectiveness of a philosopher. His knowledge of the European past gave him a particularly keen appreciation of the possibilities and perils inherent in the moment in which America found itself, and he intended to make the most of those possibilities and avoid the perils.

Getting the Constitution right would be a high-stakes affair. Madison and Hamilton disagreed about many things, but they were of one mind in believing that “we were now to decide for ever the fate of Republican Government; and that if we did not give to that form due stability and wisdom, it would be disgraced & lost among ourselves, disgraced & lost to mankind for ever.”<sup>22</sup>

Such weighty words reflected the urgency of the moment. They also reflected the Framers’ remarkable combination of soaring ambition, respectful duty, and practical humility. They were excited by the possibilities that lay before them and felt a determination to lay hold of them. As John Adams exulted, they were living in a time in which “the greatest law-givers of antiquity would have wished to have lived,” with a chance to establish “the wisest and happiest government that human wisdom can contrive.”<sup>23</sup> Hence, they were willing to expand their mission beyond the narrow one of merely correcting the Articles and instead to create something far better, something that could be an example to the world.

At the same time, their ambition was always tempered by prudence and sobriety. They were exceedingly careful, always mindful of the ominous example of Rome, always suspicious

of the utopian turn of mind, and always intent upon keeping the frailty and imperfection of human nature in mind. They understood politics as the art of the possible and the best constitution as one built with the crooked timber of selfish humanity in mind—one that took to heart Washington’s warning not to have “too good an opinion of human nature.”

In the heated debates that emerged at the Philadelphia Convention, there was agreement about certain fundamental points of political philosophy. The new government should continue to be republican; the Convention ruled out the possibility of any kind of monarch or monarchical office. Power should never be concentrated in any one person or office but should instead be divided and widely distributed: in a Parliament or something like it; in semi-autonomous state and local governments; in common law and tradition; and in the conviction that every person possessed certain fundamental liberties and rights, the gift of God or the endowment of Nature, that no government could legitimately suppress or violate. The chief challenge of constitution-making was to ensure that these different sources of power be so arranged that they could both coexist and counter one another, ensuring that even with a more powerful national government, no one branch or faction or region would lord it over all the others.

To accomplish this, the delegates favored a federal system that would maintain a large measure of autonomy for the states while turning over to a national government only those things that had to be undertaken in common. Ideally, this federal system would reconcile opposites, combining the advantages of self-rule with the advantages of union, the cohesiveness and diversity of smaller-scale local organization with the greater resources and power of a unified national state. It would be a difficult balance to strike and even more difficult to hold.

At bottom, beneath every other consideration, the Philadelphia Convention would have to address two fundamental questions: How much power would have to be given to an expanded national government for it to be able to do the job, and how could the new Constitution ensure that this empowered national government would itself be fully accountable and would not become too powerful? Madison put it more elegantly: “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 controul the governed; and in the next place, oblige it to controul itself.”<sup>24</sup>

## The Presidency and the “Great Compromise”

The powerful new office of the presidency represented the most striking departure of all from the decentralized Articles. The President would have responsibility for executing the laws and directing the diplomatic apparatus of the nation. He would serve as commander in chief of the armed forces. He would appoint federal judges and secretaries of executive-branch agencies. He would have the power to veto congressional legislation, and his veto could be overridden only by a supermajority of two-thirds. There was no precedent for this in the colonial experience—aside, that is, from the figure of the king.

Having just fought a war against a British king, Americans were uneasy about all forms of strong executive power. They knew they needed more of it but sought a way to keep it

under control. The Convention would hold some 60 votes before the delegates agreed on the [Electoral College](#) as the method of selecting the President. But there can be little doubt that the delegates were comforted by the unspoken understanding that George Washington would become the first President, and they trusted him to establish the right kind of precedents for the office. They were right to do so.

Fierce debates also erupted over other issues, particularly the question of how representation in the Congress would be determined. Two competing approaches were under consideration. Madison's initial plan, which came to be called the Virginia Plan, called for representation by population. The smaller states, which rightly feared that this arrangement would render them second-class citizens under the new Constitution, fought back and under the leadership of William Paterson proposed what came to be called the [New Jersey Plan](#), which would maintain the Articles' pattern of representation by states.

This clash was a question not only of contending interests, but also of competing principles. Representation by state, in which each state had equal representation, seemed to violate the very principle of democracy itself, rendering the votes of those in the populous states less valuable than those in the small states. Why should tiny Rhode Island have the same legislative power as large and populous Virginia? Representation by population had its problems too, though, for it violated the principle that the country was, as its very name implies, a union of states in which the states retained the "free and independent" status upon which the national polity was built.

Each side had plausible, defensible principles—and a whole lot of self-interest riding on which way the decision went. It was a divisive issue, and the Convention could have become hopelessly mired in it. The delegates eventually settled on a compromise between these two positions. This "Great Compromise," engineered by Roger Sherman of Connecticut—who had initially favored the New Jersey Plan but changed his mind—was, like all such compromises, a political deal. Even Madison himself opposed the Compromise at first, as did Rufus King of Massachusetts and Gouverneur Morris of Pennsylvania, seeing it as favoring the smaller and less populous states. In the end, the Great Compromise was approved by only one vote.

So it was indeed a political deal consummated by wheeling and dealing on all sides, but it ended up being something much more than that. Out of the sausage-making process would emerge a fresh way of thinking about republican government. Instead of favoring one principle over another, it found a way to rise above them both by acknowledging the worthy aspects of both principles, giving both their due, and putting them into fruitful tension with one another. The key was the use of a bicameral or two-house structure patterned after the British division of Parliament into a House of Commons and an aristocratic House of Lords but adapted to a non-aristocratic republic.

In the American version, the more populous states like Madison's Virginia would be accorded representation by population in the House of Representatives; the smaller states like New Jersey, Delaware, and Maryland would retain their equal footing in the Senate, where each state would be accorded two representatives, no more and no less, irrespective of its size or population.

To be enacted into law, legislation would have to clear both of these very different chambers with their different principles of representation and be signed by the President.

The two houses would have very different characters, and that was by design. The House of Representatives would be more democratic because it was closer to the great mass of ordinary citizens with its members apportioned by population and chosen by popular vote for short, two-year terms. The Senate would be more aristocratic and somewhat shielded from the shifting winds of popular will, with its members standing for six-year terms and elected by the state legislatures rather than by the people at large.

The lower house would be a “commons,” more responsive and more popular, even rowdy, while the upper house would be, if not quite a chamber of “lords,” a more aloof and deliberative body with built-in insulation from passing enthusiasms and passions. The lower house would be entrusted with the power of introducing revenue bills; the upper house would be entrusted with foreign relations, ratification of treaties, and confirmation of executive-branch appointments.

The result of this compromise was a complex structure that was arguably better than either of the alternatives it attempted to reconcile. It quickly took its place as one of the chief elements in the Constitution’s famously intricate network of checks and balances, a system by means of which each power granted to one unit of government is kept within safe limits by countervailing powers vested in some other unit.

This pattern played out on multiple levels. The newly established national government would have unprecedented powers. However, these powers would be enumerated (spelled out) and thereby limited by the Constitution itself, and the state governments would remain strong, serving as an additional check on the national government. The national government was further checked by being subdivided into executive, legislative, and judicial branches, each of which was in competition with the others and each of which had some ways of thwarting the other branches in cases of injudiciousness or overreach. The President could reject a bill of Congress with a veto, and the Congress could override that veto by re-passing the bill with a two-thirds majority. The Congress could remove the President and other members of the executive branch through impeachment. The Senate could reject executive-branch appointments. The President could command the armed forces and negotiate treaties, but only the Congress could declare war, and only the Senate could ratify treaties. And so on.

It was very complicated, but behind all these particulars was a powerful idea: Conflict is part of the human condition and can never be eliminated; neither can the desire for power and the tendency of ambitious and corruptible men to abuse it. The cultivation of virtue in the citizenry should always be encouraged. Virtue alone is insufficient, however, to ensure stability and order in a polity made up of corruptible people. Therefore, a workable constitution has to provide a structure within which the conflicts between contending ambitions can be tamed, institutionalized, and made productive.

The quest for power can never be eliminated. Nothing is more human than that. But it can be kept within bounds. A constitution that does that is like an internal combustion engine: designed to redirect the energies released by the explosions that take place within its chambers and use those energies to drive the work of American governance and enterprise. It should be designed to work with the grain of human nature and not against it. In doing so, it should also counteract the worst tendencies of human nature rather than encourage them to grow and fester.



## “A Rising and Not a Setting Sun”

This was the document that the delegates produced during four months of intense labor in Philadelphia and signed on September 17, 1787. It had not been an easy process, and not all of the delegates were entirely happy with the end result. Understanding this sentiment, Benjamin Franklin closed the Convention with a moving speech, acknowledging that while this Constitution might not be perfect and that he himself had reservations about it, he nevertheless hoped “that every member of the Convention, who may still have objections to it, would with me on this occasion doubt a little of his own infallibility—and to make manifest our unanimity, put his name to this Instrument.”<sup>25</sup> He was asking them to make a leap of faith. Even so, there were a few, such as George Mason of Virginia, who adamantly refused the invitation and withheld their support to the bitter end.

Franklin was confident about the Constitution’s viability and future. He offered a personal aside to some other members, which was recorded for posterity by James Madison:

Whilst the last members were signing it Doctr. Franklin looking towards the Presidents Chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have said he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun.<sup>26</sup>

Let us pause here for a moment to step back and reflect on the larger picture. Constitution Day, which we observe every September 17, is a singularly American holiday, even more unique than the Fourth of July. After all, many nations have their great leaders and laborers, their war heroes, their monuments, and their days of independence, but there is only one nation on Earth that can point with pride to a written Constitution that is, as I write these words, nearly 240 years old, a continuously authoritative expression of fundamental law that still stands at the very center of our national life.

As such, the U.S. Constitution is not merely our most weighty legal document: It is an expression of who and what we are. Other countries, such as France, have lived under many different constitutions and regimes over the centuries so that for them, the historical identity of the French people is something separable from the form of government that happens to be in power at any given time. No so for Americans, who have lived since the 1780s under one regime, a remarkable fact whose significance we hardly seem to notice—and that some even perceive to be a defect. Yes, we do revere our Constitution, but we do so blandly and automatically without troubling ourselves to know very much about it and without reflecting much about what our Constitution tells us about who and what we are.

That identity is a complicated one, and there are elements of it about which we will probably never all agree. Ties of blood and religion and race and soil are not enough to hold us together as Americans, and they never have been. We think of “diversity” as something new in American history, but in fact the conduct of American life has always involved the

negotiation of profound differences among us. We are forever about the business of making a workable unity out of our unruly plurality, and our Constitution accepted both the inevitability of our diversity in such things and the inevitability of conflicts arising out of our differences. In addition, it recognized the fact that ambitious individuals are always going to be among us and that the energies of such potentially risky people need to be contained and tamed, and perhaps even made golden, by being diverted into activities that further the public good.

Hence we have a Constitution that is not, for the most part, a document filled with soaring rhetoric and lists of high-sounding principles. It is more like a rulebook for an athletic competition, a dry and functional document laying out a complex system of markers, boundaries, and rules of engagement, careful divisions of function and power that provide the means by which conflicts that are endemic and inevitable to us and to all human societies can be both expressed and contained, even made beneficial. Unlike the expansive spirit of the Declaration of Independence, the Constitution's spirit is undeclared, unspoken; it would be revealed not through words but through the issues and events that have moved through it, carrying the unfolding demands of history.

## Refuting the Critics

For more than a century, though, the Constitution has attracted severe critics. Why should it be otherwise? After all, the Constitution is built around the assumption that human life entails conflict, contention, and debate. Why should questions about it be forbidden? Certainly men like Jefferson, who expressed a belief in the need for perpetual reform and occasional revolution and insisted that "the earth belongs to the living,"<sup>27</sup> would have been unsympathetic to any veneration of the Constitution. In fact, its openness to questioning and amendment is one of the chief sources of its durability.

But Progressive reformers such as Woodrow Wilson believed the Constitution was outmoded and saw its extensive checks and balances as mechanical impediments to governmental efficiency.<sup>28</sup> In many ways, the battles of the present day over what is called "the administrative state" reflect that same criticism of the Constitution and an impatience with the many checks on quick and decisive action that the Constitution imposed. To which it can be pointed out that the Progressive ideal of centralized governance by technocratic experts seeks to inhibit and suppress the very kinds of conflict that the Constitution assumes to be the inevitable product of a free and diverse society made up of citizens, not subjects, with divergent ideas and divergent interests.

How to accommodate all of that? It is the chief political challenge facing the modern Republic—and a formidable challenge at that. It might not be too much of a stretch to point out the resemblance between the state that Progressive reform sought to bring into being and the state that the American Revolutionaries sought to escape. President Calvin Coolidge expressed this view well in a 1926 speech countering those who, like Wilson, contended that the conditions of modern life required us to move beyond our Founding documents: "Those who wish to proceed in that direction can not lay claim to progress," Coolidge warned. "They are reactionary. Their ideas are not more modern, but more ancient, than those of the Revolutionary fathers."<sup>29</sup>



These are words that Americans a century later, living in the second quarter of the 21st century, may be ready to hear with new ears. Perhaps it is not the political vision of the Constitution that is outmoded, but instead the political vision of governance by an enlightened technocratic elite. Perhaps the foundation that the Founders knew they were creating still remains the best foundation for a free, prosperous, and diverse society.

WILFRED McCLAY



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# George Washington

## Life

George Washington was born on February 22, 1732, near Popes Creek, Westmoreland County, Virginia, the first child of Augustine Washington (landowner, part owner of an iron-works, and county justice of the peace) and Mary Ball Washington. At the age of 26, he married Martha Dandridge Custis on January 6, 1759. He fathered no children but raised two of Martha's children from her previous marriage (John Parke Custis and Martha Parke Custis) and two step-grandchildren (George Washington Parke Custis and Eleanor Parke Custis) as his own. Washington died on December 14, 1799, at his home in Mount Vernon, Virginia, where he was buried.

## Education

Attended local schools but received little formal education; farmed his father's land; trained and worked as a surveyor.

## Religion

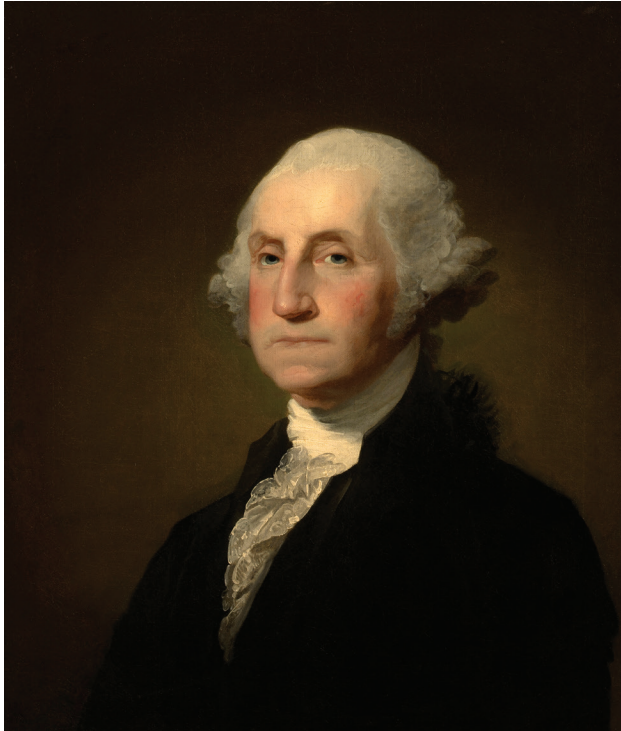
Episcopalian

## Political Affiliation

Unaffiliated

## Highlights and Accomplishments

1749–1750	Surveyor of Culpeper County, Virginia
1753	Major, Southern District, Virginia militia
1754	Lieutenant Colonel in the French and Indian Wars
1755–1758	Colonel and Commander, Virginia Forces
1758–1774	Member, Virginia House of Burgesses
1768–1774	Justice of the Peace, Fairfax County
1774	Delegate to the First Continental Congress
1775	Delegate to the Second Continental Congress
1775–1783	Commander of the Continental Army
1787	President of the Constitutional Convention
1787–1797	First President of the United States



George Washington by Gilbert Stuart, 1796–1803, oil on canvas, Clark Art Institute, object no. 1955.16, public domain.

First in war, first in peace, and first in the hearts of his countrymen, he was second to none in humble and enduring scenes of private life. Pious, just, humane, temperate, and sincere; dignified, and commanding; his example was as edifying to all around him as were the effects of that example lasting.... Correct throughout, vice shuddered in his presence and virtue always felt his fostering hand. The purity of his private character gave effulgence to his public virtues.

—*Representative Henry Lee, December 26, 1799*<sup>1</sup>

# George Washington: Father of His Country

**G**EORGE WASHINGTON WAS BY ALL ACCOUNTS “THE INDISPENSABLE man” of the American Founding.<sup>2</sup> An early leader in Virginia’s resistance to British rule, he was the military commander who led a ragtag Continental Army to victory against the strongest and best trained military force in the world. Once the war was over, he resigned his military commission and returned to his home at Mount Vernon. Crucial to the success of the [Constitutional Convention](#), his personal support of the new Constitution more than anything else assured its final approval. His election to the presidency—the office having been designed with him in mind—was essential to the establishment of the new nation.

The singular importance of Washington in the establishment of the American regime cannot be overstated. “[B]e assured,” James Monroe once reminded Thomas Jefferson, “*his influence carried this government.*”<sup>3</sup>

A soldier by profession and a surveyor by trade, Washington was first and foremost a man of action. He never learned a foreign language or traveled abroad nor wrote a political tract or a philosophical treatise on politics. Like Abraham Lincoln, Washington had received little formal education. And yet his words, thoughts, and deeds as a military commander, a President, and a patriotic leader make him one of the greatest statesmen—perhaps the greatest statesman—in our history.

## The Life of Washington

Born in Virginia in 1732, as the descendant of English farmers, young Washington learned the surveying trade and traveled extensively in the area west of the Appalachian Mountains. At the age of 21, he was appointed a major in the Virginia militia. Later, as a lieutenant colonel, he was sent to the Ohio Valley to challenge a French expedition;

the resulting skirmishes marked the opening battles of the French and Indian War (1754–1763).

After resigning from the British military, he served as a volunteer aide-de-camp to British Major General Edward Braddock. In 1755, he was appointed colonel and commander in chief of Virginia's forces, which made him the highest-ranking American military officer, and for the next three years, he struggled with the endless problems of frontier defense.

From 1758 to 1774, he was a member of the House of Burgesses, the lower chamber of the Virginia legislature. In 1769, he introduced a series of resolutions (drafted by his colleague George Mason) denying the right of the British Parliament to tax the colonists, and in 1774, he introduced the Fairfax Resolves, which closed Virginia's trade with Britain.

He was elected to the First Continental Congress and spent the winter of 1774 organizing militia companies in Virginia; he attended the Second Continental Congress in military uniform. In 1775, just after the battles of Lexington and Concord, he was appointed general and commander in chief of the Continental Army. For the next eight and a half years, Washington led the colonial army through the rigors of war, from the daring attack on Trenton from across the Delaware River to the trying times of Valley Forge and then the triumph of Yorktown in 1781. Through force of character and brilliant political leadership, Washington transformed an underfunded militia into a capable force that, although never able to take the British army head-on, outwitted and defeated the world's mightiest military power.

After the War of Independence was won, Washington played a key role in the formation of the new nation. He was instrumental in bringing about the Constitutional Convention of 1787. A conference at Mount Vernon was the stimulus for Virginia to organize the Annapolis Convention of 1786, which in turn called for a convention in Philadelphia. Having been immediately and unanimously elected president of the Constitutional Convention, Washington worked actively throughout the proceedings to support the new Constitution, and an examination of his voting record shows his consistent support for a strong executive and clearly defined national powers. His widely publicized participation and endorsement gave the resulting document a credibility and legitimacy it would otherwise have lacked. The vast powers of the presidency, as one delegate to the Constitutional Convention wrote, would not have been made as great "had not many of the members cast their eyes towards General Washington as president; and shaped their ideas of the powers to be given to a president, by their opinions of his virtue."<sup>4</sup>

As our first President, Washington set the precedents that define what it means to be a constitutional executive. He was a strong, energetic President but always aware of the limits on his office; he deferred to authority when appropriate but aggressively defended his prerogatives when necessary. His first term was dominated by the creation of the new government and the debate over Alexander Hamilton's plan (which Washington supported) to build a national economy; his second was dominated by foreign affairs—mainly the French Revolution, a controversy which he wisely avoided, and the debate over his support of the [Jay Treaty](#) with Great Britain. Each of these events divided public opinion and contributed to the rise of the first political parties.

Washington wanted to retire after his first term, but the unanimous appeals of his colleagues induced him to serve again. Four years later—the situation stabilized, two important treaties concluded, and the republic strengthened—he finally decided to step down from the presidency, quit the political scene, and return to private life.

In 1796, on the anniversary of the Constitution, Washington released his [Farewell Address](#), one of the greatest documents of the American political tradition. Best remembered for its counsel concerning international affairs, it also gives Washington's advice concerning federal union and the Constitution, faction and political parties, the separation of powers, religion and morality, knowledge, and public credit.

During his lifetime, there was hardly a period when Washington was not in a position to bring his deep-seated ideas and the lessons of his experience to fruition, influencing not only events, but also, as his writings attest, the men around him. Four great themes of Washington's life—individual character, religion and religious liberty, rule of law, and defense of national independence—are particularly reflective of the objectives of his statesmanship and suggest why his example is a prime model for today's politics.

## Character

That Washington is known for his character is no accident. One of his earliest writings was an adolescent copybook record of 110 "Rules of Civility and Decent Behavior in Company and Conversation." Drawn from an early etiquette book, these social maxims taught lessons of good manners concerning everything from how to treat one's superiors ("In speaking to men of quality do not lean nor look them full in the face") to how to moderate one's own behavior ("Let your recreations be manful not sinful").<sup>5</sup> Simple rules of decent conduct, he always held, formed the backbone of good character.

In his later letters, Washington constantly warned young correspondents of "the necessity of paying due attention to the moral virtues" and avoiding the "scenes of vice and dissipation" often presented to youth.<sup>6</sup> Because an early and proper education in both manners and morals would form the leading traits of one's life, he constantly urged the development of good habits and the unremitting practice of moral virtue. "To point out the importance of circumspection in your conduct, it may be proper to observe that a good moral character is the first essential in a man, and that the habits contracted at your age are generally indelible, and your conduct here may stamp your character through life," he advised one correspondent. "It is therefore highly important that you should endeavor not only to be *learned* but *virtuous*."<sup>7</sup>

Washington's own moral sense was the compass of both his private life and his public life, having become for him a "second" nature. The accumulation of the habits and dispositions, both good and bad, that one acquired over time defined one's character. In the 18th century, "character" was also shorthand for the persona for which one was known and was tied to one's public reputation. Washington knew that the best way to establish a good reputation was to be, in fact, a good man. "I hope I shall always possess firmness and virtue enough to maintain (what I consider the most enviable of all titles) the character of an honest man," he told Hamilton, "as well as prove (what I desire to be considered in reality) that I am."<sup>8</sup>

Republican government, far from being unconcerned about questions of virtue and character, was understood by Washington to require self-government. In his [First Inaugural](#), Washington spoke of "the talents, the rectitude, and the patriotism, which adorn the



characters selected to devise and adopt” the law. It was here, and not in the institutional arrangements or laws themselves, that Washington ultimately saw the “surest pledges” of wise policy and the guarantee that “the foundation of our national policy, will be laid in the pure and immutable principles of private morality.”<sup>9</sup>

## Religion and Religious Liberty

Religion and morality are the most important sources of character, Washington advised, as they teach men their moral obligations and create the conditions for decent politics. They are necessary for the maintenance of public justice. A sense of individual religious obligation, Washington noted in his Farewell Address, is needed to support the oaths necessary in courts of law. But it goes beyond that: “Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labor to subvert these great Pillars of human happiness, these firmest props of the duties of Men & citizens.”<sup>10</sup>

This holds true despite the theories of academic elites, then or now, who argue that religion is not required to support the morality needed for free government. “And let us with caution indulge the supposition, that morality can be maintained without religion.”<sup>11</sup> Washington conceded some ground to rationalists—like Benjamin Franklin and Thomas Jefferson—who seem to have had less personal use for religion but nevertheless insisted on the general argument. “No matter what might be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle.”<sup>12</sup> While there might be particular cases where morality did not depend on religion, this was not the case for the morality of the nation.

Washington’s statements about the importance of religion in politics must be understood in light of his equally strong defense of religious liberty. In a letter to the United Baptists, for instance, he wrote that he would be a zealous guardian against “spiritual tyranny, and every species of religious persecution,” and that under the federal Constitution every American would be protected in “worshiping the Deity according to the dictates of his own conscience.”<sup>13</sup>

Perhaps Washington’s most eloquent statement is found in his letter to the Hebrew Congregation of Newport, Rhode Island:

It is now no more that toleration is spoken of, as if it was the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For, happily, the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support.<sup>14</sup>

While it is often thought that the separation of church and state marks the divorce of religion and politics in America, Washington’s conception of religious liberty was almost

exactly the opposite. His understanding of free government requires the moralization of politics, which includes—and requires—the expansion of religious influence in American politics. For Washington, religious liberty meant that religion, in the form of morality and the moral teachings of religion, was now free to exercise an unprecedented influence over private and public opinion by shaping mores, cultivating virtues, and in general providing an independent source of moral reasoning and authority.

## The Rule of Law

Washington led a revolution to root out monarchical rule in America and establish a republican government based on the rule of law. In 1776 and again in 1777, when Congress was forced to abandon Philadelphia in the face of advancing British troops, General Washington was granted dictatorial powers to maintain the war effort and preserve civil society; he gave the authority back as soon as possible. At the end of the war, at the moment of military triumph, one of his colonels raised the possibility of making Washington an American king—a proposal he immediately repudiated. Washington also rejected the option of using military force (with or without his participation) to take control of Congress and force upon it a new national administration. Instead, when the task assigned him was complete, General Washington resigned his military commission and returned to private life.

Americans take for granted the peaceful transfer of power from one President to another, but it was Washington's relinquishing of power in favor of the rule of law—a first in the annals of modern history—that made those transitions possible. "The moderation and virtue of a single character," Thomas Jefferson tellingly noted, "probably prevented this Revolution from being closed, as most others have been, by a subversion of that liberty it was intended to establish."<sup>15</sup> His peaceful transfer of the presidency to John Adams in 1797 inaugurated one of America's greatest democratic traditions. King George III wrote that Washington's retirement, combined with his resignation 14 years earlier, "placed him in a light the most distinguished of any living man" and made him "the greatest character of the age."<sup>16</sup>

George Washington was a strong supporter of the Constitution. It established a limited but strong national government, created an energetic executive, and formed the legal framework necessary for a commercial republic. By the Constitution, the U.S. government is limited and structured to prevent encroachment, with "as much vigour as is consistent with the perfect security of Liberty" yet strong enough "to maintain all in the secure and tranquil enjoyment of the rights of person and property." As a result, it is the greatest check against tyranny and the best guardian of American freedoms. Washington reminded his fellow citizens that the Constitution deserves support and fidelity. Until it was formally changed "by an explicit and authentic act of the whole People," he wrote, the Constitution is "sacredly obligatory upon all."<sup>17</sup>

Ignoring the Constitution and allowing the rule of law to be weakened, Washington sternly warned, is done at the nation's own peril. The American people must always guard against "irregular oppositions" to legitimate authority and "the spirit of innovation" that desires to circumvent the principles of the Constitution. Nor should Americans overlook Washington's abiding concern about the corrupting power of the state. He warned that

government tends to encroach on freedom and consolidate power: “A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart is sufficient to satisfy us of the truth of this position.” In the long run, disregard for the rule of law allows “cunning, ambitious and unprincipled men” to subvert the people and take power illegitimately by force or fraud. This, he reminded his fellow citizens, is “the customary weapon by which free governments are destroyed.”<sup>18</sup>

## National Independence

In the most quoted—and misinterpreted—passage of his Farewell Address, Washington warned against excessive ties with any country: “Tis our true policy to steer clear of permanent Alliances, with any portion of the foreign world.” He recommended as the great rule of conduct that the United States primarily pursue commercial relations with other nations and have “as little political connection [with them] as possible.”<sup>19</sup>

Although this statement is often cited to support isolationism, it is difficult to construe Washington’s words as strict noninvolvement in the political and military affairs of the world. The activities of his Administration suggest no such policy; the warning against “entangling alliances,” often attributed to Washington, is found in the 1801 Inaugural Address of Thomas Jefferson.<sup>20</sup> President Washington warned against political connections and permanent alliances with other nations, but he also added a hedge: “So far, I mean, as we are now at liberty to do.” In order to maintain a strong defensive posture, the nation could depend on “temporary alliances for extraordinary emergencies.”<sup>21</sup>

The predominant motive of all of Washington’s policies, both foreign and domestic, was to see America “settle and mature its yet recent institutions” so as to build the political, economic, and physical strength—and the international standing—necessary to give the nation “the command of its own fortunes.”<sup>22</sup> Rather than a passive condition of detachment, Washington described an active policy of national independence as necessary for America at some not too distant point in the future to determine its own fate.

Commerce, not conquest or subservience, was to be the primary means by which America would acquire goods and deal with the world. Commercial policy should be impartial, neither seeking nor granting favors or preferences, and flexible, changing from time to time as experience and circumstances dictate. But even under the best circumstances, economic and trade policy should be conducted in ways that maintain American independence.

Washington’s intent was to establish a strong, self-determined, and independent foreign policy, but this idea also encompasses a sense of moral purpose and well-being—sovereignty in the fullest and most complete sense. For America, this means a free people governing themselves, establishing their own laws, and setting up a government they think will best ensure their safety and happiness. Or, as the Declaration of Independence says: “to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and Nature’s God entitle them” and obtain the full power to do the “Acts and Things which Independent States may of right do.”

In the end, to have the command of its own fortunes means that America has the full use of its independence—not to impose its will on other nations, but to prove without help

or hindrance from other nations the viability of republican government. Washington's wish, as explained to Patrick Henry, was that the United States be "independent of all, and under the influence of *none*. In a word, I want an American character, that the powers of Europe may be convinced we act for *ourselves* and not for *others*. This in my judgment, is the only way to be respected abroad and happy at home."<sup>23</sup>

## First in War, First in Peace

The last journeys of Washington's life were to the army camp at Harper's Ferry, Virginia (now West Virginia), and to Philadelphia to consult on military matters. That same year, President John Adams appointed Washington head of a provisional army during a period of tensions with France. But Washington was happily retired at his beloved home, Mount Vernon. A sore throat, the result of inspecting his farm during a snowstorm, quickly worsened, and he died on December 14, 1799.

The news of Washington's death spread quickly throughout the young nation. Every major city and most towns conducted official observances. Churches held services to commemorate his life and role in the American Revolution. Innumerable pronouncements, speeches, and sermons were delivered to lament the event. From the date of his death until his birthday in 1800, some 300 eulogies were published throughout the United States from as far north as Maine and as far south as Georgia to as far west as Natchez on the Mississippi River.

Congressman Henry Lee III delivered the official eulogy. Although we remember only a few phrases today, it included these memorable words:

First in war, first in peace, and first in the hearts of his countrymen, he was second to none in humble and enduring scenes of private life. Pious, just, humane, temperate, and sincere; uniform, dignified, and commanding, his example was as edifying to all around him as were the effects of that example lasting. Correct throughout, vice shuddered in his presence and virtue always felt his fostering hand. The purity of his private character gave effulgence to his public virtues.<sup>24</sup>

"Let his countrymen consecrate the memory of the heroic general, the patriotic statesman and the virtuous sage," read the official message of the United States Senate. "Let them teach their children never to forget that the fruit of his labors and his example are their inheritance."<sup>25</sup>

President John Adams was more to the point: "His example is now complete, and it will teach wisdom and virtue to magistrates, citizens, and men, not only in the present age, but in future generations, as long as our history shall be read."<sup>26</sup>

## SELECTED PRIMARY WRITING

**Farewell Address** (September 19, 1796)<sup>27</sup>

Friends & Fellow-Citizens

...Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The Unity of Government which constitutes you one people is also now dear to you. It is justly so, for it is a main Pillar in the Edifice of your real independence, the support of your tranquility at home, your peace abroad; of your safety; of your prosperity; of that very Liberty which you so highly prize. But as it is easy to foresee that, from different causes & from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly & insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective & individual happiness; that you should cherish a cordial, habitual & immovable attachment to it; accustoming yourselves to think and speak of it as of the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our Country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of AMERICAN, which belongs to you, in your national capacity, must always exalt the just pride of Patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same Religion, Manners, Habits & political Principles. You have in a common cause fought and triumphed together—the independence and Liberty you possess are the work of joint councils, and joint efforts—of common dangers, sufferings and successes.

...To the efficacy and permanency of Your Union, a Government for the whole is indispensable. No Alliances however strict between the parts can be an adequate substitute. They must inevitably experience the infractions & interruptions which all Alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of Government better calculated than your former for an intimate Union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely

free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its Laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty. The basis of our political systems is the right of the people to make and to alter their Constitutions of Government. But the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all. The very idea of the power and the right of the People to establish Government presupposes the duty of every Individual to obey the established Government.

All obstructions to the execution of the Laws, all combinations and associations, under whatever plausible character, with the real design to direct, control[,] counteract, or awe the regular deliberation and action of the Constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force—to put in the place of the delegated will of the Nation, the will of a party; often a small but artful and enterprizing minority of the Community; and, according to the alternate triumphs of different parties, to make the public administration the Mirror of the ill-concerted and incongruous projects of faction, rather than the Organ of consistent and wholesome plans digested by common counsels and modified by mutual interests. However combinations or Associations of the above description may now & then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the Power of the People, & to usurp for themselves the reins of Government, destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your Government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of Governments as of other human institutions—that experience is the surest standard, by which to test the real tendency of the existing Constitution of a country—that facility in changes upon the credit of mere hypothesis & opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion: and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a Government of as much vigour as is consistent with the perfect security of Liberty is indispensable—Liberty itself will find in such a Government, with powers properly distributed and adjusted, its



surest Guardian. It is indeed little else than a name, where the Government is too feeble to withstand the enterprises of faction, to confine each member of the Society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of Parties in the State, with particular reference to the founding of them on Geographical discriminations. Let me now take a more comprehensive view, & warn you in the most solemn manner against the baneful effects of the Spirit of Party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human Mind. It exists under different shapes in all Governments, more or less stifled, controuled, or repressed; but, in those of the popular form, it is seen in its greatest rankness and is truly their worst enemy.

...There is an opinion that parties in free countries are useful checks upon the Administration of the Government and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in Governments of a Monarchical cast, Patriotism may look with indulgence, if not with favour, upon the spirit of party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate & assuage it. A fire not to be quenched; it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming it should consume.

It is important, likewise, that the habits of thinking in a free Country should inspire caution in those entrusted with its administration, to confine themselves within their respective Constitutional spheres, avoiding in the exercise of the Powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositaries, & constituting each the Guardian of the Public Weal against invasions by the others, has been evinced by experiments ancient and modern; some of them in our country & under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.



Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labor to subvert these great Pillars of human happiness, these firmest props of the duties of Men & citizens. The mere Politician, equally with the pious man, ought to respect & to cherish them. A volume could not trace all their connections with private & public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths, which are the instruments of investigation in Courts of Justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure—reason & experience both forbid us to expect that National morality can prevail in exclusion of religious principle.

'Tis substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free Government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote then, as an object of primary importance, Institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

...Observe good faith & justice tow[ar]ds all Nations[;] cultivate peace & harmony with all. Religion & morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period, a great Nation, to give to mankind the magnanimous and too novel example of a People always guided by an exalted justice & benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages w[hi]ch might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a Nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human Nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular Nations and passionate attachments for others should be excluded; and that, in place of them, just & amicable feelings towards all should be cultivated. The Nation, which indulges towards another a habitual hatred, or a habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one Nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate envenomed and bloody contests. The Nation, prompted by ill will & resentment, sometimes impels to War the Government, contrary

to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times it makes the animosity of the nation subservient to projects of hostility instigated by pride, ambition and other sinister & pernicious motives. The peace often, sometimes perhaps the Liberty, of Nations has been the victim.

So likewise, a passionate attachment of one Nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels & Wars of the latter, without adequate inducement or justification: It leads also to concessions to the favourite Nation of privileges denied to others which is apt doubly to injure the Nation making the concessions—by unnecessarily parting with what ought to have been retained—& by exciting jealousy, ill will, and a disposition to retaliate, in the parties from whom equal privileges are withheld: And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favourite Nation), facility to betray, or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent Patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public Councils! Such an attachment of a small or weak, towards a great & powerful Nation dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of Republican Government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real Patriots, who may resist the intrigues of the favourite, are liable to become suspected and odious; while its tools and dupes usurp the applause & confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign Nations is in extending our commercial relations to have with them as little *political* connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations & collisions of her friendships, or enmities.

Our detached & distant situation invites and enables us to pursue a different course. If we remain one People, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or War, as our interest guided by justice shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, Rivalship, Interest, Humour or Caprice?

'Tis our true policy to steer clear of permanent Alliances, with any portion of the foreign world—So far, I mean, as we are now at liberty to do it—for let me not be understood as capable of patronising infidelity to existing engagements. (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy.) I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all Nations, are recommended by policy, humanity and interest. But even our Commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favours or preferences; consulting the natural course of things; diffusing & diversifying by gentle means the streams of Commerce, but forcing nothing; establishing with Powers so disposed—in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them—conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, & liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view; that 'tis folly in one Nation to look for disinterested favours from another—that it must pay with a portion of its Independence for whatever it may accept under that character—that, by such acceptance, it may place itself in the condition of having given equivalents for nominal favours and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real

favours from Nation to Nation. 'Tis an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my Countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression, I could wish—that they will controul the usual current of the passions, or prevent our Nation from running the course which has hitherto marked the Destiny of Nations: But, if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now & then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign Intrigue, to guard against the Impostures of pretended patriotism—this hope will be a full recompence for the solicitude for your welfare, by which they have been dictated.

...With me, a predominant motive has been to endeavour to gain time to our country to settle & mature its yet recent institutions, and to progress without interruption, to that degree of strength & consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though, in reviewing the incidents of my Administration, I am unconscious of intentional error—I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my Country will never cease to view them with indulgence; and that after forty five years of my life dedicated to its Service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man, who views in it the native soil of himself and his progenitors for several Generations; I anticipate with pleasing expectation that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow Citizens, the benign influence of good Laws under a free Government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors, and dangers.

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Richard Brookhiser, *Founding Father: Rediscovering George Washington* (New York: Free Press, 1996).

Matthew Spalding and Patrick Garrity, *A Sacred Union of Citizens: George Washington's Farewell Address and the American Character* (Lanham, MD: Rowman & Littlefield, 1997).

Glenn Phelps, *George Washington and American Constitutionalism* (Lawrence, KS: University Press of Kansas, 1994).

Ron Chernow, *Washington: A Life* (New York: Penguin Press, 2010).



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# Benjamin Franklin

## Life

Benjamin Franklin was born on January 17, 1706, in Boston, Massachusetts, the youngest son of Josiah Franklin and Abiah Folger Franklin. At age 24, he married Deborah Read in Philadelphia on September 1, 1730. They had two children, Francis Folger Franklin, who died of smallpox at age four, and Sarah Franklin. Franklin also had an illegitimate son, William, from an earlier liaison. Franklin died on April 17, 1790, and is buried in Christ Church burial ground in Philadelphia. He is often called “The First American” because of his tireless promotion of colonial unity.

## Education

Franklin had almost no formal schooling. He was placed in grammar school and English school for two years (1714–1716) but was withdrawn because his family did not have the money to support his education. He was almost entirely self-taught.

## Religion

Born a Puritan in Boston, he became “a thorough Deist” by age 15 and remained so for the rest of his life, although he attended Presbyterian services for a time in Philadelphia.

## Political Affiliation

Franklin was a loyal monarchist for the first decades of his life but had become avidly pro-independence by the early 1770s. In the debates over ratification of the Constitution in the final years of his life, he supported the proposed Constitution (which he helped to write), although in some respects he was closer to the Anti-Federalist philosophy. Also in the final years of his life, Franklin became a strong voice against slavery.

## Highlights and Accomplishments

1731	Joins Freemasons
1731	Launches Library Company of Philadelphia, America’s first subscription library
1732	Writer and publisher, first edition of <i>Poor Richard’s Almanack</i>
1741	Designer, Pennsylvania fireplace (Franklin Stove); subsequent inventions include bifocals and lightning rod
1743	Publisher, proposal for what would become the American Philosophical Society
1749	Author, <i>Proposals Relating to the Education of Youth in Pensilvania</i> , leading to creation of the University of Pennsylvania
1751–1764	Elected to Pennsylvania Assembly
1753	Honorary Master of Arts, Harvard and Yale
1754	Attends Albany conference on colonial unity
1756	Admitted to Royal Society of London, Royal Society of Arts
1757, 1764	Colonial agent for Pennsylvania in London
1759	Honorary Doctor of Laws, University of St. Andrews, Scotland; thereafter known as “Dr. Franklin.”
1762	Honorary Doctor of Civil Laws, Oxford University
1769	President, American Philosophical Society
1775	Delegate to Second Continental Congress
1776	Member, committee to draft Declaration of Independence
1776	Commissioner to France on behalf of the new United States of America
1777	Admitted to Royal Medical Society of Paris
1783	Helps to negotiate Peace Treaty ending Revolutionary War
1787	Elected President of Pennsylvania Society for Promoting the Abolition of Slavery
1787	Delegate to Constitutional Convention





Benjamin Franklin by David Martin, oil on canvas, c. 1767,  
public domain.

Eripuit caelo fulmen sceptrumque tyrannis  
He seized the lightning from heaven  
And the scepter from tyrants

—*Anne Robert Jacques Turgot*<sup>1</sup>

# Benjamin Franklin: The Sage of America

**T**HERE WAS A TIME NOT TOO LONG AGO when every school child in America learned about Benjamin Franklin and his exploits; a great many read his brief *Autobiography*. Unfortunately, that time has passed as it seems regrettably to have passed for too many of America's other Founders. In Franklin's case, this is especially lamentable because Franklin addressed himself to the common man and to the young more than was generally the case with his colleagues. He directed his writing largely to the formation of popular character and had a salutary effect on that character for as long as he was widely read.

## The Life of Benjamin Franklin

Born in Boston in 1706, Franklin was older by a generation than most of his fellow Founders. The youngest son of youngest sons for five generations back, as he said with pride, Franklin made his own way in the world. He tried several trades before settling on printing, the one mechanical trade that suited his bookish and searching mind. When only 16 and a printing apprentice to his brother James, he penned a series of essays under the pseudonym Silence Dogood that were devoted to chiding the faults and encouraging the virtues of his fellow Bostonians. It was a device to which he would return again and again. After he moved to Philadelphia, he wrote as the Busy-Body, a self-proclaimed *censor morum*, and at other times as Alice Addertongue, Obadiah Plainman, Homespun, and (of course) Poor Richard, whose pithy aphorisms (many gleaned from other sources) remain part of our heritage. Franklin considered newspapers and almanacs to be "another means of communicating Instruction" to the wider public and filled his out with small, edifying pieces.<sup>2</sup> It was part of a larger educational project to which his *Autobiography* also belongs.

Franklin's curiosity extended not only to politics, morality, and theology, but also to science. Over the course of his life, he investigated natural phenomena from weather patterns to the Gulf Stream to electricity. He helped to found the [American Philosophical Society](#) to advance the cause of science in the New World. His research in electricity led to the discovery of the polarity of electrical current. His invention of the lightning rod, and many other advances, brought him international renown. He was admitted to the [Royal Society of London](#) and other European learned societies. Franklin was the only one of the Founders with an international reputation before independence, and that reputation was scientific.

After he became wealthy enough to retire from business (in his early forties), Franklin often expressed the desire to devote himself wholly to science, but the public would not let him. His reputation for selfless and sure-handed public service resulted in continual calls for more. His principle was "I shall never *ask*, never *refuse*, nor ever *resign* an office,"<sup>3</sup> and he was asked again and again. He was elected to the Pennsylvania Assembly repeatedly beginning in 1750. He was appointed deputy postmaster for the colonies in 1753 and in 1754 was a delegate to an intercolonial congress in Albany that produced the first plan for colonial political unity—a plan that, although it was rejected, planted the seeds for what eventually became the Constitution of 1787.

In 1757, he was made colonial agent for Pennsylvania in London. He lived in England for all but two of the years from 1757 to 1775, representing one or more of the colonies. These were the years when differences between the Americans and the mother country widened into an open breach. Franklin strove mightily to prevent the rupture, but when it came anyway, he devoted himself wholeheartedly to the cause of American independence and nationhood. He returned to Philadelphia in 1775, only to be sent to Paris by the Continental Congress in 1776 as representative of the new United States to the French court. There he negotiated a treaty of commerce and a defensive alliance with France that proved vital to the success of the American Revolution. Franklin also was a negotiator of the final peace treaty with Great Britain, which was signed in Paris in 1783.

Franklin returned home in 1785 and participated in the Constitutional Convention of 1787. Public knowledge that he and George Washington supported the proposed Constitution was a critical factor in securing its ultimate ratification. One of his last public acts was to sign a petition to Congress as president of the [Pennsylvania Society for Promoting the Abolition of Slavery](#) urging emancipation and the end of the slave trade. He died in April 1790, not long after the Constitution's ratification.

Although he was at the center of some of the most momentous episodes of the American Founding, Franklin's thoughts and writings were devoted more to matters of culture and popular morality than to laws and institutions. In the end, he held that institutions matter less than the character of the people who sustain them. Thus his famous response to Elizabeth Willing Powel when she inquired what kind of government the Framers had given the Americans, a republic or a monarchy: "A republic, if you can keep it."<sup>4</sup> Only a populace with the proper temper and virtues can support a free government; the task of a Founder is therefore to shape not only institutions, but popular character as well.

## Democratic Virtues

A free, egalitarian, and democratic society requires certain virtues in its citizens that are different from those that sustained the feudal and aristocratic societies of Europe. These are the virtues that Franklin aimed to identify and cultivate. Compared to feudal virtue—or the classical virtues of Aristotle or Cicero—Franklin’s virtues appear so humble as to invite ridicule. The two he praised most, industry and frugality, would scarcely be regarded as virtues by aristocratic traditions, but Franklin’s morality was designed for a new common man who must be self-reliant, a lover of liberty, and responsible in its exercise. The question that Franklin pondered—and we still must ponder—was what virtues did this common man need? In his *Autobiography*, he gave us a list of 13 virtues along with a brief gloss on each:

1. TEMPERANCE Eat not to dullness; drink not to elevation.
2. SILENCE Speak not but what may benefit others or your-self; avoid trifling conversation.
3. ORDER Let all your things have their places; let each part of your business have its time.
4. RESOLUTION Resolve to perform what you ought; perform without fail what you resolve.
5. FRUGALITY Make no expence but to do good to others or your-self: *i.e.*, waste nothing.
6. INDUSTRY Lose no time; be always employ’d in something useful; cut off all unnecessary actions.
7. SINCERITY Use no hurtful deceit; think innocently and justly; and, if you speak, speak accordingly.
8. JUSTICE Wrong none, by doing injuries, or omitting the benefits that are your duty.
9. MODERATION Avoid extreams; forbear resenting injuries so much as you think they deserve.
10. CLEANLINESS Tolerate no uncleanness in body, cloaths, or habitation.
11. TRANQUILITY Be not disturbed at trifles, or at accidents common or unavoidable.
12. CHASTITY Rarely use venery but for health or offspring, never to dulness, weakness, or the injury of your own or another’s peace or reputation.
13. HUMILITY Imitate Jesus and Socrates.<sup>5</sup>

This is a homely list, to be sure, but it is also remarkably similar to the curriculum urged today by some of those who want to revive basic moral instruction in schools. Franklin shared with them the project of laying a solid foundation for democratic citizenship. The first building blocks of that foundation are not less important for being so humble. It is important to bear in mind that Franklin’s audience was the common folk of America, not its elite. These were the people on whose virtues a prosperous democracy would be built or on whose vices it would founder.

Franklin recognized two distinctive features of American society: Americans began life with little and needed to make their own way, and America provided sufficient opportunity

that prosperity was within the reach of almost anyone who was willing to work for it. This was a recipe for tremendous economic development and social happiness, but only if the human soil were properly prepared. Our contemporaries have rediscovered the truth that even capitalism depends on certain virtues that do not appear spontaneously. Curiously, the incentive of personal prosperity—the “profit motive”—is insufficient by itself. Not only work and postponed gratification, but trust and trustworthiness are necessary to commerce, and these traits do not come into being on their own.

Franklin emphasized both the importance of these virtues and the obstacles to their development. In his 1758 *Almanack*, he strung together many of Poor Richard’s proverbs on economy as a disquisition on “The Way to Wealth” delivered by one Father Abraham. Poor Richard listens to the speech and then observes that “[t]he People heard it, and approved the Doctrine, and immediately practised the contrary.”<sup>6</sup> A premature taste for luxury, the allure of “get-rich-quick” schemes (Philadelphians were digging up the riverbanks on rumors of pirate treasure), and idle or self-destructive amusements may seduce people from the straight and narrow (if not short) path to prosperity. In so doing, they may even derail general economic health.

Franklin could be quite strict toward those who turned their back on his exhortations. Despite his affinity with the common man, he had little patience for the folly that led people astray. His reflections on the English poor laws, based on his years in London, are remarkably harsh by today’s standards. Poor laws, he thought, risked falling into that species of misdirected charity that “tends to flatter our natural indolence, to encourage idleness and prodigality, and thereby to promote and increase poverty, the very evil it was intended to cure.”<sup>7</sup> Legitimate relief is one thing, but in excess, “may it not be found fighting against the order of God and Nature, which perhaps has appointed Want and Misery as the proper Punishments for, and Cautions against as well as necessary consequences of Idleness and Extravagancy.”<sup>8</sup> Franklin earnestly wished for the well-being of the common man but was firm in his insistence that it be earned. Only in this way would the social, as well as the individual, good be served.

## Social Entrepreneurship

The economic virtues are so prominent in Franklin’s writing because of their importance to his audience, but they are the foundation or beginning of his moral teaching, not the whole of it. He did not consider prosperity to be either the only purpose in life or the only requisite of personal happiness or a healthy republic. Economic self-reliance is but one aspect of the sturdy individualism that democracy requires. It is only a precondition of the other-regarding virtues of citizenship proper. For Franklin, the heart of morality is doing good to one’s fellow man. The core principle of his theology was that “the most acceptable service of God was the doing good to man.”<sup>9</sup>

In Franklin’s own life, this service took many forms. His legendary ingenuity was an inexhaustible source of ideas for public benefit. His scientific observations produced the lightning rod and the Franklin stove. He conceived the American Philosophical Society as an instrument for the spread of “Useful Knowledge” to the benefit of mankind. His

*Autobiography* presents for our imitation his efforts to improve night watches, streetlights and street cleaning, and his organizing of fire and civil defense brigades. He mustered support for the first public library, hospital, and school in Philadelphia.

In relating these episodes, Franklin wished not to impress us with his own greatness, but to lay out a model of public-spirited social entrepreneurship. Franklin was firmly of the opinion that “one man of tolerable abilities may work great changes” for the good if he forms a plan and pursues it diligently.<sup>10</sup> Not exceptional ability, but a devotion to the public good and the discipline to pursue it were the qualities upon which Franklin relied. These are qualities that many may share, and Franklin wished as many as possible to share them. He was not against government taking over many of the tasks he described, but he saw that the health of a democratic society rests on individuals’ willingness to devote time to the public good. Poor Richard once counseled, “The first Mistake in publick Business, is the going into it,”<sup>11</sup> but there are many opportunities for public-spirited action outside of politics, and as Tocqueville was to argue later, a successful democracy must have citizens able and willing to seize those opportunities.<sup>12</sup> Poor Richard, like Silence Dogood and the Busy-Body before him, insistently, if gently, pushed his readers to good citizenship. Franklin’s *Autobiography* does the same while showing the way to higher forms of public service—even politics—for those with the talent and the time for them.

## The Role of Religion

One striking aspect of Franklin’s list of virtues is that it contains no specifically religious element. Jesus is mentioned but only as an example, along with Socrates, of “Humility.” Franklin outlined the evolution of his religious thinking in the *Autobiography*. While still in Boston, he read books of “polemic Divinity,”<sup>13</sup> mostly attacks on Deism that he found in his father’s library. As a result, Franklin tells us, he became “a thorough Deist” by the time he was 15.<sup>14</sup> His unconventional religious beliefs, together with his fondness for disputation, eventually led the Puritans of Boston to view him with “horror” as an “Infidel or Atheist.”<sup>15</sup> This was one reason he left Boston for Philadelphia.

Deism is a theology based on rationality rather than revelation. It holds that observation and contemplation of nature provide enough proof of God’s existence—the exquisite order and beauty of the heavens and of the natural world in general must be the product of a good and wise god. Many educated Europeans and Americans during this period were Deists, including some of the principal American Founders such as George Washington and Thomas Jefferson. Deists are not Christians because they do not believe in the divinity of Jesus. The story of Jesus comes from revelation, which rationalist Deism does not recognize. Many Deists, like Franklin, regarded Jesus as a great moral teacher but not divine. In a letter to the Puritan divine Ezra Stiles in the final weeks of his life, Franklin said the divinity of Jesus is “a question I do not dogmatize upon, having never studied it, and think it needless to busy myself with it now, when I expect soon an opportunity of knowing the truth with less trouble.”<sup>16</sup>

Franklin also requested that Stiles not divulge the contents of this communication to others, fearing that it might lead people to believe that he disapproved of their religious beliefs. In his *Autobiography*, Franklin wrote that his early Deism had the effect of corrupting



some of his friends, who then wronged Franklin “without the least compunction.”<sup>17</sup> As a result, he said, he altered his theology to better support morality. The minimalist version of Deism posits a “watchmaker god” who puts together the cosmic mechanism, sets it in motion, and then walks away, so to speak, leaving the mechanism to run on its own. Such a god never intervenes to keep things running properly, not even in the human realm. We’re on our own, without Divine Providence to right wrongs or correct our errors. The later Franklin, like many other Deists, postulated instead a providential god who desires our happiness and dispenses rewards and punishments here and in an afterlife.

From then on, Franklin was friendly to all religious sects but with a caveat. He supported all that came to him for financial contributions, believing that all the religions in the colonies performed the principal task of religion, which is to support individual and communal morality. The caveat was that his support was more or less enthusiastic depending on how well individual sects performed that task. Franklin ranked the different sects depending on how well they served it or how much they detracted from it. But this was in the privacy of his thoughts—he never disparaged anyone’s religion publicly. Thus his request to Stiles not to share his private thoughts on religion.

Intolerance is a large strike against any sect in Franklin’s way of thinking. Intolerance pits citizen against citizen, damaging the moral community of the whole. It is also premised on a false idea of God. God wants us to love and assist each other, not persecute each other on the basis of what Franklin and Franklin’s god regarded as mere theological quibbles. In his *Autobiography*, Franklin tells us that he stopped attending Presbyterian services when he saw the minister focused more on dogma than on moral teaching, the aim “seeming to be rather to make us Presbyterians than good Citizens.”<sup>18</sup> He was dismayed when the Quakers, who dominated Pennsylvania politics, made it difficult to fund the military defense of the colony because of their religiously based pacifism. When the danger became great enough, however, they swept their pacifism under the rug. Franklin’s conclusion was that “common sense aided by present danger will sometimes be too strong for whimsical opinions.”<sup>19</sup> Franklin supported both the Presbyterians and the Quakers, but these examples show his dissatisfaction with the way many Christian sects embraced extraneous and even harmful doctrines that detracted from the true purpose of religion.

## Education for Liberty

Economic self-reliance and public-spirited citizenship presuppose the political liberty that is necessary for both to flourish. Political liberty, in turn, requires free institutions and a public character that will sustain them. Franklin’s attempt to secure this character is seen in a set of proposals he penned for a public school in Philadelphia. “Genius without Education is like Silver in the Mine,”<sup>20</sup> wrote Poor Richard, and Franklin proposed to “mine” this genius with a new approach to education. Rejecting the European model, which emphasized classical learning and catered to the needs and tastes of a privileged class, Franklin wished his students to learn principally what they would need to be efficient tradesmen and vigilant democratic citizens. For trade, his pupils learned basic mathematics and accounting, clear writing, and living rather than dead languages.



Franklin's education for democratic citizenship was more complex. He conveyed this education principally through the study of history. To Franklin, the vividness of historical example drives home the advantages of virtue and the disadvantages of vice, illustrates the importance of public religion, and reveals the superiority of Christianity in this role. History also teaches the great advantages of society, how it serves the security and property of men as well as the advancement of arts and human comforts. Finally, it makes students sensible of "The Advantages of *Liberty*, Mischiefs of *Licentiousness*, Benefits arising from good Laws and a due Execution of Justice, &c. Thus may the first Principles of sound *Politicks* be fix'd in the Minds of Youth."<sup>21</sup> Franklin educated his pupils to a sage and vigilant citizenship. Thomas Jefferson reflected the same aspiration in his educational writings. Democratic citizens must cultivate certain personal virtues, but they must also become aware of the social preconditions of liberty and learn to recognize the threats to it. This requires a fairly sophisticated political education. In his *Autobiography*, Franklin suggested that the spread of public libraries in the colonies, a trend he began in Philadelphia, played a role in the vigilance of the colonists on behalf of their liberties and their willingness to stand "in defence of their privileges."<sup>22</sup>

The sturdy individualism that begins with economic self-reliance culminates for Franklin in an enlightened jealousy for political liberty. His political curriculum aimed to foster this vigilance and pugnacity in the American character.

## Democracy and Leadership

Though Franklin's primary goal was the diffusion of enlightenment and democratic virtues throughout the populace, he was also concerned with cultivating leadership. Many in the "neo-classical" 18th century were inspired by ancient models of leadership, such as Cato or Brutus or Publius, but Franklin undertook the project of devising a new type of leadership appropriate for the coming democratic age. To be sure, leadership is a less pressing need in a healthy democratic society in which the public-spirited virtues Franklin describes have wide currency. In a sense, these virtues spread leadership in the form of citizen initiative across the population, but that does not eliminate entirely the need for great leadership from the best citizens.

The democratic and egalitarian milieu creates some obstacles to leadership, especially leadership above the norm. Aristocratic societies embody a principle of deference—an acknowledgment of superiority in some and a presumption of their right to lead. In an egalitarian society, the reverse is almost true: Pretensions to superiority are resented, and leadership itself may be called into question. This is a direct consequence of democracy's insistence on the equality of men, individualism, and self-reliance.

Franklin learned early in life that anyone who presents himself too much as a leader risks creating resistance, and he sought to develop a style of leadership capable of guiding free people without offending them. In an egalitarian society, an authoritative or domineering style is self-defeating. Rather than persuading men, it offends their pride and accomplishes nothing. When dealing with pugnacious egalitarians, a humble presentation is more effective and creates more pleasant social relations in the bargain.

Franklin discovered that even a “useful project, that might be suppos’d to raise one’s reputation in the smallest degree above that of one’s neighbors” stirs resentment that may derail the project. No matter how beneficial the project might be, some would refuse to follow if they thought it would elevate the leader above the rest. Franklin therefore began to present his projects as the initiative of “*a number of friends*” or “*public-spirited Gentlemen*,” even if the initiative was wholly his.<sup>23</sup> This greatly smoothed the way by removing the issue of personal credit or honor. Besides, Franklin wryly noted, if someone else tried to take credit for the project, envy itself would unmask the pretender and return the credit to him.

He who would lead in an egalitarian society must disguise his leadership or lead by stealth, as it were. This was one of Franklin’s most important lessons for those who would advance the public good in a democratic milieu. He applied it systematically. He formed one group, the Junto, as a private forum for discussion and surreptitious instrument for leading public opinion. One of the functions of the group was to brainstorm publicly beneficial ideas. If the group found and embraced one, its members were to drum up wider support without revealing their cabal as the source. We find in Franklin’s writings more than one blueprint for such secret societies of virtuous men who would use their collective but hidden influence to move public affairs toward the good. He similarly exerted leadership through alter egos—Silence Dogood, the Busy-Body, Poor Richard—who were disarming in their ordinariness and allowed him to remain in the background.

It was not that Franklin was secretive or conspiratorial by nature or that he had a fundamental distrust of the democratic public. He did not chafe at these restrictions on his leadership, for they are rooted in the very virtues that he wished to cultivate. In the aristocratic societies of Europe, leadership and honor were limited largely to the aristocrats; in egalitarian America, they were the province of all. Franklin’s moral education depended on allowing ordinary people equal status, equal pride of ownership, and equal right to self-advancement. Resentment of pretensions to superiority is one consequence of this and has the salutary effect of rousing the people to resist any encroachments on their liberties or privileges. This prickly republican pride is one of the political bulwarks of democracy, but it does make leadership more difficult. Franklin’s advice for those who aspire to higher leadership was to accommodate this pride rather than resent it, given the greater good it causes.

Besides, in the long run, reputation always accrues to a trustworthy leader. In Philadelphia, this reputation became so great that people became reluctant to support any proposed project unless it was known that Franklin supported it.

## American Sage

Franklin was more interested in democratic culture and its health than many others in the Founding generation were, and his thoughts on the subject are still timely today. When we wonder afresh at the underpinnings of a healthy democratic culture and whether we still possess them, Franklin offers us guidance. His work, written at a time when American democracy was just maturing from its colonial roots, had much the same perspective. It led him to a concern for certain key virtues that his countrymen needed to develop or solidify. First were economic virtues like industry and frugality. These are the virtues Poor Richard

emphasizes most, the virtues with which Franklin is typically identified. The reason is that economic independence, honestly achieved, is the precondition of all else in a nation where inherited wealth is a rarity and self-reliance is a trait with more than economic implications. The sturdy individualism it fosters is the backbone of the American political system.

But this individualism must be wedded to a love of liberty; pride is here its ally. It must also be informed and tempered by an understanding of the social preconditions of liberty with a clear eye to liberty's beneficial effects and the threats to it. Finally, our self-reliant individualists must become public-spirited citizens. Democracy requires a concern for the common good and a willingness to exert oneself to advance it, to be diffused throughout the populace. Some of Franklin's most vigorous efforts were devoted to cultivating this in his fellow citizens. His greatest monument is an *Autobiography* that shows us how a life dedicated to all these virtues—public-spiritedness above all—can be supremely happy and supremely enviable.

STEVEN FORDE

## SELECTED PRIMARY WRITINGS

### “The Busy-Body, No. 1” (February 4, 1728)<sup>24</sup>

Mr. Andrew Bradford,

I design this to acquaint you, that I, who have long been one of your *Courteous Readers*, have lately entertain'd some Thoughts of setting up for an Author my Self; not out of the least Vanity, I assure you, or Desire of showing my Parts, but purely for the Good of my Country.

I have often observ'd with Concern, that your *Mercury* is not always equally entertaining. The Delay of Ships expected in, and want of fresh Advices from Europe, make it frequently very Dull; and I find the Freezing of our River has the same Effect on News as on Trade. With more Concern have I continually observ'd the growing Vices and Follies of my Country-folk. And tho' Reformation is properly the concern of every Man; that is, *Every one ought to mend One*; yet 'tis too true in this Case, that *what is every Body's Business is no Body's Business*, and the Business is done accordingly. I, therefore, upon mature Deliberation, think fit to take *no Body's Business* wholly into my own Hands; and, out of Zeal for the Publick Good, design to erect my Self into a Kind of *Censor Morum*; proposing with your Allowance, to make Use of the *Weekly Mercury* as a Vehicle in which my Remonstrances shall be convey'd to the World.

I am sensible I have, in this Particular, undertaken a very unthankful Office, and expect little besides my Labour for my Pains. Nay, 'tis probable I may displease a great Number of your Readers, who will not very well like to pay 10s. a Year for being told of their Faults. But as most People delight in

Censure when they themselves are not the Objects of it, if any are offended at my publickly exposing their private Vices, I promise they shall have the Satisfaction, in a very little Time, of seeing their good Friends and Neighbours in the same Circumstances.

However, let the Fair Sex be assur'd, that I shall always treat them and their Affairs with the utmost *Decency* and Respect. I intend now and then to dedicate a Chapter wholly to their Service; and if my Lectures any Way contribute to the Embellishment of their Minds, and Brightning of their Understandings, without offending their *Modesty*, I doubt not of having their Favour and Encouragement.

'Tis certain, that no Country in the World produces naturally finer Spirits than ours, Men of Genius for every kind of Science, and capable of acquiring to Perfection every Qualification that is in Esteem among Mankind. But as few here have the Advantage of good Books, for want of which, good Conversation is still more scarce, it would doubtless have been very acceptable to your Readers, if, instead of an old out-of-date Article from Muscovy or Hungary, you had entertained them with some well-chosen Extract from a good Author. This I shall sometimes do, *when I happen to have nothing of my own to say that I think of more Consequence*. Sometimes, I propose to deliver Lectures of Morality or Philosophy, and (because I am naturally enclin'd to be meddling with Things that don't concern me) perhaps I may sometimes talk Politicks. And if I can by any means furnish out a Weekly Entertainment for the Publick, that will give a rational Diversion, and at the same Time be instructive to the Readers, I shall think my Leisure Hours well employ'd: And if you publish this I hereby invite all ingenious Gentlemen and others, (that approve of such an Undertaking) to my Assistance and Correspondence.

'Tis like by this Time you have a Curiosity to be acquainted with my Name and Character. As I do not aim at publick Praise I design to remain concealed; and there are such Numbers of our Family and Relations at this Time in the Country, that tho' I've sign'd my Name at full Length, I am not under the least Apprehension of being distinguish'd and discover'd by it. My Character indeed I would favour you with, but that I am cautious of praising my Self, lest I should be told *my Trumpeter's dead*: And I cannot find in my Heart, at present, to say any Thing to my own Disadvantage.

It is very common with Authors in their first Performances to talk to their Readers thus, *If this meets with a SUITABLE Reception; Or, If this should meet with DUE Encouragement, I shall hereafter publish, &c.* This only manifests the Value they put on their own Writings, since they think to frighten the Publick into their Applause, by threatning, that unless you approve what they have already wrote, they intend never to write again; when perhaps, it mayn't be a Pin Matter whether they ever do or no. As I have not observ'd the Criticks to be more favourable on this Account, I shall always avoid saying any Thing of the Kind; and conclude with telling you, that if you send

me a Bottle of Ink and a Quire of Paper by the Bearer, you may depend on hearing further from Sir, Your most humble Servant[.]

**“Standing Queries for the Junto” (1732)<sup>25</sup>**

Previous question, to be answer’d at every meeting.

Have you read over these queries this morning, in order to consider what you might have to offer the Junto [touching] any one of them? viz.

1. Have you met with any thing in the author you last read, remarkable, or suitable to be communicated to the Junto? particularly in history, morality, poetry, physic, travels, mechanic arts, or other parts of knowledge.

2. What new story have you lately heard agreeable for telling in conversation?

3. Hath any citizen in your knowledge failed in his business lately, and what have you heard of the cause?

4. Have you lately heard of any citizen’s thriving well, and by what means?

5. Have you lately heard how any present rich man, here or elsewhere, got his estate?

6. Do you know of any fellow citizen, who has lately done a worthy action, deserving praise and imitation? or who has committed an error proper for us to be warned against and avoid?

7. What unhappy effects of intemperance have you lately observed or heard? of imprudence? of passion? or of any other vice or folly?

8. What happy effects of temperance? of prudence? of moderation? or of any other virtue?

9. Have you or any of your acquaintance been lately sick or wounded? If so, what remedies were used, and what were their effects?

10. Who do you know that are shortly going voyages or journies, if one should have occasion to send by them?

11. Do you think of any thing at present, in which the Junto may be serviceable to *mankind*? to their country, to their friends, or to themselves?

12. Hath any deserving stranger arrived in town since last meeting, that you heard of? and what have you heard or observed of his character or merits? and whether think you, it lies in the power of the Junto to oblige him, or encourage him as he deserves?

13. Do you know of any deserving young beginner lately set up, whom it lies in the power of the Junto any way to encourage?

14. Have you lately observed any defect in the laws of your *country*, [of] which it would be proper to move the legislature for an amendment? Or do you know of any beneficial law that is wanting?

15. Have you lately observed any encroachment on the just liberties of the people?

16. Hath any body attacked your reputation lately? and what can the Junto do towards securing it?

17. Is there any man whose friendship you want, and which the Junto or any of them, can procure for you?

18. Have you lately heard any member's character attacked, and how have you defended it?

19. Hath any man injured you, from whom it is in the power of the Junto to procure redress?

20. In what manner can the Junto, or any of them, assist you in any of your honourable designs?

21. Have you any weighty affair in hand, in which you think the advice of the Junto may be of service?

22. What benefits have you lately received from any man not present?

23. Is there any difficulty in matters of opinion, of justice, and injustice, which you would gladly have discussed at this time?

24. Do you see any thing amiss in the present customs or proceedings of the Junto, which might be amended?

Any person to be qualified, to stand up, and lay his hand on his breast, and be asked these questions; viz.

1. Have you any particular disrespect to any present members?

*Answer.* I have not.

2. Do you sincerely declare that you love mankind in general; of what profession or religion soever? *Answer.* I do.

3. Do you think any person ought to be harmed in his body, name or goods, for mere speculative opinions, or his external way of worship? *Answer.* No.

4. Do you love truth's sake, and will you endeavour impartially to find and receive it yourself and communicate it to others? *Answer.* Yes.

### **“Self-Denial Not the Essence of Virtue” (February 18, 1735)<sup>26</sup>**

To the Printer of the *Gazette*.

*That SELF-DENIAL is not the ESSENCE OF VIRTUE.*

It is commonly asserted, that without *Self-Denial* there is no Virtue, and that the greater the *Self-Denial* the greater the Virtue.

If it were said, that he who cannot deny himself in any Thing he inclines to, tho' he knows it will be to his Hurt, has not the Virtue of *Resolution* or *Fortitude*, it would be intelligible enough; but as it stands it seems obscure or erroneous.

Let us consider some of the Virtues singly.

If a Man has no inclination to *wrong* People in his Dealings, if he feels no Temptation to it, and therefore never does it; can it be said that he is not a just Man? If he is a just Man, has he not the Virtue of Justice?

If to a certain Man, idle Diversions have nothing in them that is tempting, and therefore he never relaxes his Application to Business for their Sake; is he not an Industrious Man? Or has he not the Virtue of Industry?



I might in like manner instance in all the rest of the Virtues: But to make the Thing short, As it is certain, that the more we strive against the Temptation to any Vice, and practise the contrary Virtue, the weaker will that Temptation be, and the stronger will be that Habit; 'till at length the Temptation has no Force, or entirely vanishes: Does it follow from thence, that in our Endeavours to overcome Vice, we grow continually less and less Virtuous; till at length we have no Virtue at all?

If Self-Denial be the Essence of Virtue, then it follows, that the Man who is naturally temperate, just, &c. is not virtuous; but that in order to be virtuous, he must, in spite of his natural Inclinations, wrong his Neighbours, and eat and drink, &c. to excess.

But perhaps it may be said, that by the Word *Virtue* in the above Assertion, is meant, *Merit*; and so it should stand thus; Without Self-Denial there is no Merit; and the greater the Self-Denial the greater the Merit.

The Self-denial here meant, must be when our Inclinations are towards Vice, or else it would still be Nonsense.

By Merit is understood, Desert; and when we say a Man merits, we mean that he deserves Praise or Reward.

We do not pretend to merit any thing of God, for he is above our Services; and the Benefits he confers on us, are the Effects of his Goodness and Bounty.

All our Merit then is with regard to one another, and from one to another.

Taking then the Assertion as it last stands,

If a Man does me a Service from a natural benevolent Inclination, does he deserve less of me than another who does me the like Kindness against his Inclination?

If I have two Journeymen, one naturally industrious, the other idle, but both perform a Days Work equally good, ought I to give the latter the most Wages?

Indeed, lazy Workmen are commonly observ'd to be more extravagant in their Demands than the Industrious; for if they have not more for their Work, they cannot live so well: But tho' it be true to a Proverb, *That Lazy Folks take the most Pains*, does it follow that they deserve the most Money?

If you were to employ Servants in Affairs of Trust, would you not bid more for one you knew was naturally honest, than for one naturally roguish, but who had lately acted honestly? For Currents whose natural Channel is damm'd up, (till the new Course is by Time worn sufficiently deep and become natural,) are apt to break their Banks. If one Servant is more valuable than another, has he not more Merit than the other? And yet this is not on Account of Superior Self-denial.

Is a Patriot not praise-worthy, if Publick Spirit is natural to him?

Is a Pacing-Horse less valuable for being a natural Pacer?

Nor in my Opinion has any Man less Merit for having in general natural virtuous Inclinations.



The Truth is, that Temperance, Justice, Charity, &c. are Virtues, whether practis'd with or against our Inclinations; and the Man who practises them, merits our Love and Esteem: And Self-denial is neither good nor bad, but as 'tis apply'd: He that denies a Vicious Inclination is Virtuous in proportion to his Resolution, but the most perfect Virtue is above all Temptation, such as the Virtue of the Saints in Heaven: And he who does a foolish, indecent or wicked Thing, meerly because 'tis contrary to his Inclination, (like some mad Enthusiasts I have read of, who ran about naked, under the Notion of taking up the Cross) is not practising the reasonable Science of Virtue, but is lunatick.

**Speech at the End of the Constitutional Convention** (September 17, 1787)<sup>27</sup>

Mr President

I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many Instances of being oblig'd, by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men indeed as well as most Sects in Religion, think themselves in possession of all truth, and that wherever [sic] others differ from them it is so far error. Steele, a Protestant in a Dedication tells the Pope, that the only Difference between our Churches in their opinions of the certainty of their doctrines is, the Church of Rome is infallible, and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility, as of that of their sect, few express it so naturally as a certain french lady, who in a dispute with her sister, said "I don't know how it happens, Sister, but I meet with no body but myself that's always in the right." — *Il n'y a que moi qui a toujours raison.*"

In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other. I doubt too whether any other Convention we can obtain may be able to make a better Constitution: For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an Assembly can a perfect production be expected? 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. The opinions I have had of its errors, I sacrifice to the public good — I have never whispered a syllable of them abroad — Within these Walls they were born, and here they shall die — If every one of us in returning to our Constituents were to report the objections he has had to it, and endeavor to gain partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects & great advantages resulting naturally in our favor among foreign Nations as well as among ourselves, from our real or apparent unanimity. Much of the strength & efficiency of any Government in procuring and securing happiness to the people, depends on opinion, on the general opinion of the goodness of that Government...as well as of the wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress & confirmed by the Conventions) wherever our influence may extend, and turn our future thoughts & Endeavors to the means of having it well administered.

On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility — and to make manifest our unanimity, put his name to this instrument....

## RECOMMENDED READINGS

- Walter Isaacson, *Benjamin Franklin: An American Life* (New York: Simon & Schuster, 2004).
- Edmund S. Morgan, *Benjamin Franklin* (New Haven, CT: Yale University Press, 2002).
- Richard Munson, *Ingenious: A Biography of Benjamin Franklin* (New York: W. W. Norton, 2024).
- Lorraine Smith Pangle, *The Political Philosophy of Benjamin Franklin* (Baltimore: Johns Hopkins University Press, 2007).
- Kevin Slack, *Benjamin Franklin, Natural Right, and the Art of Virtue* (Rochester, NY: University of Rochester Press, 2017).
- David Waldstreicher, *Runaway America: Benjamin Franklin, Slavery, and the American Revolution* (New York: Hill and Wang, 2004).
- Jerry Weinberger, *Benjamin Franklin Unmasked: On the Unity of His Moral, Religious, and Political Thought* (Lawrence, KS: University Press of Kansas, 2005).



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# Thomas Paine

## Life

Thomas Paine was born January 29, 1737, in Thetford, county of Norfolk, England. He was the son of Joseph Pain and Frances Cocke Pain (spelling changed to “Paine” by Thomas). After spending some of his teenage years at sea, Paine went to work as a corset-maker and then as a tax collector. He married twice: in 1757 to Mary Lambert, who died in childbirth, and in 1771 to Elizabeth Ollive, from whom he separated in 1774, the year he emigrated to America. He had no children. Paine died on June 8, 1809, in New York City.

## Education

Paine attended village primary school from ages six to 13 and thereafter was self-taught with interests in public affairs and science.

## Religion

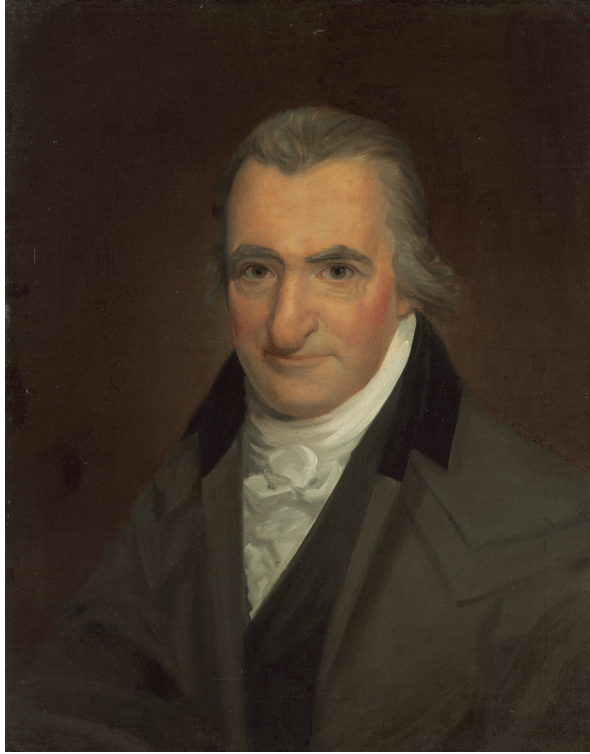
Quaker (by upbringing), Deist

## Political Affiliation

British Whig, American Patriot, French Girondin

## Highlights and Accomplishments

1775	Author, <i>Common Sense</i>
1775–1776	Editor, <i>Pennsylvania Magazine</i>
1776–1783	Author, <i>The American Crisis</i>
1776–1783	Aide-de-camp to General Nathanael Greene
1777–1779	Secretary to the Committee of Foreign Affairs of the Continental Congress
1780	Clerk of the Pennsylvania Assembly
1781	Fundraising mission to France
1787	Travel to England to promote design of iron bridge
1791, 1792	Author, <i>Rights of Man</i>
1792	Indictment for seditious libel in England; flight to France; tried and convicted in absentia
1792–1793, 1795	Member of French National Convention
1793–1794	Arrest and imprisonment in France
1794, 1795, 1807	Author, <i>Age of Reason</i>
1795	Author, “Dissertation on First Principles of Government”
1795–1796	Author, <i>Agrarian Justice</i>
1802	Return to America



Thomas Paine by John Wesley Jarvis, c. 1806–1807,  
National Gallery of Art, public domain.

[O]ur people, my good friend, are firm and unanimous in their principles of republicanism, and there is no better proof of it than that they love what you write and read it with delight.... Go on then in doing with your pen what in other times was done with the sword: show that reformation is more practicable by operating on the mind than on the body of man, and be assured that it has not a more sincere votary, nor you a more ardent well-wisher than...Your friend & servt....

—*Thomas Jefferson to Thomas Paine, June 19, 1792*<sup>1</sup>

# Thomas Paine: Agitator for Revolution

## Paine in America (1774–1787)

Thomas Paine began writing his pamphlet *Common Sense* about a year after coming to America as a penniless immigrant. The colonies had spent the preceding 10 years remonstrating with the British government about taxes and assorted other grievances. Their complaining came to a head in 1774 following Parliament's passage of the Coercive Acts<sup>2</sup> in response to the Boston Tea Party.<sup>3</sup> But few of the delegates to the Continental Congress<sup>4</sup> assembled in Philadelphia yet thought in terms of independence. A return to the status quo was still the dominant position as declared by Congress (Declaration and Resolves, 1774) and as urged by such prominent individuals as Thomas Jefferson (*Summary View of the Rights of British America*, 1774) and James Wilson (*Considerations on the Nature and Extent of the Legislative Authority of the British Parliament*, 1774). In the fall of 1775, John Dickinson persuaded the Pennsylvania Assembly to instruct its delegates to Congress to vote against independence if anyone dared to propose it. Eventually, Richard Henry Lee of Virginia did propose it on July 2, 1776. Paine's pamphlet appeared in January 1776. Widely read, reprinted, and distributed, it turned public opinion in favor of independence.

*Common Sense* consists of four parts: an explanation of the origin and purpose of government; an attack on monarchy and the principle of hereditary succession; a defense of separation and independence from Britain against supporters of reconciliation; and an assurance that America could prevail in the coming war (in addition to sundry miscellaneous items).

Government is distinct from society, Paine averred, for society (a blessing) satisfies our wants while government (a necessary evil) polices our wickedness. The first government was an assembly of similarly situated people (gathered under the branches of a tree) issuing regulations enforced by public opinion. As numbers multiplied and distances increased,

representatives replaced the people assembled, and frequent elections kept those representatives true to their trusts while preventing the emergence of a permanent ruling class. Simplicity was the hallmark of this government; freedom and security were its purposes.

To Paine, the much-heralded mixed government of Great Britain,<sup>5</sup> with power divided among the king, noblemen, and commoners, was a gross departure from the true nature of government. Its complexity cloaked responsibility and invited abuse. Only the Commons—the popular, or republican, part—contributed to freedom; the monarchical and aristocratic parts were remnants of ancient tyrannies. The supposed balance among the three parts—thought to be liberty-preserving and the reason why Britain’s system of government surpassed all others—was unsustainable because power gravitated to the monarchical part, which was able to subordinate the other parts by dispensing positions and pensions. With the ascendancy of the monarch, security was lost because kings had little else to do besides make war.

The elevation of one man and family above the general population was, to Paine, an affront to human equality, and the perpetuation of their descendants in power through hereditary succession was a dangerous absurdity. The offspring did not inherit the qualities of the parent, and some successors were but children at the point of succession. If the stated reason for monarchy was stability or that hereditary succession prevented civil wars, the English example provided conclusive evidence to the contrary: Since the Norman Conquest in 1066, England had suffered, by Paine’s count, eight civil wars and 19 rebellions. Moreover, the first of these kings, William the Conqueror, was but a bastard-born French bandit who installed himself as king by force.

American colonists, having lived under British rule for a century and a half, could be excused for thinking that survival in a dangerous world depended on maintaining their allegiance to the Crown. But America was threatened, Paine thought, not by impending separation from Britain, but rather by continued connection to a country whose enemies were America’s enemies only because of that association. Moreover, those who cited ties of affection to the mother country should realize that not Britain alone, but all of Europe, was America’s true parent, as immigrants had come from all corners of the continent. The great distance separating Britain from America and the difficulty of administering from afar further made the case for independence, in addition to which the British king had no interest in seeing America flourish, for a flourishing America would become a larger, richer, and more powerful competitor state, exposing the folly of an island attempting to rule a continent.

Britain, Paine argued, was not as indomitable as she might have seemed. Even though her navy was by far the world’s largest, it patrolled the globe, and only a fraction of the fleet was available for service in America. A colonial navy one-20th the size of Britain’s should be enough to neutralize Britain’s advantage. The materials for building it were plentiful, the sailors to man it were in sufficient supply, and the debt incurred would help to bind the colonies together. Assistance from France and Spain would be denied if America saw herself as a British colony, currently disgruntled but wanting to be welcomed back into the empire. On the other hand, a declaration of independence would announce to the world that America was a separate country ready for partnership and trade.



## Paine in England (1787–1792)

After the Treaty of Paris, which concluded the Revolutionary War in 1783, Paine shifted his attention from public affairs to scientific pursuits. In addition to his many other inventions (for example, a smokeless candle), he designed a single-span iron bridge meant to cross the Schuylkill River at Philadelphia. When he could not secure the financial backing that construction required, he sailed to Europe in April 1787, a month before the delegates to the Constitutional Convention assembled in Philadelphia, hoping to market his design. Back and forth across the Channel he went, consulting with engineers, manufacturers, and persons of influence. He spent the early months of the French Revolution (November 1789–March 1790) in France and the spring and summer of 1790 in London constructing a dry-land demonstration bridge (this one for the Thames River) that remained on public display for a year.

Then, in November 1790, Edmund Burke published his *Reflections on the Revolution in France*. Paine knew Burke, corresponded with him, and judged him to be a true friend of republican revolution much like himself, for Burke had vigorously supported the American cause as a member of Parliament. But Burke's *Reflections* was a total denunciation of the French Revolution. Paine thought differently about events in France and hurriedly wrote a rebuttal in a book titled *Rights of Man*, the first part of which appeared in March 1791.

The point of departure for both authors was England's Glorious Revolution of 1688, which deposed one monarch, James II, and installed another—two, in fact—James's nephew, William of Orange, and James's daughter, Mary, who was William's wife. The Declaration of Right, drafted for the occasion, tried to explain how the line of succession could thus be adjusted.

In 1789, an association called the Revolution Society, which met annually in London to commemorate the Revolution of 1688, hosted Richard Price, a dissenting minister and pamphleteer. In an imagined address to the king, Price praised him “as almost the only lawful King in the world, because the only one who owes his crown to the choice of the people.”<sup>6</sup> Price then listed among the principles of the Revolution the people's right “to choose [their] own governors, to cashier them for misconduct, and to frame a government for [them]selves.”<sup>7</sup> He concluded by describing the French Revolution as an extension of the English Revolution.

Price's address, “*A Discourse on the Love of Our Country*,” was what spurred Burke to action. Responding in his *Reflections*, Burke countered that the Declaration of Right, far from establishing the right of the people to choose their governors, cashier their governors, and frame government anew, did all it could to hide the implication of such rights—which, if they ever existed, were then and forever renounced—and to reaffirm the principle of hereditary succession.<sup>8</sup> The current king, insisted Burke, held title to the throne as an inheritance from his ancestors and “in contempt of the choice of the Revolution Society.”<sup>9</sup>

In *Rights of Man*, Paine admitted—as he had to—that monarchs after James II were hereditary heirs and not the product of popular choice.<sup>10</sup> That being the case, in what sense could it be said that the Revolution of 1688 had conferred and ever since enshrined the people's three rights of self-rule: to choose, to cashier, and to frame for themselves?

Paine began by distinguishing a delegated right from an assumed right. Parliament, said Paine, exercised a delegated right (delegated by those who elected its members) when

it deposed James II, but it exercised an assumed right when it prohibited future Parliaments from doing the same. Assumed rights are an abuse—an abuse for which James II was cashiered.

Paine's guiding principle was that all generations are free and equal, discrete and disconnected; they are not bound by their ancestors, nor can they presume to bind their descendants. Laws that continue in force through successive generations do so with the consent (even if it is only tacit) of the living, not because past laws cannot be repealed. They can be repealed, and a corollary to the above principle explains why: "As government is for the living, and not for the dead, it is the living only that has any right in it."<sup>11</sup>

Paine traced the source of rights to man's creation by God. All religions, Paine affirmed, testify to the unity and equality of man as a species, each of whose members, of whatever time or place, is endowed with the same rights. These rights are called natural rights. They include the rights of the mind and the right to act in pursuit of comfort and happiness.

The second category of rights is civil rights. Civil rights belong to man by virtue of his membership in society, just as natural rights belong to man by virtue of his existence. Civil rights derive from natural rights, specifically those natural rights that cannot be enjoyed in society because individuals lack the power to exercise them. Personal security and judgment are examples. The right to be a judge of one's own cause—a right of the mind—continues, but the right to seek redress is surrendered because without the power of enforcement the right is ineffectual. Three conclusions follow: (1) a civil right is a natural right surrendered; (2) civil power is the aggregate of these surrendered rights, whose purposes (such as security) are achievable only by the collective; and (3) civil power cannot be used to invade those natural rights retained (such as freedom of conscience).

In line with the social-contract theory of the day,<sup>12</sup> Paine held that society is formed by a compact among the people, while legitimate government is formed by a constitution made by the people. No compact exists between the people and the government because government is the creation of the people, its deputy, and not an equal partner. The work of a constitution is to organize the offices of government, to confer on each its powers, to devise restraining mechanisms, and to state the principles by which government should act and be bound. A constitution, furthermore, should be written (following the American example) to serve as a guide and check on government lawmaking. Government makes law in compliance with the constitution, which is made by the people or their representatives.

Accordingly, Paine believed that England's government since the time of William the Conqueror had been illegitimate. It was founded on force, and its rights, rather than delegated, were assumed. England, in fact, had no constitution worthy of the name. What passed for a constitution—and was called such by Burke—was the slow, piecemeal reclaiming of assumed rights over a period of centuries, beginning with Magna Carta.<sup>13</sup> England, argued Paine, should have "expelled the usurpation" in its entirety,<sup>14</sup> as did the French, whose constitution was superior to the English constitution, so-called, across a wide range of indices, including representation, terms of office, war and peace, and religious tolerance.

Paine waited almost a year before bringing out Part II of *Rights of Man*. He explained in the preface that he wished to test the public reception accorded to Part I and that he was waiting for a promised reply from Burke. Robust sales testified to the popularity of Paine's ideas, and the promised reply never came; Burke wrote another book instead.

Though Paine returned to many of the topics covered in Part I and in *Common Sense*, his remarks sounded more radical the second or third time around. For example, society is natural, practically self-regulating, and capable of existing without government, while government is an imposition (not even a necessary evil), often undermining order instead of providing it. All previous governments (not just Britain's) had their founding in banditry, after which the bandit became the monarch, plunder became revenue, and usurpation became inheritance. Hereditary monarchy is not only insulting to human equality (treating the population, like the land, as inherited property), but also incompetent, or at best accidentally competent, because good governance depends on the uncertain character of the ruler, who is wholly the ruler whether immature, idiotic, or foreign-born. How can one individual, sequestered in a palace, come by the practical knowledge needed to rule society in all its manifold parts?

Government that accords with nature satisfies two requirements: It is devoted to the common good and has the requisite knowledge to achieve the common good. A republic (*res publica*, Latin for "public benefit") satisfies the first requirement, and a representative democracy satisfies the second (in fact, a representative democracy is sometimes called a republic). The ancients were unfamiliar with representation, and when their democratic polities grew in population and territory, the resulting unruliness allowed monarchs to come to power. But representative democracy can expand indefinitely and still cohere, obviating the need for monarchy to restore order. Moreover, talent is best discovered and best utilized by representative democracy, which is like the hub of a wheel with elected representatives as spokes, bringing vital information to the center. Monarchy lives under the conceit that talent is transmitted by hereditary descent.

Up to this point, Paine had written from the vantage of a libertarian, favoring small government, low taxes, maximum liberty, and a self-regulating society naturally disposed to peace and harmony. That changed in the last chapter of Part II, "Ways and Means of Improving the Condition of Europe..." Here Paine sounded the part of a social democrat, espousing free-spending and big government responsible for the welfare of the poor.

What triggered this turnabout was a close study of the British government's budget for the year ending September 1788 and the revenues raised to support it. Paine calculated that interest on the national debt accounted for £9,000,000 of the £17,000,000 collected in taxes and annual expenses accounted for £8,000,000. Looking back to the budgets of less extravagant and more peaceful times, Paine figured that with the elimination of waste and the creation of alliances, the government could reduce its cost to £1,500,000. When subtracted from the £8,000,000 in annual expenses (the £9,000,000 debt had to be serviced), a surplus of £6,500,000 would remain for poor relief, education, child support, old-age and veteran benefits, and stipends for specific groups adversely affected by the change. Taxes on the poor would end, and a progressive tax on the rich would be instituted. Other proposals with a modern ring included opinion polls, election reform, and taxes on capital gains.

In a later pamphlet, *Agrarian Justice* (1795–1796), Paine continued in this vein, proposing an inheritance tax of 10 percent on landed and personal property, from which revenue a stipend of £15 would be paid to the young upon reaching maturity (age 21) and £10 annually would be paid to the elderly (age 50) until their deaths (effectively the same as the U.S. Social Security system).<sup>15</sup>

## Paine in France (1792–1802)

Paine published *Rights of Man*, Part II, in February 1792. In May, the British government indicted him for seditious libel; in September, he fled to France; and in December, he was convicted in absentia.

In France, Paine was elected to the French National Convention representing Pas-de-Calais, despite his status as a foreigner and inability to speak the language. The Convention's charge was to write a fully republican constitution without a monarch as executive. A year later, during the ascendancy of the Jacobin faction, Maximilien Robespierre, its leader, ordered the arrest and imprisonment of Paine, who had aligned himself with the comparatively moderate Girondin faction. It was late December 1793 at the height of the Reign of Terror.<sup>16</sup>

For seven months, Paine was confined in the Luxembourg Prison awaiting likely execution. His time came in July 1794, when a jailer marked his cell door with chalk, signifying that Paine was among those slated for beheading in the morning, but a remarkable twist of fate intervened to save his life: The cell door that day was open to the corridor, and the inattentive jailer marked the inside of the door. When morning came, the jailer on duty, seeing no mark on the outside of the door, passed by Paine's cell. A few days later, on July 27, Robespierre fell from power, and Paine was spared his date with the guillotine, though he remained in prison for another three months until early November. The following year, he reclaimed his seat in the Convention.

Paine spent his over 10 months of incarceration writing *Age of Reason*, Part I (Part II followed in 1795). The book mounted an uncompromising, closely argued critique of revealed religion, especially Christianity. In a biographical statement tucked inside, Paine admitted that from an early age, Christianity had repelled him because he found it intellectually unsatisfying and morally distasteful.

A few of Paine's objections are worth noting here: (1) Revelation is not revelation except to the immediate recipient; for everyone else, it is hearsay—and what is a Church built on hearsay? (2) Biblical stories have suspiciously pagan antecedents, such as Jesus Christ, Son of God, born of a woman and the woman-born progeny sired by Jupiter, or Satan cast into hell and the rebellious race of Giants buried under a mountain—might comfortable familiarity with pagan antecedents be the origin of these and other biblical stories? (3) Church Fathers (or as Paine preferred, “Mythologists”) authenticated the books of the Bible by the all-too-human method of voting—but what would count as the Word of God if the vote had come out differently?

For Paine, the Word of God is creation, not the Bible hampered as it is by all the limitations of language. Creation is known directly by human reason pondering the ways of nature. The products of reason's investigations are the sciences and their practical applications. The sum of the sciences—together called “natural philosophy” with astronomy at the center—is true theology, and scientific inquiry is true worship, revealing the power, wisdom, munificence, and mercy of God.

It was of utmost importance to Paine that God created multiple worlds rather than just one: “[A]ll our knowledge of science is derived from the revolutions...which those several planets or worlds of which our system is composed make in their circuit round the Sun.”<sup>17</sup> The ancients recognized a multiplicity of worlds, but their astronomical discoveries were for centuries suppressed by Christianity, whose story of creation (in six days), the fall (Adam

and Eve expelled from the garden), and redemption (Christ as savior) implies but a single world (“Are we to suppose that every world in the boundless creation had an Eve, an apple, a serpent, and a redeemer?”).<sup>18</sup> The ancients invented science; Christianity persecuted science, the trial of Galileo being a prime example.

Paine’s own faith was that of a Deist.<sup>19</sup> He believed in a single creator God known by reason; he believed that religious duty consists of fair and kindly treatment of fellow human beings, all of whom are equal; and he hoped for happiness in an afterlife that imitation of God’s goodness might bring him.

## Paine Back in America (1802–1809)

Paine returned to a frosty reception in America. His attack on Christianity, while congenial enough to the antireligious French, earned him the contempt of most Americans. Just as destructive was his intemperate letter to President George Washington, written in 1795 and published in 1796, when no reply was received. Paine accused Washington of having cooperated in his imprisonment and of having done nothing to help secure his release. Paine further impugned Washington’s military accomplishments and attacked Washington’s Administration, charging it with pusillanimity toward the British and ingratitude toward the French. Only after Thomas Jefferson became President (1801), and upon invitation from Jefferson, did Paine return to America.

Paine lived out his remaining days on his farm in New Rochelle, New York. The farm was a long-ago gift from the Continental Congress. There he resumed his literary labors, conveying his thoughts on current affairs in letters addressed “To the Citizens of the United States” (1802–1803 and 1805); submitting a memorandum to the U.S. Congress on his designs for an iron bridge (1803); gracing Pennsylvanians, busy drafting their third state constitution, with his latest reflections on constitutional reform (1805); and publishing the third part of *Age of Reason* (1807).

Paine died on June 8, 1809, in New York City. His death went largely unnoticed, and only six people attended the funeral. His remains were buried on his farm because the local Quakers would not allow burial in their graveyard as Paine had requested in his will. In 1819, William Cobbett, a like-minded English radical, exhumed the body and transported it to England for reburial on a site worthy of a great man. Nothing came of these plans, and after a time, the bones of Thomas Paine vanished.

JOHN PATRICK COBY

## SELECTED PRIMARY WRITINGS

### “Dissertation on First Principles of Government” (1795)<sup>20</sup>

The true and only true basis of representative government is equality of Rights. Every man has a right to one vote, and no more in the choice



of representatives. The rich have no more right to exclude the poor from the right of voting, or of electing and being elected, than the poor have to exclude the rich; and whenever it is attempted, or proposed, on either side, it is a question of force and not of right. Who is he that would exclude another? That other has a right to exclude him.

That which is now called aristocracy implies an inequality of right; but who are the persons that have a right to establish this inequality? Will the rich exclude themselves? No. Will the poor exclude themselves? No. By what right then can any be excluded? It would be a question, if any man or class of men have a right to exclude themselves; but, be this as it may, they cannot have the right to exclude another. The poor will not delegate such a right to the rich, nor the rich to the poor, and to assume it is not only to assume arbitrary power, but to assume a right to commit robbery. Personal rights, of which the right of voting for representatives is one, are a species of property of the most sacred kind: and he that would employ his pecuniary property, or presume upon the influence it gives him, to dispossess or rob another of his property or rights, uses that pecuniary property as he would use fire-arms, and merits to have it taken from him.

Inequality of rights is created by a combination in one part of the community to exclude another part from its rights. Whenever it be made an article of a constitution, or a law, that the right of voting, or of electing and being elected, shall appertain exclusively to persons possessing a certain quantity of property, be it little or much, it is a combination of the persons possessing that quantity to exclude those who do not possess the same quantity. It is investing themselves with powers as a self-created part of society, to the exclusion of the rest.

It is always to be taken for granted, that those who oppose an equality of rights never mean the exclusion should take place on themselves; and in this view of the case, pardoning the vanity of the thing, aristocracy is a subject of laughter. This self-soothing vanity is encouraged by another idea not less selfish, which is that the opposers conceive they are playing a safe game, in which there is a chance to gain and none to lose; that at any rate the doctrine of equality includes *them*, and that if they cannot get more rights than those whom they oppose and would exclude they shall not have less. This opinion has already been fatal to thousands, who, not contented with *equal rights*, have sought more till they lost all, and experienced in themselves the degrading *inequality* they endeavoured to fix upon others.

In any view of the case it is dangerous and impolitic, sometimes ridiculous, and always unjust to make property the criterion of the right of voting. If the sum or value of the property upon which the right is to take place be considerable it will exclude a majority of the people and unite them in a common interest against the government and against those who support it; and as the power is always with the majority, they can overturn such a government and its supporters whenever they please.

If, in order to avoid this danger, a small quantity of property be fixed, as the criterion of the right, it exhibits liberty in disgrace, by putting it in competition with accident and insignificance. When a broodmare shall fortunately produce a foal or a mule that, by being worth the sum in question, shall convey to its owner the right of voting, or by its death take it from him, in whom does the origin of such a right exist? Is it in the man, or in the mule? When we consider how many ways property may be acquired without merit, and lost without crime, we ought to spurn the idea of making it a criterion of rights.

But the offensive part of the case is that this exclusion from the right of voting implies a stigma on the moral character of the persons excluded; and this is what no part of the community has a right to pronounce upon another part. No external circumstance can justify it: wealth is no proof of moral character; nor poverty of the want of it. On the contrary, wealth is often the presumptive evidence of dishonesty; and poverty the negative evidence of innocence. If therefore property, whether little or much, be made a criterion, the means by which that property has been acquired ought to be made a criterion also.

The only ground upon which exclusion from the right of voting is consistent with justice would be to inflict it as a punishment for a certain time upon those who should propose to take away that right from others. The right of voting for representatives is the primary right by which other rights are protected. To take away this right is to reduce a man to slavery, for slavery consists in being subject to the will of another, and he that has not a vote in the election of representatives is in this case. The proposal to disenfranchise any class of men is as criminal as the proposal to take away property. When we speak of right we ought always to unite with it the idea of duties: rights become duties by reciprocity. The right which I enjoy becomes my duty to guarantee it to another, and he to me; and those who violate the duty justly incur a forfeiture of the right.

In a political view of the case, the strength and permanent security of government is in proportion to the number of people interested in supporting it. The true policy therefore is to interest the whole by an equality of rights, for the danger arises from exclusions. It is possible to exclude men from the right of voting, but it is impossible to exclude them from the right of rebelling against the exclusion; and when all other rights are taken away the right of rebellion is made perfect.

While men could be persuaded they had no rights, or that rights appertained only to a certain class of men, or that government was a thing existing in right of itself, it was not difficult to govern them authoritatively. The ignorance in which they were held, and the superstition in which they were instructed, furnished the means of doing it. But when the ignorance is gone, and the superstition with it; when they perceive the imposition that has been acted upon them; when they reflect that the cultivator and the manufacturer are the primary means of all the wealth that exists in the world, beyond what



nature spontaneously produces; when they begin to feel their consequences by their usefulness, and their right as members of society, it is then no longer possible to govern them as before. The fraud once detected cannot be re-enacted. To attempt it is to provoke derision, or invite destruction.

That property will ever be unequal is certain. Industry, superiority of talents, dexterity of management, extreme frugality, fortunate opportunities, or the opposite, or the means of those things, will ever produce that effect, without having recourse to the harsh, ill-sounding names of avarice and oppression; and besides this there are some men who, though they do not despise wealth, will not stoop to the drudgery or the means of acquiring it, nor will be troubled with it beyond their wants or their independence; while in others there is an avidity to obtain it by every means not punishable; it makes the sole business of their lives, and they follow it as a religion. All that is required with respect to property is to obtain it honestly, and not employ it criminally; but it is always criminally employed when it is made a criterion for exclusive rights.

In institutions that are purely pecuniary, such as that of a bank or a commercial company, the rights of members composing that company are wholly created by the property they invest therein; and no other rights are represented in the government of that company than what arise out of that property; neither has that government cognizance of *anything but property*.

But the case is totally different with respect to the institution of civil government, organized on the system of representation. Such a government has cognizance of *everything*, and of *every man* as a member of the national society, whether he has property or not; and, therefore, the principle requires that *every man*, and *every kind of right*, be represented, of which the right to acquire and to hold property is but one, and that not of the most essential kind. The protection of a man's person is more sacred than the protection of property; and besides this, the faculty of performing any kind of work or services by which he acquires a livelihood, or maintaining his family, is of the nature of property. It is property to him; he has acquired it; and it is as much the object of his protection as exterior property, possessed without that faculty, can be the object of protection in another person.

I have always believed that the best security for property, be it much or little, is to remove from every part of the community, as far as can possibly be done, every cause of complaint, and every motive to violence, and this can only be done by an equality of rights. When rights are secure, property is secure in consequence. But when property is made a pretence for unequal or exclusive rights, it weakens the right to hold the property, and provokes indignation and tumult; for it is unnatural to believe that property can be secure under the guarantee of a society injured in its rights by the influence of that property....

An enquiry into the origin of Rights will demonstrate to us that *rights* are not *gifts* from one man to another, nor from one class of men to another;

for who is he who could be the first giver, or by what principle, or on what authority, could he possess the right of giving? A declaration of rights is not a creation of them, nor a donation of them. It is a manifest of the principle by which they exist, followed by a detail of what the rights are; for every civil right has a natural right for its foundation, and it includes the principle of a reciprocal guarantee of those rights from man to man. As, therefore, it is impossible to discover any origin of rights otherwise than in the origin of man, it consequently follows, that rights appertain to man in right of his existence only, and must therefore, be equal to every man. The principle of an *equality of rights* is clear and simple. Every man can understand it, and it is by understanding his rights that he learns his duties; for where the rights of men are equal, every man must finally see the necessity of protecting the rights of others as the most effectual security for his own....

In a state of nature all men are equal in rights, but they are not equal in power; the weak cannot protect themselves against the strong. This being the case, the institution of civil society is for the purpose of making an equalization of powers that shall be parallel to, and a guarantee of, the equality of rights. The laws of a country, when properly constructed, apply to this purpose. Every man takes the arm of the law for his protection as more effectual than his own; and therefore every man has an equal right in the formation of the government, and of the laws by which he is to be governed and judged. In extensive countries and societies, such as America and France, this right in the individual can only be exercised by delegation, that is, by election and representation; and hence it is that the institution of representative government arises.

Hitherto, I have confined myself to matters of principle only. First, that hereditary government has not a right to exist; that it cannot be established on any principle of right; and that it is a violation of all principle. Secondly, that government by election and representation has its origin in the natural and eternal rights of man; for whether a man be his own lawgiver, as he would be in a state of nature; or whether he exercises his portion of legislative sovereignty by his own person, as might be the case in small democracies where all could assemble for the formation of the laws by which they were to be governed; or whether he exercises it in the choice of persons to represent him in a national assembly of representatives, the origin of the right is the same in all cases. The first, as is before observed, is defective in power; the second, is practicable only in democracies of small extent; the third, is the greatest scale upon which human government can be instituted.

Next to matters of *principle* are matters of *opinion*, and it is necessary to distinguish between the two. Whether the rights of men shall be equal is not a matter of opinion but of right, and consequently of principle; for men do not hold their rights as grants from each other, but each one in right of himself. Society is the guardian but not the giver. And as in extensive societies, such as America and France, the right of the individual in matters of

government cannot be exercised but by election and representation, it consequently follows that the only system of government consistent with principle, where simple democracy is impracticable, is the representative system....

## **Rights of Man, Part II (1792)<sup>21</sup>**

I will conclude this work with stating in what light religion appears to me.

If we suppose a large family of children, who, on any particular day, or particular circumstance, made it a custom to present to their parent some token of their affection and gratitude, each of them would make a different offering, and most probably in a different manner. Some would pay their congratulations in themes of verse or prose, by some little devices, as their genius dictated, or according to what they thought would please; and, perhaps, the least of all, not able to do any of those things, would ramble into the garden, or the field, and gather what it thought the prettiest flower it could find, though, perhaps, it might be but a simple weed. The parent would be more gratified by such variety, than if the whole of them had acted on a concerted plan, and each had made exactly the same offering. This would have the cold appearance of contrivance, or the harsh one of control. But of all unwelcome things, nothing could more afflict the parent than to know, that the whole of them had afterwards gotten together by the ears, boys and girls, fighting, scratching, reviling, and abusing each other about which was the best or worst present.

Why may we not suppose, that the great Father of all is pleased with variety of devotion; and that the greatest offence we can act, is that by which we seek to torment and render each other miserable....

It is now towards the middle of February. Were I to take a turn into the country, the trees would present a leafless winterly appearance. As people are apt to pluck twigs as they walk along, I perhaps might do the same, and by chance might observe, that a *single bud* on that twig had begun to swell. I should reason very unnaturally, or rather not reason at all, to suppose *this* was the *only* bud in England which had this appearance. Instead of deciding thus, I should instantly conclude, that the same appearance was beginning, or about to begin, everywhere; and though the vegetable sleep will continue longer on some trees and plants than on others, and though some of them may not *blossom* for two or three years, all will be in leaf in the summer, except those which are *rotten*. What pace the political summer may keep with the natural, no human foresight can determine. It is, however, not difficult to perceive that the spring is begun. Thus wishing, as I sincerely do, freedom and happiness to all nations, I close the SECOND PART.

## RECOMMENDED READINGS

Gregory Claeys, *Thomas Paine: Social and Political Thought* (Boston: Unwin Hyman, 1989).

Eric Foner, *Tom Paine and Revolutionary America* (New York: Oxford University Press, 2005).

Harvey Kaye, *Thomas Paine: Firebrand of the Revolution* (New York: Oxford University Press, 2000).

Yuval Levin, *The Great Debate: Edmund Burke, Thomas Paine, and the Birth of Right and Left* (New York: Basic Books, 2014).

Mark Philip, *Thomas Paine* (Oxford: Oxford University Press, 2007).

Vikki J. Vickers, *"My Pen and My Soul Have Ever Gone Together": Thomas Paine and the American Revolution* (New York & London: Routledge, 2006).



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# Patrick Henry

## Life

Patrick Henry was born May 29, 1736, in Hanover County, Virginia, the second of nine children born to John Henry and Sarah Winston Syme Henry. In 1754, he married Sarah Shelton (Henry), with whom he had six children. Sarah died in 1775, and he subsequently married his second wife, Dorothea Dandridge (Henry), with whom he had 11 children. He is best known for the “Liberty or Death” oration, delivered in 1775. Henry died at his Red Hill plantation in Charlotte County, Virginia, on June 6, 1799.

## Education

Henry had little formal schooling but received a thorough classical and Christian education from his father, John Henry, and uncle, also named Patrick Henry, who was rector of Saint Paul’s Anglican parish in Hanover, Virginia. Henry was also self-educated as a lawyer and passed the bar exam in 1760.

## Religion

Henry was a lifelong Anglican, though he was also deeply influenced by evangelical Presbyterian minister Samuel Davies of Hanover County, whose rhetorical skills he greatly admired.

## Party Affiliation

During the debates over ratification of the Constitution, Henry was Virginia’s most outspoken Anti-Federalist, but in the 1790s, he aligned with the Federalist Party of George Washington, partly because of his long-standing rivalry with James Madison and Thomas Jefferson, who were becoming leaders of the newly formed Republican Party.

## Highlights and Accomplishments

1765–1776	Virginia House of Burgesses
1774–1775	First Continental Congress
1776–1779	Governor of Virginia
1779–1784	Virginia House of Delegates
1784–1786	Governor of Virginia
1787–1790	Virginia House of Delegates
1788	Virginia Ratifying Convention
1799	Virginia House of Delegates



Patrick Henry by George Bagby Matthews, 1883, oil on canvas, Library of Virginia, State Artwork Collection.

[M]r Henry's talents as a popular orator...were great indeed; such as I have never heard from any other man. He appeared to me to speak as Homer wrote.

—*Thomas Jefferson*, Notes on Early Career,  
*January 6–July 29, 1821*



# Patrick Henry: Defender of American Liberty

**P**ATRICK HENRY WAS ONE OF VIRGINIA'S MOST POPULAR and influential statesmen during the American Founding era. He was also one of the most radical leaders of the opposition to British colonial policies in America. Henry was one of the first colonists to speak out against the [Stamp Act](#) in 1765 and to call for defensive preparations against the British army in 1775. The latter occasion led him to give his "[Liberty or Death](#)" oration, the speech for which he is best known today. During the debates over ratification of the Constitution, he was one of Virginia's leading and most outspoken Anti-Federalists, a position that pitted him against his fellow Virginian James Madison, the "Father of the Constitution." Henry saw his opposition to the Constitution as animated by the same basic concerns that had earlier led him to oppose British tax policies: the fear of unchecked government power, which he regarded as the greatest threat to American liberty.

## Early Life and Entrance into Virginia Law and Politics

Patrick Henry was born in 1736 on a plantation in Hanover County, Virginia. Like his fellow Virginian George Washington, Henry never went to college, but he received a thorough, if informal, education from his father, John, and his uncle, an Anglican minister also named Patrick Henry. When Henry was a boy, his mother Sarah would take him to the Presbyterian church of Samuel Davies of Hanover County, where he was deeply impressed by Davies's learned but zealous revival preaching in the late stages of the First Great Awakening. The Awakening was an upsurge in Christian fervor that peaked across the colonies in the early 1740s with ministers calling on people to be "born again" to true faith in Jesus Christ. Henry would later recall that Davies was the best orator he ever heard, which was quite a compliment coming from the man many regarded as the finest speaker of the Revolutionary generation.

Like most of the southern Founders, Henry became a plantation owner and slave master as a young man. The Virginia economy was inextricable from agriculture and slavery, but Henry never regarded slavery as an ideal situation, either morally or socially. When pressed by anti-slavery figures in the 1770s to free his slaves, Henry admitted that economic necessity was his chief motivation for remaining attached to the institution even though slavery contradicted his views of Christian morality. Unfortunately, Henry did little to help the Founding generation to extricate themselves from the chief moral problem of the era.

While continuing to oversee his farms, Henry taught himself enough about the laws of England and Virginia to gain admission to the bar in 1760. His legal practice occasioned his first clash against British authority in the colonies: the [Parsons' Cause](#) of 1763. In the 1750s, Virginia had enacted measures to regulate the salaries of public officials, including Anglican parsons, who were effectively state employees because of Virginia's established denomination, the Church of England. The ministers, angered because they saw these measures as unjust reductions in their pay, sought legal redress in England to recoup their losses. In 1763, Henry helped to defend Virginia vestries who paid the ministers' salaries, and he turned the case into a defense of colonial autonomy against meddling British power. Henry proclaimed that if the king of England disallowed legitimate colonial laws, he "degenerated into a Tyrant" who no longer deserved the colonists' obedience. Such incendiary language against the king had rarely been used in America, but the jury was persuaded and awarded the minister in the case one penny in damages.<sup>1</sup>

## The Stamp Act

Cases such as the Parsons' Cause elevated Henry to a higher political profile. He became a member of the colonial legislature, the Virginia House of Burgesses, in 1765. Almost immediately after he had joined this body, news arrived of the British Parliament's passage of the Stamp Act, which imposed a tax on almost all printed goods used in the colonies, including legal papers, newspapers, and more. New tax laws usually did not please the colonists, especially because they were not directly represented in Parliament. The only way they could register their opposition to measures like the Stamp Act was to complain from a distance.

Henry introduced strident resolutions against the Stamp Act despite being new to the legislature. The resolutions insisted that the English colonists in America had the same political rights that people in England had. Henry also argued for the principle of "no taxation without representation"—the idea that taxation was such a dangerous legislative power that only a people's direct representatives could rightly exercise it. If legislators voted to tax their constituents, the constituents must have the power to vote them out of office; otherwise, legislators were sure to abuse their taxing authority. Finally, Henry's resolutions concluded that only the Virginia legislature rightly had the power to tax Virginians. Newspapers also reported a few more resolutions (probably not introduced by Henry) that were even more radical, suggesting that colonists should actively resist any attempt to impose taxes on them without their direct consent.

Henry's speech on the Stamp Act was just as stirring as the resolutions. In it, he even implied that if King George III kept claiming undue authority over the colonies, some brave patriot would likely assassinate him. This was an outrageous thing to say, and the Speaker of the House chastised Henry, saying it was treasonous. One dubious but oft-repeated account of the speech has Henry replying, "If this be treason, make the most of it!" The limited reliable sources surrounding this moment suggest that Henry apologized and backed away from his shocking statement about the king's assassination. He admitted that sometimes he let his passion for American liberty get the best of him.<sup>2</sup>

## The Growing Crisis with Britain

After Britain repealed the Stamp Act, Henry kept attending periodically to the emerging political standoff with Britain even as he dealt with local legislative matters and personal affairs. Henry had a growing family, along with law cases and land deals that took up much of his time before the mid-1770s, and as popular as he was, he was not what we would call a "career politician." He could win most any office he sought in Virginia but often seemed more interested in tending to his farm, family, and private business than he was in enhancing his political career.

Nevertheless, when controversies stoked tension with British authorities, Henry was often the first to speak out in defense of American rights. As the colonies dealt with the ominous British reaction to the Boston Tea Party late in 1773, Henry gave scintillating speeches against the Coercive Acts. These acts cracked down on the Patriot movement in Boston, and Henry warned that if the British could deprive Bostonians of their right of self-determination, Virginians surely would be next. His Virginia Patriot colleague George Mason wrote admiringly that Henry was "by far the most powerful speaker I ever heard.... He is in my opinion the first man upon this continent, as well in abilities as public virtues...." Mason believed that if Henry had lived during the golden age of the Roman Republic, he would have stood out as one of its greatest leaders. This was high praise, as American leaders saw the Roman Republic as an exemplar of well-ordered liberty.<sup>3</sup>

The Coercive Acts led to the convening of the First Continental Congress in Philadelphia. In 1774, Henry, George Washington, and five other Virginia leaders were selected to attend the Congress. The colonies had little experience in cooperating with one another except to the extent that they were part of the broader British Empire. Echoing the English philosopher John Locke and calling for a new kind of American unity, Henry declared at the Congress that "We are in a State of Nature.... The Distinctions between Virginians, Pennsylvanians, New Yorkers and New Englanders, are no more. I am not a Virginian, but an American."<sup>4</sup>

## Liberty or Death

For Henry and the Virginians, the question of resistance to Britain reached a watershed moment in March 1775 when delegates attended the Virginia Convention at St. John's

Anglican Church in Richmond. It seemed likely that conflict would break out soon between the Patriot resistance and the British military in Massachusetts, the colony that had been the center of unrest against British power. More cautious Virginians wanted to keep appealing to the king and Parliament for redress of colonial grievances. Henry, however, had already seen the colonists make such appeals for a decade to no avail. He believed it was time to accept the inevitable and prepare for war.

Henry's call for military preparedness resulted in his "Liberty or Death" oration, the defining speech of his career and arguably the most powerful speech of the entire Revolution. Surprisingly, we do not have the original text of Henry's oration, so it was recreated several decades later by a biographer who interviewed people who had been there (Henry had passed away by this time). Even in the speech's reconstructed form, a reader can readily appreciate the raw energy of Henry's rhetoric. "Three millions of people armed in the holy cause of liberty," he proclaimed, "and in such a country as that which we possess, are invincible by any force which our enemy can send against us."<sup>5</sup>

Even on a close reading, we might miss the fact that the relatively short speech is teeming with references to the Bible, befitting Henry's background in the church and exposure to revivalist preaching. Some biblical references are easily recognizable, such as his warning to Americans not to allow themselves to be "betrayed with a kiss," referencing the disciple Judas's betrayal of Jesus in the gospels. Other references are more obscure, with several coming from the Prophet Jeremiah of the Hebrew Bible.

The Bible was not Henry's only source for the speech, of course. The climactic line "give me liberty or give me death" drew from the popular play *Cato, A Tragedy*, by Joseph Addison. Cato, the great Roman orator, had said in the play that "It is not now a time to talk of ought / But chains, or conquest; liberty, or death." Founders such as Henry framed much of their understanding of political developments by reference to classical and Christian antiquity.

## War and Independence

Henry's call to arms carried the day at the Virginia Convention, and the momentum even led Henry to involve himself in military affairs. Soon after the Virginia Convention began to prepare for war, the royal governor of Virginia seized a cache of gunpowder from Williamsburg, depriving the Patriots of a possible supply of munitions. Henry then led a militia company to Williamsburg either to recapture the gunpowder or to secure compensation for it. The royal government in Virginia declared Henry a rebel and forbade colonists from offering him support. Henry had little experience in military matters, and it became clear that Virginians would look to other leaders to command the militia.

In the months leading up to the colonies' Declaration of Independence in July 1776, Henry and other Virginia leaders had begun preparations for becoming an independent state, which required a new state constitution and Declaration of Rights. Henry, George Mason, James Madison, and others worked to craft these important documents. Henry was especially involved in framing the 16th article of the Declaration of Rights: its statement on religious liberty. Virginia's formal relationship with the Anglican Church had been tested in the late colonial era when non-Anglican "dissenters," including Quakers, Presbyterians,

and Baptists, became more common. Baptists suffered especially harsh treatment from Anglican officials and county sheriffs in Virginia in the years just before the Revolution.

Virtually all Virginia leaders agreed in 1776 that active persecution of dissenters should cease. Some leaders, such as Madison and Thomas Jefferson, wanted to see Virginia make a clear separation between church and state. Others, such as Henry, realized that the state must afford liberty of conscience to all but also believed that Christianity was too important for the state to drop any connection with Christian denominations. The 16th article asserted that “all men are equally entitled to the free exercise of religion, according to the dictates of conscience,” but did not clarify whether it was intended to disestablish the Anglican Church completely.<sup>6</sup> (“Free exercise” would reappear in the First Amendment to the U.S. Constitution in 1791.)

The Virginia Convention selected Henry as the independent state’s first governor, befitting his prominence among Virginia leaders. George Washington was probably the only figure in the state who would have been a more natural choice as governor, but he had become the commander of the Continental Army and spent much of the war leading the fight against the British regular army in the northern states. A good portion of Henry’s work as governor involved coordinating with Washington and other American officials on the war effort.

Henry and Washington sometimes disagreed bitterly about using short-term state militiamen versus longer-term Continental soldiers, whom Washington believed he could discipline into an effective fighting force. However, Henry’s fundamental loyalty to Washington was unshakeable. He did Washington a great favor in 1777 when some Americans tried to enlist Henry in a back-channel campaign to have Washington removed as army commander. Henry immediately told Washington about the plot and said he would have nothing to do with it.

## Political Rivalries and Religious Liberty

As political alignments matured in Revolutionary Virginia, Henry increasingly found himself at odds with Madison and Jefferson. His differences with Madison were largely over matters of policy, including church–state separation. The split between Jefferson and Henry was more personal and became especially bitter because of a controversy over Jefferson’s service as governor of Virginia. Jefferson’s term followed Henry’s departure from the office in 1779. When the British invaded Virginia in 1781, Jefferson was nearly captured at his Monticello home. His term as governor was almost up, and in his panicked flight from the British, Jefferson effectively left the state without a chief magistrate. Critics said this was dereliction of the governor’s duties, and Henry prompted a brief legislative investigation of Jefferson’s behavior.

Whether this investigation was fair or not, Jefferson blamed Henry for questioning his integrity and never forgave him for it. Even though Jefferson was serving as an American diplomat in France during much of the 1780s, he and Madison regularly corresponded about the frustrations caused by Henry’s opposition to their plans for legislative and constitutional reform.

A major priority for Madison and Jefferson was passing Jefferson's Bill for Establishing Religious Freedom, which he had written before he left for France. During the war, Virginia had effectively defunded the Anglican Church, more as a wartime exigency than as a principled commitment to religious freedom. When the [Treaty of Paris](#) formally ended the Revolutionary War in 1783, supporters of the established church wanted funding to resume. Henry and others, however, realized that the time for a single established church had passed. Henry proposed instead that Virginia adopt a "general assessment for religion." Under this plan, Virginians would still be required to pay a religious tax, but they could designate which denomination would receive the funds. This arrangement would have reflected a compromise between the traditional system of an established church and the new reality of religious pluralism in the state.

However, Madison and Jefferson, joined by many evangelical dissenters (especially Baptists), wanted the state to stop forcing people to give money to religious groups altogether. They believed that only the free exercise of religion prevented government corruption of Christianity. When Henry left the legislature to serve again as governor, the way was open for Madison to shepherd the [Bill for Establishing Religious Freedom](#) to enactment in 1786. Henry represented a common view among the Founders that states could honor religious liberty while also providing direct support for religion. Jefferson, Madison, and the Baptists won the day, however, with their promotion of religious freedom and the end to Virginia's direct aid to churches.

## The Battle over the Constitution

The [Articles of Confederation](#), a simple, state sovereignty-based system of government, was the nation's first constitution. By the mid-1780s, most American leaders agreed that the Articles needed revision because of the inability and unwillingness of the states to cooperate for constructive national purposes. However, the Articles themselves made the adoption of amendments almost impossible. The result was a crisis of political reform.

Henry initially expressed some interest in revising the Articles, but he and many others came to fear that the campaign to amend or replace the Articles would result in a "consolidated" national government. They regarded a consolidated system as the opposite of the republican ideal of dispersed power. Southerners like Henry were especially worried that northern leaders would be open to actions that would devastate the southern economy if they were able to commandeer the national legislature. Such troubling measures included negotiating away navigation rights to the Mississippi River, an idea that was proposed in 1786 to the dismay of many southerners.

Madison and Alexander Hamilton took the lead in the national effort to replace the Articles with a new constitution that would be less beholden to the states and would locate the government's sovereign authority in "the people." Delegates were selected to attend the Constitutional Convention in Philadelphia in 1787. As usual, Virginia chose Henry as one of the state's delegates, but Henry fatefully refused to attend the Convention. When questioned later why he declined, he said, "I smelt a rat!" Whether or not Henry was entirely aware of the changes that Madison, Hamilton, and others intended to make in Philadelphia, he was



ultimately alarmed by the result of the Constitutional Convention. When the Convention called for the states to hold ratifying conventions, Henry summoned all his rhetorical powers in the Virginia Ratifying Convention to defeat the Constitution in his state.

During the ratification process, Henry became aligned with the Anti-Federalists. The Anti-Federalists opposed Madison, Hamilton, and the pro-Constitution cohort, who became known as the Federalists. These were not formal political parties, but simply the people who were for and against the Constitution. Many Americans have found it difficult to understand why figures like Henry would have opposed the Constitution, given its brilliance and enduring quality. Henry explained his Anti-Federalist stance the same way he justified his opposition to Britain in the Revolution: his fear of the loss of Americans' rights and liberties.

Anti-Federalists had a variety of concerns about the proposed Constitution. Many were distressed that the original constitution had no bill of rights, and these critics were relatively satisfied when Madison promised that he would introduce a bill of rights in the First Congress after the Constitution was ratified. But Anti-Federalists like Henry were not satisfied with mere assurances of rights. Henry believed that it was foolish to accept centralized government power, regardless of what promises proponents of the Constitution made about honoring Americans' freedoms. To Henry, if you gave officeholders the ability to abuse liberty, they would eventually do it, because human nature was essentially corrupt and power-grabbing. He thought that good republican government depended on dispersing power among the states, even if that meant that government was sometimes inefficient as it was under the Articles. Efficient government might convey some short-term benefits but ultimately would threaten the people's freedom, and that was not a price Henry was willing to pay.

Henry controlled much of the debate at the Virginia Ratifying Convention in mid-1788. Madison listened as Henry criticized the proposed Constitution from every conceivable angle. Henry thought the Preamble's opening phrase "We the people" was both preposterous and alarming. How could a closed-door meeting of 55 delegates in Philadelphia represent "we the people"? And why didn't they say "We the states" if this Constitution was really as "federal" and state-based as its defenders said? To Henry, all signs suggested that the states would become a sideshow under the Constitution with all fundamental powers flowing up to the new national government.<sup>7</sup>

Then there was the office of President. The Articles had no separate executive branch, while the Constitution made the President commander in chief of the armed forces and (originally) provided no limit on the number of terms a President could serve. To Henry, this was a poorly masked attempt to create a King of America:

This Constitution is said to have beautiful features; but when I come to examine these features...they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints towards monarchy; and does not this raise indignation in the breast of every true American? Your President may easily become king.... If your American chief be a man of ambition and abilities, how easy is it for him to render himself absolute! The army is in his hands....<sup>8</sup>



History was replete with examples of people losing their liberty when a strong executive used the military to suppress dissent and silence his enemies.

Henry also noted the absence of a bill of rights: “The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost, by this change.”<sup>9</sup> Unlike some other Anti-Federalists, however, Henry was not convinced that adding a bill of rights would secure these freedoms. Plenty of governments said they would protect the people’s liberty but failed to do so. Henry believed that the only real security was in structuring a government and dispersing its power so that it was exceedingly difficult for officials to act in concert against the people’s rights. Madison agreed to a degree with this principle of checks and balances, but he also believed that the government must be able to do what it needs to do—for example, foster a robust economy or protect against threats to national security—effectively. Henry had a more single-minded focus on liberty than the Federalists did: “You are not to inquire how your trade may be increased, nor how you are to become a great and powerful people, but how your liberties can be secured; for liberty ought to be the direct end of your government.”<sup>10</sup>

In the end, Henry failed to convince enough delegates, and Virginia voted by a slight majority to ratify the Constitution. Henry’s aim had been to defeat the Constitution, not merely to secure a bill of rights. Nevertheless, Americans can thank Henry and the other Anti-Federalists for pressuring Madison and other Federalists to add the Bill of Rights to the Constitution. Madison and his allies did not originally think a bill of rights was necessary or helpful. How could one possibly list all the rights that the national government was not supposed to violate? But the Anti-Federalists insisted that some rights were so foundational that the Constitution must enumerate them as sacrosanct. The Anti-Federalists’ complaints are a classic instance of the value of open debate in a republic: The rancorous process of ratification produced the Bill of Rights, which many Americans regard as the most cherished part of the Constitution.

## Final Years

By the early 1790s, Henry’s health was in decline. Discouraged by the ratification of the Constitution, he largely stepped away from politics. Madison’s and Jefferson’s views of constitutional power in the 1790s gravitated somewhat toward Henry’s as they articulated the view that the Constitution narrowly limits the national government’s power. Over time, they became opposed to Alexander Hamilton, who took the position that the Constitution enabled the government to act in ways that benefited the national interest even if the power in question was not explicitly granted by the Constitution. This debate came to a head over Hamilton’s economic program and his proposed Bank of the United States, an institution that the Constitution did not mention.

Madison’s and Jefferson’s faction began to emerge as an opposition political party, the Republicans, aligned against the Federalist Party of Hamilton, Washington, and John Adams. Henry might have had more ideological sympathy for the Republicans, but his personal attachments led him to align with Washington and the Federalists. There was even some discussion about Henry running for President as a Federalist in 1796 to replace

the retiring Washington, but that never came to fruition, and Adams became Washington's successor instead.

By the end of the 1790s, national politics had become vitriolic, capped by the Federalists' passage of the Alien and Sedition Acts in 1798. These acts were designed to suppress dissent against the Adams Administration. The Republicans responded with horror, and southern states (led by Madison and Jefferson) contemplated plans for nullifying federal laws or perhaps even secession from the American Union. Washington felt that the nation could not afford to have men like Henry stay on the sidelines during this crisis and finally persuaded Henry to run for the Virginia House of Delegates again in 1799. Henry died before taking office, passing away at his Red Hill plantation in Charlotte County on June 6, 1799. The *Virginia Gazette* spoke for many when it exclaimed, "Mourn Virginia mourn! Your Henry is gone! Ye friends to liberty in every clime, drop a tear."<sup>11</sup>

Because Patrick Henry never served as President, his accomplishments as a Founding Father have been somewhat overshadowed by those of his fellow Virginians, especially Washington, Jefferson, and Madison. But among those who remained in Virginia, Henry was arguably the most popular and influential politician during the Revolutionary crisis and war.

Americans' mixed assessment of Henry results as well from his steadfast opposition to the Constitution, which put him on the losing side of the ratification debates. One could certainly question whether Henry's dire warnings about the Constitution were warranted at the time, but in the long term, his fear that the national government would become massive and dangerously intrusive has been confirmed. Again, we could debate whether this uncontrollable growth of federal power was built into the original scheme of the Constitution or whether it resulted from executive, legislative, and/or judicial violations of the Constitution by later American officials, but with federal budgets and deficits today running well into the trillions of dollars, the warnings of Anti-Federalists like Henry seem increasingly prophetic. Throughout the Revolutionary crisis and the ratification debates, Henry's message was consistent: You can have a powerful government, or you can protect citizens' liberty, but in the long run, it is terribly difficult to do both.

In the end, Patrick Henry saw the fate of nations as bound up with the people's virtue and their commitment to guarding liberty. Reflecting on America's fate, Henry once wrote that independence would be a blessing or a curse depending on "the use our people make of the blessings which a gracious God hath bestowed on us. If they are wise, they will be great and happy. If they are of a contrary character, they will be miserable." He concluded by paraphrasing Proverbs 14:34: "Righteousness alone can exalt them as a nation."<sup>12</sup>

THOMAS KIDD

## SELECTED PRIMARY WRITINGS

### Virginia Resolves of 1765 (May 30, 1765)<sup>13</sup>

*Resolved*, That the first adventurers and settlers of this his Majesty's Colony and Dominion of *Virginia* brought with them and transmitted to

their Posterity, and all other his Majesty's Subjects since inhabiting in this his Majesty's said Colony, all the Liberties, Privileges, Franchises, and Immunities, that have at any time been held, enjoyed, and possessed, by the people of *Great Britain*.

*Resolved*, That by two Royal Charters, granted by King *James* the First, the Colonists aforesaid are declared entitled to all Liberties, Privileges and Immunities of Denizens and natural Subjects, to all Intents and Purposes, as if they had been abiding and born within the Realm of *England*.

*Resolved*, That the Taxation of the People by themselves, or by Person chosen by themselves to represent them, who can only know what Taxes the People are able to bear, or the easiest Method of raising them, and must themselves be affected by every Tax laid on the People, is the only Security against a burthensome Taxation, and the distinguishing Characteristick of *British* freedom, without which the ancient Constitution cannot exist.

*Resolved*, That his Majesty's liege People of this his most ancient and loyal Colony have without Interruption enjoyed the inestimable Right of being governed by such Laws, respecting their internal Polity and Taxation, as are derived from their own Consent, with the Approbation of their Sovereign, or his Substitute; and that the same hath never been forfeited or yielded up, but hath been constantly recognized by the Kings and People of *Great Britain*.

### **"Liberty or Death" Speech (March 23, 1775)<sup>14</sup>**

...I have but one lamp by which [man's] feet are guided, and that is the lamp of experience. I know of no way of judging of the future, but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years, to justify those hopes with which gentlemen had been pleased to solace themselves and the house? Is it that insidious smile with which our petition has been lately received? Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss.... Let us not, I beseech you, sir, deceive ourselves longer. Sir, we have done everything that could be done, to avert the storm which is now coming on. We have petitioned, we have remonstrated, we have supplicated, we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne! In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have

pledged ourselves never to abandon, until the glorious object of our contest shall be obtained—we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of Hosts is all that is left us!

They tell us, sir, that we are weak: unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance, by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of those means which the God of nature hath placed in our power. Three millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat, but in submission and slavery! Our chains are forged. Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come.

It is in vain, sir, to extenuate the matter. Gentlemen may cry, peace, peace—but there is no peace. The war is actually begun! The next gale, that sweeps from the north, will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!

### **Speech at the Virginia Ratifying Convention (June 5, 1788)<sup>15</sup>**

...You are not to inquire how your trade may be increased, nor how you are to become a great and powerful people, but how your liberties can be secured; for liberty ought to be the direct end of your government.

Having premised these things, I shall, with the aid of my judgment and information, which, I confess, are not extensive, go into the discussion of this system more minutely. Is it necessary for your liberty that you should abandon those great rights by the adoption of this system? Is the relinquishment of the trial by jury and the liberty of the press necessary for your liberty? Will the abandonment of your most sacred rights tend to the security of your liberty? Liberty, the greatest of all earthly blessing—give us that precious jewel, and you may take every thing else! But I am fearful I have lived long enough to become an old-fashioned fellow. Perhaps an invincible attachment

to the dearest rights of man may, in these refined, enlightened days, be deemed old-fashioned; if so, I am contented to be so. I say, the time has been when every pulse of my heart beat for American liberty, and which, I believe, had a counterpart in the breast of every true American; but suspicions have gone forth—'suspicions of my integrity—publicly reported that my professions are not real. Twenty-three years ago was I supposed a traitor to my country? I was then said to be the bane of sedition, because I supported the rights of my country. I may be thought suspicious when I say our privileges and rights are in danger. But, sir, a number of the people of this country are weak enough to think these things are too true. I am happy to find that the gentleman on the other side declares they are groundless. But, sir, suspicion is a virtue as long as its object is the preservation of the public good, and as long as it stays within proper bounds: should it fall on me, I am contented: conscious rectitude is a powerful consolation. I trust there are many who think my professions for the public good to be real. Let your suspicion look to both sides. There are many on the other side, who possibly may have been persuaded to the necessity of these measures, which I conceive to be dangerous to your liberty. Guard with jealous attention the public liberty. Suspect every one who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are inevitably ruined. I am answered by gentlemen, that, though I might speak of terrors, yet the fact was, that we were surrounded by none of the dangers I apprehended. I conceive this new government to be one of those dangers: it has produced those horrors which distress many of our best citizens. We are come hither to preserve the poor commonwealth of Virginia, if it can be possibly done: something must be done to preserve your liberty and mine. The Confederation, this same despised government, merits, in my opinion, the highest encomium: it carried us through a long and dangerous war; it rendered us victorious in that bloody conflict with a powerful nation; it has secured us a territory greater than any European monarch possesses: and shall a government which has been thus strong and vigorous, be accused of imbecility, and abandoned for want of energy? Consider what you are about to do before you part with the government. Take longer time in reckoning things; revolutions like this have happened in almost every country in Europe; similar examples are to be found in ancient Greece and ancient Rome—instances of the people losing their liberty by their own carelessness and the ambition of a few. We are cautioned by the honorable gentleman, who presides, against faction and turbulence. I acknowledge that licentiousness is dangerous, and that it ought to be provided against: I acknowledge, also, the new form of government may effectually prevent it: yet there is another thing it will as effectually do—it will oppress and ruin the people.

There are sufficient guards placed against sedition and licentiousness; for, when power is given to this government to suppress these, or for any other purpose, the language it assumes is clear, express, and unequivocal;

but when this Constitution speaks of privileges, there is an ambiguity, sir, a fatal ambiguity—an ambiguity which is very astonishing.... I shall be told I am continually afraid: but, sir, I have strong cause of apprehension. In some parts of the plan before you, the great rights of freemen are endangered; in other parts, absolutely taken away. How does your trial by jury stand? In civil cases gone—not sufficiently secured in criminal—this best privilege is gone. But we are told that we need not fear; because those in power, being our representatives, will not abuse the powers we put in their hands. I am not well versed in history, but I will submit to your recollection, whether liberty has been destroyed most often by the licentiousness of the people, or by the tyranny of rulers. I imagine, sir, you will find the balance on the side of tyranny. Happy will you be if you miss the fate of those nations, who, omitting to resist their oppressors, or negligently suffering their liberty to be wrested from them, have groaned under intolerable despotism! Most of the human race are now in this deplorable condition; and those nations who have gone in search of grandeur, power, and splendor, have also fallen a sacrifice, and been the victims of their own folly. While they acquired those visionary blessings, they lost their freedom. My great objection to this government is, that it does not leave us the means of defending our rights, or of waging war against tyrants. It is urged by some gentlemen, that this new plan will bring us an acquisition of strength—an army, and the militia of the states. This is an idea extremely ridiculous: gentlemen cannot be earnest. This acquisition will trample on our fallen liberty. Let my beloved Americans guard against that fatal lethargy that has pervaded the universe. Have we the means of resisting disciplined armies, when our only defence, the militia, is put into the hands of Congress? The honorable gentleman said that great danger would ensue if the Convention rose without adopting this system. I ask, Where is that danger? I see none. Other gentlemen have told us, within these walls, that the union is gone, or that the union will be gone. Is not this trifling with the judgment of their fellow-citizens? Till they tell us the grounds of their fears, I will consider them as imaginary. I rose to make inquiry where those dangers were; they could make no answer: I believe I never shall have that answer. Is there a disposition in the people of this country to revolt against the dominion of laws? Has there been a single tumult in Virginia? Have not the people of Virginia, when laboring under the severest pressure of accumulated distresses, manifested the most cordial acquiescence in the execution of the laws? What could be more awful than their unanimous acquiescence under general distresses? Is there any revolution in Virginia? Whither is the spirit of America gone? Whither is the genius of America fled? It was but yesterday, when our enemies marched in triumph through our country. Yet the people of this country could not be appalled by their pompous armaments: they stopped their carer, and victoriously captured them. Where is the peril, now, compared to that? Some minds are agitated by foreign alarms. Happily for us, there is no real danger from



Europe; that country is engaged in more arduous business: from that quarter there is no cause of fear: you may sleep in safety forever for them.

Where is the danger? If, sir, there was any, I would recur to the American spirit to defend us; that spirit which has enabled us to surmount the greatest difficulties: to that illustrious spirit I address my most fervent prayer to prevent our adopting a system destructive to liberty....

If we admit this consolidated government, it will be because we like a great, splendid one. Some way or other we must be a great and mighty empire; we must have an army, and a navy, and a number of things. When the American spirit was in its youth, the language of America was different: liberty, sir, was then the primary object. We are descended from a people whose government was founded on liberty: our glorious forefathers of Great Britain made liberty the foundation of every thing. That country is become a great, mighty, and splendid nation; not because their government is strong and energetic, but, sir, because liberty is its direct end and foundation. We drew the spirit of liberty from our British ancestors: by that spirit we have triumphed over every difficulty. But now, sir, the American spirit, assisted by the ropes and chains of consolidation, is about to convert this country into a powerful and mighty empire. If you make the citizens of this country agree to become the subjects of one great consolidated empire of America, your government will not have sufficient energy to keep them together. Such a government is incompatible with the genius of republicanism. There will be no checks, no real balances, in this government. What can avail your specious, imaginary balances, your rope—dancing, chain—rattling, ridiculous ideal checks and contrivances?...

## RECOMMENDED READINGS

Charles L. Cohen, "The 'Liberty or Death' Speech: A Note on Religion and Revolutionary Rhetoric," *William and Mary Quarterly*, Vol. 38, No. 4 (October 1981), pp. 702–717.

Lorri Glover, *The Fate of the Revolution: Virginians Debate the Constitution* (Baltimore: Johns Hopkins University Press, 2016).

Thomas S. Kidd, *Patrick Henry: First Among Patriots* (New York: Basic Books, 2011).

William Wirt, *Sketches of the Life and Character of Patrick Henry* (Philadelphia: James Webster, 1817).



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# John Adams

## Life

John Adams was born October 19, 1735, in Braintree, Massachusetts, the eldest son of John Adams Sr. and Susanna Boylston Adams. His father was a farmer, shoemaker, and deacon. He had two younger brothers, Peter and Elihu. Adams married Abigail Smith (1744–1818) on October 25, 1764. They had four surviving children: Abigail, John Quincy, Charles, and Thomas. John Adams died July 4, 1826, at his home in Quincy, Massachusetts.

## Education

Adams was educated first at home and then in a neighborhood home school; he graduated from Harvard College with a bachelor's degree in 1755.

## Religion

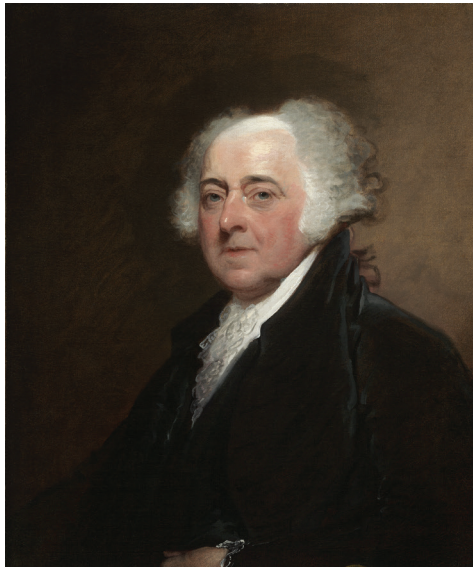
Congregational/Unitarian

## Political Affiliation

Federalist Party

## Highlights and Accomplishments

1774–1775	Author, <i>Novanglus Letters</i>
1774–1777	Continental Congress
1775–1777	Justice, Massachusetts Superior Court of Judicature
1776	Author, <i>Thoughts on Government</i>
	Author, Massachusetts Constitution
1782–1788	First United States Minister to the Netherlands
1785–1788	First United States Minister to Great Britain
1786–1787	Author, <i>A Defence of the Constitutions of Government of the United States of America</i>
1789–1797	First Vice President of the United States
1790	Author, <i>Discourses on Davila</i>
1797–1801	Second President of the United States



John Adams by Gilbert Stuart, c. 1800/1815, oil on canvas, National Gallery of Art, public domain.

The man to whom the country is most indebted for the great measure of independence is Mr. John Adams.... I call him the Atlas of American independence. He it was who sustained the debate, and by force of his reasoning demonstrated not only the justice, but the expediency of the measure.

—*Richard Stockton, New Jersey delegate to the Second Continental Congress, c. 1776*<sup>1</sup>

# John Adams: Atlas of American Independence

**J**OHN ADAMS IS OFTEN OVERLOOKED AS ONE OF America's greatest Revolutionary statesmen, yet he was widely regarded as the most learned and penetrating thinker of his generation and played a central role in the American Founding. "The man to whom the country is most indebted for the great measure of independence is Mr. John Adams," one delegate to the Second Continental Congress wrote. "I call him the Atlas of American independence."<sup>2</sup>

Adams witnessed the American Revolution from beginning to end: In 1761, he assisted James Otis in defending Boston merchants against enforcement of Britain's Sugar Act, and in 1783, he participated in negotiating the peace treaty with Britain. He was a key leader of the radical political movement in Boston and one of the earliest and most principled voices for independence at the Continental Congress. As a public intellectual, he wrote some of the most important and influential essays, constitutions, and treatises of the Revolutionary period. If Revolutionary leaders like Samuel Adams and Patrick Henry represent the spirit of the independence movement, John Adams exemplifies the mind of the American Revolution.

Of his many significant qualities and contributions to the American Founding, three are most important: his character, constitutional development, and principles of political architecture.

## The Life of Adams

John Adams was born on October 19, 1735, in Braintree, Massachusetts. His life and moral virtues were shaped early by the manners and mores of a New England culture that honored sobriety, industry, thrift, simplicity, and diligence.

After graduating from Harvard College, Adams taught school for three years and began to read for a career in the law. He was admitted to the Boston bar in 1758 and soon settled

into a flourishing law practice. In 1764, he married Abigail Smith, to whom he was devoted for 54 years. Together they had five children, including John Quincy Adams, who became the sixth President of the United States.

Passage of the [Stamp Act in 1765](#) thrust Adams into the public affairs of the colonies and the British Empire. In that year, he published his first major political essay, *A Dissertation on the Canon and Feudal Law*, attacking the Stamp Act for depriving the American colonists of two basic rights guaranteed to all Englishmen by Magna Carta: the right to be taxed only by consent and the right to be tried only by a jury of one's peers.

Between 1765 and 1776, Adams's involvement in radical politics ran apace with the escalation of events. He was a leader of the radical political movement in Boston, and his *Novanglus* letters are generally regarded as the best expression of the American case against parliamentary sovereignty. By the mid-1770s, Adams had distinguished himself as one of America's foremost constitutional scholars.

The year 1774 was critical in British–American relations, and it proved to be a momentous one for John Adams. With Parliament's passage of the [Coercive Acts](#), Adams realized that the time had come for the Americans to invoke what he called “revolution principles.”<sup>3</sup> Later that year, he was elected to the [First Continental Congress](#). Over the course of the next two years, no man worked as hard or played as important a role in the movement for independence. His first great contribution to the American cause was to draft the principal clause of the [Declaration of Rights and Grievances](#) in October 1774. He also chaired the committee that drafted the Declaration of Independence; drafted America's first Model Treaty; and, working 18-hour days, served as a one-man department of War and Ordnance. In the end, he worked tirelessly on some 30 committees.

Shortly after the battles at [Lexington and Concord](#), Adams began to argue that the time had come for the colonies to declare independence and constitutionalize the powers, rights, and responsibilities of self-government. In May 1776, due in large measure to Adams's labors, Congress passed a resolution recommending that the various colonial assemblies draft constitutions and construct new governments. At the request of several colleagues, Adams wrote his own constitutional blueprint. Published as *Thoughts on Government*, the pamphlet was circulated widely, and constitution-makers in at least four states used its design as a working model for their state constitutions.

Adams's greatest moment in Congress came in the summer of 1776. On July 1, Congress considered final arguments on the question of independence, and John Dickinson, a delegate from Pennsylvania, argued forcefully against it. When no one responded to Dickinson, Adams rose and delivered a rhetorical tour-de-force that moved the assembly to vote in favor of independence. Years later, Thomas Jefferson recalled that Adams's speech was so powerful in “thought & expression” that it “moved us from our seats.” He was, Jefferson said, “our Colossus on the floor.”<sup>4</sup>

In the fall of 1779, Adams drafted the Massachusetts Constitution, which was the most impressive constitution produced during the Revolutionary era. It was copied by other states in later years and was an influential model for the Framers of the federal Constitution of 1787.

Adams spent much of the 1780s in Europe as a diplomat and propagandist for the American Revolution. He succeeded in convincing the Dutch Republic to recognize American independence and negotiated critical loans with Amsterdam bankers. In 1783, he joined

Benjamin Franklin and John Jay in Paris and played an important role in negotiating a treaty of peace with England. Adams completed his European tour of duty as America's first minister to Great Britain.

It was during his time in London that Adams wrote his great treatise in political philosophy, the three-volume *A Defence of the Constitutions of Government of the United States of America*. Written as a guidebook for American and European constitution-makers, the *Defence* was influential at the Constitutional Convention in 1787 and was used by French constitution-makers in 1789 and again in 1795.

After his return to America in 1788, Adams was twice elected Vice President of the United States. His election to the presidency in 1796 was the culmination of a long public career dedicated to the American cause. Unfortunately, the new President inherited two intractable problems from the Washington Administration: an intense ideological party conflict between Federalists and Republicans and hostile relations with an increasingly belligerent French Republic that, known as the Quasi-War, became the central focus of his Administration. Consistent with his views on American foreign policy dating back to 1776, Adams's guiding principle was "that we should make no treaties of alliance with any European power; that we should consent to none but treaties of commerce; that we should separate ourselves, as far as possible and as long as possible, from all European politics and wars."<sup>5</sup> The crowning achievement of his presidency was the ensuing peace convention of 1800 that reestablished American neutrality and commercial freedom. When Adams left office and returned to Quincy in 1801, he could proudly declare that America was stronger and freer than it was on the day he took office.

The bitterness of his electoral loss to Thomas Jefferson in 1800 soon faded as Adams spent the next 25 years enjoying pleasures of domestic bliss and a newfound philosophic solitude. During his last quarter-century, he read widely in philosophy, history, and theology, and in 1812, he reconciled with Jefferson and resumed with his friend at Monticello a correspondence that is unquestionably the most impressive in the history of American letters.

Remarkably, John Adams and Thomas Jefferson died on the same day: July 4, 1826, 50 years to the day after signing the Declaration of Independence.

## Character Matters

Despite his extraordinary achievements, Adams has always posed a genuine problem for historians. From the moment he entered public life, he always seemed to travel the road not taken. Americans have rarely seen a political leader of such fierce independence and unyielding integrity. In debate, he was intrepid to the verge of temerity, and his political writings reveal an utter contempt for the art of dissimulation. Unable to meet falsehoods halfway and unwilling to stop short of the truth, Adams was in constant battle with the accepted, the conventional, the fashionable, and the popular.

When Adams spoke of moral goodness and right conduct, he most often had in mind the ordinary virtues associated with self-rule. Mastery of oneself, for Adams, was the indispensable foundation of a worthy life and the end to which virtues like moderation, frugality, fortitude, and industry are directed.

As a young man, John Adams was always looking inward—surveying, evaluating, and judging the state of his soul. He imposed on himself a strict daily regimen of hard work and spartan austerity. He constantly cajoled and implored himself to rise early, apply himself to a rigid system of work and study, conquer his passions, and ferret out any weaknesses in his character. A 21-year-old Adams resolved “to rise with the Sun and to study the Scriptures, on Thursday, Friday, Saturday, and Sunday mornings, and to study some Latin author the other three mornings.” In addition, “Noons and Nights I intend to read English Authors. This is my fixed determination, and I will set down every neglect and every compliance with this resolution. May I blush whenever I suffer one hour to pass unimproved.”<sup>6</sup>

But he did not always succeed. In order to bolster and inflame his flagging spirit after an extended period of lethargy and weakness, Adams sketched a fable of Hercules, adapting the story to his own situation. “Let Virtue Address me,” he wrote:

Which, dear youth, will you prefer? a life of effeminacy, indolence and obscurity, or a life of industry, temperance and honor? Take my Advice.... Let no trifling diversion or amusement, or company, decoy you from your book; that is, let no girl, no gun, no cards, no flutes, no violins, no dress, no tobacco, no laziness, decoy from your books.<sup>7</sup>

The goal of self-knowledge and self-rule for Adams was rational independence in the fullest sense. He was always demanding of himself that he return to his study to tackle the great treatises and casebooks of the law:

Labor to get distinct Ideas of law, right, wrong, justice, equity. Search for them in your own mind, in Roman, Grecian, French, English Treatises of natural, civil, common, statute law. Aim at an exact knowledge of the nature, end, and means of government. Compare the different forms of it with each other, and each of them with their effects on public and private happiness. Study Seneca, Cicero, and all other good moral writers. Study Montesquieu, Bolingbroke, Vinnius, &c., and all other good, civil writers, &c.<sup>8</sup>

Like many great-souled men, John Adams was ambitious and desiring of fame, but unlike most such men, he spent a good deal of time thinking about his ambition and its relationship to his moral and political principles. The passion for fame was both an intellectual and a personal problem for Adams because it cut two ways. On the one hand, there is a kind of fame that is benevolent and noble in purpose—the kind associated with Pericles, Cato, and Washington. On the other hand, there is a passion for fame that could also serve malevolent and base ends—the kind associated with Alcibiades, Caesar, and Napoleon.

Adams understood benevolent fame to be motivated by a desire to promote the public good and to be achieved either by performing some great deed or through an act of unusual genius that benefits the commonweal. But he did not simply take the well-being or the opinion of others as his Pole Star. Ultimately, benevolent fame is connected to higher principles that the honorable man seeks for self-interested reasons. As with Aristotle’s great-souled man, such men act because they love that which is noble, good, and just for its own sake.

Never a hypocrite, Adams lived by his own words and avowed principles. He always chose to act in ways he thought right or just, regardless of reward or punishment. The linchpin that united theory and practice in Adams's moral universe was the virtue of integrity. Success, reputation, and fame were not ends in themselves for Adams; they had to be attached to a moral principle and a noble end and to some virtuous action. He would not violate his strict code of character to achieve the favorable opinion of posterity. Above all else, John Adams was a man of strict principle, a man of unyielding integrity, a man of firm justice.

## The Principles of Liberty

During his retirement years, John Adams was fond of saying that the War of Independence was only a consequence of the American Revolution. The real revolution, he declared, began 15 years before any blood was shed at Lexington as an intellectual and moral revolution in the minds and hearts of the American people. Adams played an important role in shaping this intellectual and moral revolution by articulating in his many writings a new theory of constitutional development.

In 1765, Adams responded to the Stamp Act with *A Dissertation on the Canon and Feudal Law*, which was principally a primer on moral education. Its purpose was to rekindle the American "spirit of liberty."<sup>9</sup> But what did Adams mean by a "spirit of liberty"? Spiritedness for Adams united in body and soul certain "*sensations of freedom*" and certain "*ideas of right*."<sup>10</sup>

Adams meant to inspire the colonists' *sensations of freedom* and thus guarantee present freedoms by calling for a remembrance of things past: He implored all patriots to recall the hardships endured by the first settlers and to honor their heroic deeds. On a deeper level, however, the Revolution for Adams was about certain *ideas of right*, so he appealed to the colonists' reason, imploring them to study the philosophical foundations of their rights and liberties. The Americans, he wrote, have a "habitual, radical Sense of Liberty, and the highest Reverence for Vertue" that can and must be appealed to in the face of British tyranny.<sup>11</sup>

Liberty, for Adams, meant freedom from foreign domination, freedom from unjust government coercion, freedom from other individuals, and freedom from the tyranny of one's passions. A free people ought to be jealous of their rights and liberties and must always stand on guard to protect them. Adams knew that genuine freedom is fragile, fleeting, and rare; few people have it, and those who do must fight to keep it. Ultimately, the spirit of liberty for Adams was a certain kind of virtue: It "is and ought to be a jealous, a watchful spirit." The maxim that he chose to define the spirit of liberty was "*Obsta Principiis*," meaning to resist first beginnings. He implored his fellow citizens to resist the "first approaches of arbitrary power."<sup>12</sup>

By 1774, when Parliament passed the Coercive Acts, Adams thought that tyranny no longer threatened America from a distance—it had arrived. But how should the Americans respond? During the 1760s, Adams had attempted to foster an enlightened "*spirit of liberty*" as an antidote to the "*spirit of subservience*." By 1774, however, the time had come for Americans to invoke what he called "revolution principles." In that moment, Adams ceased to be a



conservative defender of colonial rights and liberties and became a revolutionary republican. Adams's "revolution principles" were guided by what he learned from "the principles of Aristotle and Plato, of Livy and Cicero, and Sidney, Harrington and Locke; the principles of nature and eternal reason; the principles on which the whole over us now stands."<sup>13</sup> But revolutions should not be undertaken for light and transient reasons; they must be pursued with caution, moderation, and prudence. There must be objectively definable principles and observable conditions that justify such a momentous step.

For Adams, the boundary line between resistance and revolution was the constitution. He always sought constitutional solutions to constitutional problems, but when that was no longer possible, a "recourse to higher powers not written" was entirely justified.<sup>14</sup> However, he defended resort to what he called "original power" only when fundamental constitutional principles were at stake.<sup>15</sup> By 1776, the British constitution was broken, unable to accommodate the new demands being placed on the colonies by the empire. Eventually Adams saw it as fundamentally flawed. In the end, resolution of the conflict between the center and the peripheries of the British Empire was not possible precisely because there was no standard, no higher or fundamental law, no written constitution by which to sort out the conflicting claims of Parliament and the colonies.

During the years of the imperial crisis, Adams developed a radically new theory that sought to identify, protect, and enshrine certain basic rights and liberties—what he called "revolution principles"—from the intrusions of government in written constitutions. As early as 1775, notably in his *Thoughts on Government*, Adams was arguing that new constitutions be drafted and governments established based on the consent of the governed. For Adams, a written constitution was the product not of history, custom, usage, or the "artificial reasoning" of common-law lawyers, as it was in England, but rather of philosophy and free will, reason and choice, deliberation and consent. What was radically new in all this—and today we take for granted—was that the people's will was to be captured by special conventions to create and then ratify written constitutions. By lifting the constitutional convention above ordinary acts of legislation, Adams and his fellow revolutionaries created a process by which written constitutions could be sanctified and come to be respected and defended as fundamental law. Elaborating the stages of constitutional development—from the spirit of liberty to the principles of the Revolution to a supreme written constitution as fundamental law—may very well be Adams's greatest contribution to America.

## The Principles of Political Architecture

At the core of Adams's political theory, elaborated in his great treatise *A Defence of the Constitutions of Government of the United States of America*, were three basic but essential principles of political architecture: representation instead of direct democracy; separation of the legislative, executive, and judicial powers; and a mixture and balance in the legislature between the one, the few, and the many—that is, a mixing of the monarchic, aristocratic, and democratic passions that Adams thought natural to all societies. The combination of these three elements was a true innovation in the history and practice of Western constitutionalism.

Adams's three principles of political architecture were the foundation and framework on which he thought all constitutions must be constructed. The first two, representation and separation of powers, were distinctly new: Both were logically derived from Lockean natural-rights theory and its corollary theory of consent.

Legitimate political power for Adams rested on the principle of representation, which in turn rested on the more fundamental principles of consent, equality, and self-government. The purpose of political representation is to serve as a guardian of the people's rights and liberties without being subject to their immediate passions. Separation of powers for Adams is the architectonic principle that defined, shaped, and constitutionalized the republican form of government. The purpose of the separation of powers is to dilute the inherent tendency of all governments—including republics—to centralize political power in the hands of one man or a group of men.

The third principle, however, was hardly a new idea. With its roots in the theory and practice of classical antiquity, the so-called mixed regime rested on an entirely different theoretical foundation. The theory of mixed government was a peculiarly classical notion necessarily related to the question of who should rule; separation of powers was a uniquely modern idea connected to the question of the *limits* or *extent* of rule.

From Adams's perspective, there were two critical problems that must be addressed by all republican constitution-makers. The first was the tendency of democracies to democratize. The great danger associated with the doctrine of equality is that it can generate a downward psychological and moral momentum that is hard to resist or control, destroying old manners and mores and transforming the soul in profound ways. Adams feared that unchecked democratization would eventually liberate passions dangerous to democratic government.

The second problem is the ambition of the exceptional few. Adams was particularly fearful of those men that Abraham Lincoln later characterized as the "tribe of the eagle and the family of the lion"—that is, talented men who were consumed with political ambition. But he also understood that a healthy democratic regime must be able to recognize and appreciate the truly great individuals who elevate and ennoble self-government by reminding us of democratic greatness.

Adams's solution was to constitutionalize the naturally occurring conflict between the exceptional few and the unexceptional many of any given society by incorporating what he called the "triple equipoise"—a mixing and balancing of the one (a president with a legislative veto); the few (a senate); and the many (a house of representatives)—into the legislative branch. His mixed-government theory would harness, channel, and balance the naturally occurring conflict between the few and the many in politically useful ways, forcing the competing social orders to moderate their passions, look beyond their immediate self-interest, and compromise with rival interests.

The mixed regime attempted to harmonize the competing and ineradicable notions of justice held by different social orders (the few and the many), and separation of powers was about preventing the centralization of government's coercive power. Adams thought that mixed government and separation of powers could be employed together as overlapping and mutually reinforcing principles. Each order, with its incomplete view of justice, and each branch, with its separate powers, would be forced to moderate and elevate its partial claims, thereby producing and necessitating laws that were just, equitable, and ultimately for the common benefit.

## Independence Forever

John Adams had an enormous influence on the outcome of the American Revolution. He dedicated his life, his property, and his sacred honor to the cause of liberty and the construction of republican government in America. The force of his reasoning, depth of his political vision, and integrity of his moral character are undeniable. From the beginning of his public career until the very end, he always acted on principle and from a profound love of country.

We may take the following words that he wrote to a friend during some of the darkest days of the Revolution as a motto to describe who he was as a man and as a patriot: “*Fiat Justitia ruat Coelum*”—Let justice be done though the heavens should fall.<sup>16</sup> To live by such words requires a kind of moral independence that honors doing only what is right and just at all times. “I must think myself independent, as long as I live,” he wrote to his son John Quincy in 1815. “The feeling is essential to my existence.”<sup>17</sup>

As the 50th anniversary of the Declaration of Independence approached, a 91-year-old Adams was asked to provide a toast for the upcoming celebration in Quincy, Massachusetts. He offered as his final public utterance this solemn toast: “INDEPENDENCE FOREVER.”<sup>18</sup> These last words stand as a signature for his life and principles. At a time in our nation’s history when most Americans cynically assume that their political leaders are dishonest, corrupt, and self-serving, we might do well to recall the example of John Adams and restore to posterity the respect and admiration that he so richly deserves.

C. BRADLEY THOMPSON

## SELECTED PRIMARY WRITINGS

### Thoughts on Government (1776)<sup>19</sup>

My dear Sir,—If I was equal to the task of forming a plan for the government of a colony, I should be flattered with your request, and very happy to comply with it; because, as the divine science of politics is the science of social happiness, and the blessings of society depend entirely on the constitutions of government, which are generally institutions that last for many generations, there can be no employment more agreeable to a benevolent mind than a research after the best.

Pope flattered tyrants too much when he said:

“For forms of government let fools contest,  
That which is best administered is best.”

Nothing can be more fallacious than this. But poets read history to collect flowers, not fruits; they attend to fanciful images, not the effects of social institutions. Nothing is more certain, from the history of nations and nature

of man, than that some forms of government are better fitted for being well administered than others.

We ought to consider what is the end of government, before we determine which is the best form. Upon this point all speculative politicians will agree, that the happiness of society is the end of government, as all divines and moral philosophers will agree that the happiness of the individual is the end of man. From this principle it will follow, that the form of government which communicates ease, comfort, security, or, in one word, happiness, to the greatest number of persons, and in the greatest degree, is the best.

All sober inquirers after truth, ancient and modern, pagan and Christian, have declared that the happiness of man, as well as his dignity, consists in virtue. Confucius, Zoroaster, Socrates, Mahomet, not to mention authorities really sacred, have agreed in this.

If there is a form of government, then, whose principle and foundation is virtue, will not every sober man acknowledge it better calculated to promote the general happiness than any other form?

Fear is the foundation of most governments; but it is so sordid and brutal a passion, and renders men in whose breasts it predominates so stupid and miserable, that Americans will not be likely to approve of any political institution which is founded on it.

Honor is truly sacred, but holds a lower rank in the scale of moral excellence than virtue. Indeed, the former is but a part of the latter, and consequently has not equal pretensions to support a frame of government productive of human happiness.

The foundation of every government is some principle or passion in the minds of the people. The noblest principles and most generous affections in our nature, then, have the fairest chance to support the noblest and most generous models of government.

A man must be indifferent to the sneers of modern Englishmen, to mention in their company the names of Sidney, Harrington, Locke, Milton, Nedham, Neville, Burnet, and Hoadly. No small fortitude is necessary to confess that one has read them. The wretched condition of this country, however, for ten or fifteen years past, has frequently reminded me of their principles and reasonings. They will convince any candid mind, that there is no good government but what is republican. That the only valuable part of the British constitution is so; because the very definition of a republic is "an empire of laws, and not of men." That, as a republic is the best of governments, so that particular arrangement of the powers of society, or, in other words, that form of government which is best contrived to secure an impartial and exact execution of the laws, is the best of republics.

Of republics there is an inexhaustible variety, because the possible combinations of the powers of society are capable of innumerable variations.

As good government is an empire of laws, how shall your laws be made? In a large society, inhabiting an extensive country, it is impossible that the

whole should assemble to make laws. The first necessary step, then, is to depute power from the many to a few of the most wise and good. But by what rules shall you choose your representatives? Agree upon the number and qualifications of persons who shall have the benefit of choosing, or annex this privilege to the inhabitants of a certain extent of ground.

The principal difficulty lies, and the greatest care should be employed, in constituting this representative assembly. It should be in miniature an exact portrait of the people at large. It should think, feel, reason, and act like them. That it may be the interest of this assembly to do strict justice at all times, it should be an equal representation, or, in other words, equal interests among the people should have equal interests in it. Great care should be taken to effect this, and to prevent unfair, partial, and corrupt elections. Such regulations, however, may be better made in times of greater tranquillity than the present; and they will spring up themselves naturally, when all the powers of government come to be in the hands of the people's friends. At present, it will be safest to proceed in all established modes, to which the people have been familiarized by habit.

A representation of the people in one assembly being obtained, a question arises, whether all the powers of government, legislative, executive, and judicial, shall be left in this body? I think a people cannot be long free, nor ever happy, whose government is in one assembly. My reasons for this opinion are as follow:—

1. A single assembly is liable to all the vices, follies, and frailties of an individual; subject to fits of humor, starts of passion, flights of enthusiasm, partialities, or prejudice, and consequently productive of hasty results and absurd judgments. And all these errors ought to be corrected and defects supplied by some controlling power.

2. A single assembly is apt to be avaricious, and in time will not scruple to exempt itself from burdens, which it will lay, without compunction, on its constituents.

3. A single assembly is apt to grow ambitious, and after a time will not hesitate to vote itself perpetual. This was one fault of the Long Parliament; but more remarkably of Holland, whose assembly first voted themselves from annual to septennial, then for life, and after a course of years, that all vacancies happening by death or otherwise, should be filled by themselves, without any application to constituents at all.

4. A representative assembly, although extremely well qualified, and absolutely necessary, as a branch of the legislative, is unfit to exercise the executive power, for want of two essential properties, secrecy and despatch.

5. A representative assembly is still less qualified for the judicial power, because it is too numerous, too slow, and too little skilled in the laws.

6. Because a single assembly, possessed of all the powers of government, would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favor.

But shall the whole power of legislation rest in one assembly? Most of the foregoing reasons apply equally to prove that the legislative power ought to be more complex; to which we may add, that if the legislative power is wholly in one assembly, and the executive in another, or in a single person, these two powers will oppose and encroach upon each other, until the contest shall end in war, and the whole power, legislative and executive, be usurped by the strongest.

The judicial power, in such case, could not mediate, or hold the balance between the two contending powers, because the legislative would undermine it. And this shows the necessity, too, of giving the executive power a negative upon the legislative, otherwise this will be continually encroaching upon that.

To avoid these dangers, let a distinct assembly be constituted, as a mediator between the two extreme branches of the legislature, that which represents the people, and that which is vested with the executive power.

Let the representative assembly then elect by ballot, from among themselves or their constituents, or both, a distinct assembly, which, for the sake of perspicuity, we will call a council. It may consist of any number you please, say twenty or thirty, and should have a free and independent exercise of its judgment, and consequently a negative voice in the legislature.

These two bodies, thus constituted, and made integral parts of the legislature, let them unite, and by joint ballot choose a governor, who, after being stripped of most of those badges of domination, called prerogatives, should have a free and independent exercise of his judgment, and be made also an integral part of the legislature. This, I know, is liable to objections; and, if you please, you may make him only president of the council, as in Connecticut. But as the governor is to be invested with the executive power, with consent of council, I think he ought to have a negative upon the legislative. If he is annually elective, as he ought to be, he will always have so much reverence and affection for the people, their representatives and counsellors, that, although you give him an independent exercise of his judgment, he will seldom use it in opposition to the two houses, except in cases the public utility of which would be conspicuous; and some such cases would happen.

In the present exigency of American affairs, when, by an act of Parliament, we are put out of the royal protection, and consequently discharged from our allegiance, and it has become necessary to assume government for our immediate security, the governor, lieutenant-governor, secretary, treasurer, commissary, attorney-general, should be chosen by joint ballot of both houses. And these and all other elections, especially of representatives and counsellors, should be annual, there not being in the whole circle of the sciences a maxim more infallible than this, "where annual elections end, there slavery begins." . . .

This will teach them the great political virtues of humility, patience, and moderation, without which every man in power becomes a ravenous beast of prey.



This mode of constituting the great offices of state will answer very well for the present; but if by experiment it should be found inconvenient, the legislature may, at its leisure, devise other methods of creating them, by elections of the people at large . . . or it may enlarge the term for which they shall be chosen to seven years, or three years, or for life, or make any other alterations which the society shall find productive of its ease, its safety, its freedom, or, in one word, its happiness.

A rotation of all offices, as well as of representatives and counsellors, has many advocates, and is contended for with many plausible arguments. It would be attended, no doubt, with many advantages; and if the society has a sufficient number of suitable characters to supply the great number of vacancies which would be made by such a rotation, I can see no objection to it. These persons may be allowed to serve for three years, and then be excluded three years, or for any longer or shorter term.

Any seven or nine of the legislative council may be made a quorum, for doing business as a privy council, to advise the governor in the exercise of the executive branch of power, and in all acts of state.

The governor should have the command of the militia and of all your armies. The power of pardons should be with the governor and council.

Judges, justices, and all other officers, civil and military, should be nominated and appointed by the governor, with the advice and consent of council, unless you choose to have a government more popular; if you do, all officers, civil and military, may be chosen by joint ballot of both houses; or, in order to preserve the independence and importance of each house, by ballot of one house, concurred in by the other. Sheriffs should be chosen by the freeholders of counties; so should registers of deeds and clerks of counties.

All officers should have commissions, under the hand of the governor and seal of the colony.

The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skilful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checks upon that. The judges, therefore, should be always men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness, and attention. Their minds should not be distracted with jarring interests; they should not be dependent upon any man, or body of men. To these ends, they should hold estates for life in their offices; or, in other words, their commissions should be during good behavior, and their salaries ascertained and established by law. For misbehavior, the grand inquest of the colony, the house of representatives, should impeach them before the governor and council, where they should have time and opportunity to make their defence; but, if convicted, should be removed from their offices, and subjected to such other punishment as shall be thought proper.



A militia law, requiring all men, or with very few exceptions besides cases of conscience, to be provided with arms and ammunition, to be trained at certain seasons; and requiring counties, towns, or other small districts, to be provided with public stocks of ammunition and intrenching utensils, and with some settled plans for transporting provisions after the militia, when marched to defend their country against sudden invasions; and requiring certain districts to be provided with field-pieces, companies of matrosses, and perhaps some regiments of light-horse, is always a wise institution, and, in the present circumstances of our country, indispensable.

Laws for the liberal education of youth, especially of the lower class of people, are so extremely wise and useful, that, to a humane and generous mind, no expense for this purpose would be thought extravagant.

The very mention of sumptuary laws will excite a smile. Whether our countrymen have wisdom and virtue enough to submit to them, I know not; but the happiness of the people might be greatly promoted by them, and a revenue saved sufficient to carry on this war forever. Frugality is a great revenue, besides curing us of vanities, levities, and fopperies, which are real antidotes to all great, manly, and warlike virtues.

...A constitution founded on these principles introduces knowledge among the people, and inspires them with a conscious dignity becoming freemen; a general emulation takes place, which causes good humor, sociability, good manners, and good morals to be general. That elevation of sentiment inspired by such a government, makes the common people brave and enterprising. That ambition which is inspired by it makes them sober, industrious, and frugal. You will find among them some elegance, perhaps, but more solidity; a little pleasure, but a great deal of business; some politeness, but more civility. If you compare such a country with the regions of domination, whether monarchical or aristocratical, you will fancy yourself in Arcadia or Elysium.

If the colonies should assume governments separately, they should be left entirely to their own choice of the forms; and if a continental constitution should be formed, it should be a congress, containing a fair and adequate representation of the colonies, and its authority should sacredly be confined to these cases, namely, war, trade, disputes between colony and colony, the post-office, and the unappropriated lands of the crown, as they used to be called. . . .

You and I, my dear friend, have been sent into life at a time when the greatest lawgivers of antiquity would have wished to live. How few of the human race have ever enjoyed an opportunity of making an election of government, more than of air, soil, or climate, for themselves or their children! When, before the present epocha, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive? I hope you will avail yourself and your country of that extensive learning and indefatigable industry which you

possess, to assist her in the formation of the happiest governments and the best character of a great people....

**A Defence of the Constitutions of Government of the United States of America, Vol. 1** (1786–1787)<sup>20</sup>

The arts and sciences, in general, during the three or four last centuries, have had a regular course of progressive improvement. The inventions in mechanic arts, the discoveries in natural philosophy, navigation, and commerce, and the advancement of civilization and humanity, have occasioned changes in the condition of the world, and the human character, which would have astonished the most refined nations of antiquity. A continuation of similar exertions is every day rendering Europe more and more like one community, or single family. Even in the theory and practice of government, in all the simple monarchies, considerable improvements have been made. The checks and balances of republican governments have been in some degree adopted at the courts of princes. By the erection of various tribunals, to register the laws, and exercise the judicial power—by indulging the petitions and remonstrances of subjects, until by habit they are regarded as rights—a control has been established over ministers of state, and the royal councils, which, in some degree, approaches the spirit of republics. Property is generally secure, and personal liberty seldom invaded. The press has great influence, even where it is not expressly tolerated; and the public opinion must be respected by a minister, or his place becomes insecure. Commerce begins to thrive; and if religious toleration were established, personal liberty a little more protected, by giving an absolute right to demand a public trial in a certain reasonable time, and the states were invested with a few more privileges, or rather restored to some that have been taken away, these governments would be brought to as great a degree of perfection, they would approach as near to the character of governments of laws and not of men, as their nature will probably admit of. In so general a refinement, or more properly a reformation of manners and improvement in science, is it not unaccountable that the knowledge of the principles and construction of free governments, in which the happiness of life, and even the further progress of improvement in education and society, in knowledge and virtue, are so deeply interested, should have remained at a full stand for two or three thousand years?

...Representations, instead of collections, of the people; a total separation of the executive from the legislative power, and of the judicial from both; and a balance in the legislature, by three independent, equal branches, are perhaps the only three discoveries in the constitution of a free government, since the institution of Lycurgus. Even these have been so unfortunate, that they have never spread: the first has been given up by all the nations, excepting one, which had once adopted it; and the other two, reduced to practice,

if not invented, by the English nation, have never been imitated by any other, except their own descendants in America.

While it would be rash to say, that nothing further can be done to bring a free government, in all its parts, still nearer to perfection, the representations of the people are most obviously susceptible of improvement. The end to be aimed at, in the formation of a representative assembly, seems to be the sense of the people, the public voice. The perfection of the portrait consists in its likeness. Numbers, or property, or both, should be the rule; and the proportions of electors and members an affair of calculation. The duration should not be so long that the deputy should have time to forget the opinions of his constituents. Corruption in elections is the great enemy of freedom.... We shall learn to prize the checks and balances of a free government, and even those of the modern aristocracies, if we recollect the miseries of Greece, which arose from its ignorance of them. The only balance attempted against the ancient kings was a body of nobles; and the consequences were perpetual alternations of rebellion and tyranny, and the butchery of thousands upon every revolution from one to the other. When kings were abolished, aristocracies tyrannized; and then no balance was attempted but between aristocracy and democracy. This, in the nature of things, could be no balance at all, and therefore the pendulum was forever on the swing.

...Such were the fashionable outrages of unbalanced parties. In the name of human and divine benevolence, is such a system as this to be recommended to Americans, in this age of the world? Human nature is as incapable now of going through revolutions with temper and sobriety, with patience and prudence, or without fury and madness, as it was among the Greeks so long ago.... Without three orders, and an effectual balance between them, in every American constitution, it must be destined to frequent unavoidable revolutions; though they are delayed a few years, they must come in time. The United States are large and populous nations, in comparison with the Grecian commonwealths, or even the Swiss cantons; and they are growing every day more disproportionate, and therefore less capable of being held together by simple governments. Countries that increase in population so rapidly as the States of America did, even during such an impoverishing and destructive war as the last was, are not to be long bound with silken threads; lions, young or old, will not be bound by cobwebs. It would be better for America, it is nevertheless agreed, to ring all the changes with the whole set of bells, and go through all the revolutions of the Grecian States, rather than establish an absolute monarchy among them, notwithstanding all the great and real improvements which have been made in that kind of government....

It is become a kind of fashion among writers, to admit, as a maxim, that if you could be always sure of a wise, active, and virtuous prince, monarchy would be the best of governments. But this is so far from being admissible, that it will forever remain true, that a free government has a great advantage

over a simple monarchy. The best and wisest prince, by means of a freer communication with his people, and the greater opportunities to collect the best advice from the best of his subjects, would have an immense advantage in a free state over a monarchy. A senate consisting of all that is most noble, wealthy, and able in the nation, with a right to counsel the crown at all times, is a check to ministers, and a security against abuses, such as a body of nobles who never meet, and have no such right, can never supply. Another assembly, composed of representatives chosen by the people in all parts, gives free access to the whole nation, and communicates all its wants, knowledge, projects, and wishes to government; it excites emulation among all classes, removes complaints, redresses grievances, affords opportunities of exertion to genius, though in obscurity, and gives full scope to all the faculties of man; it opens a passage for every speculation to the legislature, to administration, and to the public; it gives a universal energy to the human character, in every part of the state, such as never can be obtained in a monarchy.

...There can be no free government without a democratical branch in the constitution.... The people in America have now the best opportunity and the greatest trust in their hands, that Providence ever committed to so small a number, since the transgression of the first pair; if they betray their trust, their guilt will merit even greater punishment than other nations have suffered, and the indignation of Heaven. If there is one certain truth to be collected from the history of all ages, it is this; that the people's rights and liberties, and the democratical mixture in a constitution, can never be preserved without a strong executive, or, in other words, without separating the executive from the legislative power. If the executive power, or any considerable part of it, is left in the hands either of an aristocratical or a democratical assembly, it will corrupt the legislature as necessarily as rust corrupts iron, or as arsenic poisons the human body; and when the legislature is corrupted, the people are undone.

The rich, the well-born, and the able, acquire an influence among the people that will soon be too much for simple honesty and plain sense, in a house of representatives. The most illustrious of them must, therefore, be separated from the mass, and placed by themselves in a senate; this is, to all honest and useful intents, an ostracism. A member of a senate, of immense wealth, the most respected birth, and transcendent abilities, has no influence in the nation, in comparison of what he would have in a single representative assembly. When a senate exists, the most powerful man in the state may be safely admitted into the house of representatives, because the people have it in their power to remove him into the senate as soon as his influence becomes dangerous. The senate becomes the great object of ambition; and the richest and the most sagacious wish to merit an advancement to it by services to the public in the house. When he has obtained the object of his wishes, you may still hope for the benefits of his exertions, without dreading his passions; for the executive power being in other hands, he has lost much

of his influence with the people, and can govern very few votes more than his own among the senators.

...The United States of America have exhibited, perhaps, the first example of governments erected on the simple principles of nature; and if men are now sufficiently enlightened to disabuse themselves of artifice, imposture, hypocrisy, and superstition, they will consider this event as an era in their history. Although the detail of the formation of the American governments is at present little known or regarded either in Europe or in America, it may hereafter become an object of curiosity. It will never be pretended that any persons employed in that service had interviews with the gods, or were in any degree under the inspiration of Heaven, more than those at work upon ships or houses, or laboring in merchandise or agriculture; it will forever be acknowledged that these governments were contrived merely by the use of reason and the senses, as Copley painted Chatham; West, Wolf; and Trumbull, Warren and Montgomery; as Dwight, Barlow, Trumbull, and Humphries composed their verse, and Belknap and Ramsay history; as Godfrey invented his quadrant, and Rittenhouse his planetarium; as Boylston practised inoculation, and Franklin electricity; as Paine exposed the mistakes of Raynal, and Jefferson those of Buffon, so unphilosophically borrowed from the despicable dreams of De Pau. Neither the people, nor their conventions, committees, or sub-committees, considered legislation in any other light than as ordinary arts and sciences, only more important. Called without expectation, and compelled without previous inclination, though undoubtedly at the best period of time, both for England and America, suddenly to erect new systems of laws for their future government, they adopted the method of a wise architect, in erecting a new palace for the residence of his sovereign. They determined to consult Vitruvius, Palladio, and all other writers of reputation in the art; to examine the most celebrated buildings, whether they remain entire or in ruins; to compare these with the principles of writers; and to inquire how far both the theories and models were founded in nature, or created by fancy; and when this was done, so far as their circumstances would allow, to adopt the advantages and reject the inconveniences of all. . . . Thirteen governments thus founded on the natural authority of the people alone, without a pretence of miracle or mystery, and which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind. The experiment is made, and has completely succeeded; it can no longer be called in question, whether authority in magistrates and obedience of citizens can be grounded on reason, morality, and the Christian religion, without the monkery of priests, or the knavery of politicians. As the writer was personally acquainted with most of the gentlemen in each of the states, who had the principal share in the first draughts, the following work was really written to lay before the public a specimen of that kind of reading and reasoning which produced the American constitutions.

...The systems of legislators are experiments made on human life and manners, society and government. Zoroaster, Confucius, Mithras, Odin, Thor, Mahomet, Lycurgus, Solon, Romulus, and a thousand others, may be compared to philosophers making experiments on the elements. Unhappily, political experiments cannot be made in a laboratory, nor determined in a few hours. The operation once begun, runs over whole quarters of the globe, and is not finished in many thousands of years. The experiment of Lycurgus lasted seven hundred years, but never spread beyond the limits of Laconia. The process of Solon expired in one century; that of Romulus lasted but two centuries and a half; but the Teutonic institutions, described by Cæsar and Tacitus, are the most memorable experiment, merely political, ever yet made in human affairs. They have spread all over Europe, and have lasted eighteen hundred years. They afford the strongest argument that can be imagined in support of the position assumed in these volumes. Nothing ought to have more weight with America, to determine her judgment against mixing the authority of the one, the few, and the many, confusedly in one assembly, than the wide-spread miseries and final slavery of almost all mankind, in consequence of such an ignorant policy in the ancient Germans. What is the ingredient which in England has preserved the democratical authority? The balance, and that only. The English have, in reality, blended together the feudal institutions with those of the Greeks and Romans, and out of all have made that noble composition, which avoids the inconveniences, and retains the advantages of both.

The institutions now made in America will not wholly wear out for thousands of years. It is of the last importance, then, that they should begin right. If they set out wrong, they will never be able to return, unless it be by accident, to the right path....

## RECOMMENDED READINGS

- Joseph J. Ellis, *Passionate Sage: The Character and Legacy of John Adams* (New York: W. W. Norton & Company, 1993).
- Jon Ferling, *John Adams: A Life* (New York: Henry Holt and Company, 1992).
- James Grant, *John Adams: Party of One* (New York: Farrar, Straus and Giroux, 2005).
- David McCullough, *John Adams* (New York: Simon & Schuster, 2001).
- Richard Ryerson, *John Adams's Republic: The One, the Few, and the Many* (Baltimore, MD: Johns Hopkins University Press, 2016).
- C. Bradley Thompson, *John Adams and the Spirit of Liberty* (Lawrence, KS: University Press of Kansas, 1998).
- Gordon S. Wood, *Friends Divided: John Adams and Thomas Jefferson* (New York: Penguin Books, 2018).



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# George Mason

## Life

George Mason was born December 11, 1725, on Dogue's Neck in present-day Fairfax County, Virginia. He was the eldest child of George Mason III, whose family immigrated to Virginia in the early 1650s, and Ann Thomson Mason. On April 4, 1750, he married Ann Eilbeck, with whom he had 12 children, nine of whom survived to adulthood. In 1758, he completed his Gunston Hall home in Virginia's Northern Neck. Ann Mason died on March 9, 1773, and Mason subsequently married Sarah Brent on April 11, 1780; at age 50, it was her first marriage. He died October 7, 1792, at Gunston Hall, where he is buried.

## Education

Mason studied under private tutors in Virginia and Maryland. He appears to have read widely in law, history, political philosophy, and the classics.

## Religion

Anglican/Episcopalian

## Political Affiliation

No formal affiliation but associated with Anti-Federalists during debate over ratification of the United States Constitution

## Highlights and Accomplishments

1749–1785	Vestryman, Truro Parish
1751–1792	Treasurer, Ohio Company
1758–1761	Virginia House of Burgesses
1774	Author, Fairfax Resolves
1775	Committee of Safety for Fairfax County
1775, 1776	Virginia Convention
1776	Principal author, Virginia Declaration of Rights and Constitution
1777–1778	General Assembly of Virginia
1779–1781	General Assembly of Virginia
1785	Mount Vernon Conference on Potomac River Navigation
1787	Constitutional Convention
1787	General Assembly of Virginia
1788	Virginia Ratifying Convention





George Mason by Dominic Boudet after a lost portrait by John Hesselius, 1811, Gunston Hall.

[T]he fact is unquestionable that the Bill of rights and the Constitution of Virginia were drawn originally by George Mason, one of our really great men and of the first order of greatness.

—*Thomas Jefferson, April 3, 1825*<sup>1</sup>

# George Mason: Progenitor of the Bill of Rights

## The Life of George Mason

George Mason was born on [December 11, 1725](#), on Dogue's Neck in northern Virginia to an affluent family with roots in the colony extending back to the 1650s. Mason's father drowned crossing the Potomac River in 1735, leaving the young boy to be raised by his formidable mother, Ann Thomson Mason, the daughter of a prominent Maryland attorney. Mason never strayed far from Dogue's Neck. After studying with private tutors, he married Ann Eilbeck in 1750 and four years later began constructing one of Virginia's most elegant plantation homes, Gunston Hall. From there, he managed an estate of over 5,000 acres.

As a Virginia delegate to the Constitutional Convention, Mason would be described by a fellow delegate, Georgia's William Pierce, as "undoubtedly one of the best politicians in America."<sup>2</sup> Ironically, Mason demonstrated little political ambition. He served sporadically on his local Fairfax County Court and repeatedly refused higher offices. Elected to Virginia's House of Burgesses in 1758, he attended its fall session, missed subsequent meetings, and left office in 1761. Frequent bouts of gout gave him a plausible excuse. Mason suffered from erysipelas, a painful skin condition, but chronic gout proved more troubling. It attacked his stomach, hands, and feet, and the soreness could last for weeks.

Mason also had other interests beyond politics. A faithful Anglican, he was a longtime vestryman in his Truro Parish church and served from time to time as churchwarden. His beliefs appear to have been quite orthodox. In his will, written in 1773, Mason "cheerfully" resigned himself to the "unbounded mercy and benevolence...of my blessed Savior."<sup>3</sup> Mason also speculated in western lands and, as a managing partner in the Ohio Company, worked tirelessly but with meager success to implement a 1749 land grant from the British government. The French and Indian War disrupted the company's operations, and it never fully recovered from that disruption.

The death of his wife Ann in March 1773 plunged Mason into a deep depression. Years later, he could still complain of a “settled melancholy...from which I never expect, or desire to recover.” The responsibilities of single parenthood gave Mason another reason to avoid public service, but in April 1780, he remarried, this time to Sarah Brent, the 50-year-old unmarried daughter of a family friend. He died October 7, 1792, at Gunston Hall.

## Mason and Virginia Politics

Mason disliked politics and advised his sons “to prefer the happiness of independence & a private Station to the troubles and Vexations of Public Business,”<sup>4</sup> but worsening relations with Parliament drew Mason back into the fray. In 1765, after Virginia’s courts had closed to protest the Stamp Act, he drafted a proposal for collecting debts that did not require court action. The proposal signaled Mason’s support for the protest movement, but repeal of the Stamp Act made its adoption unnecessary.<sup>5</sup> A year later, in a letter to a committee of London merchants, Mason conceded Parliament’s right to legislate for the colonies but rejected its power to tax; castigated its Navigation Acts, which restricted major American exports to British ships and markets, as a costly burden on the imperial economy; and condemned the trial of alleged smugglers in the vice-admiralty courts for denying a defendant’s right to a jury trial.<sup>6</sup>

Mason took a more active role after Parliament adopted the [Townshend Duties](#), which taxed imported glass, lead, paint, paper, and tea, in 1767. Collaborating with his neighbor George Washington, Mason helped to draft a non-importation agreement modeled after a plan adopted by Philadelphia merchants. Virginia’s plan, approved by an extralegal meeting of the House of Burgesses after the royal governor had dismissed the colonial legislature, called for a boycott of the taxed items and imported luxury goods. Enforcing the boycott proved challenging, especially after Parliament repealed all of the Townshend Duties save for the tax on tea, but Mason lobbied successfully for the creation of county committees that would publicize the names of Virginians who bought British goods in violation of the agreement. As he wrote to Richard Henry Lee, “if Shame was banished out of the World, she wou’d carry away with her what little Virtue is left in it.”<sup>7</sup>

Mason’s “[Extracts from the Virginia Charters](#),” written in the summer of 1773, shed further light on his thinking. The Privy Council had revoked the power of colonial governors to issue land grants, and Mason was seeking to defend his headright claims to almost 25,000 acres in the West. Virginia’s 1676 charter, he argued, had recognized headright claims, and the colony’s various charters were “solemn Compacts with the Crown.” He went on to assert, at least implicitly, that Parliament might have no authority over the colonies. Because Virginia was settled under charters from the British monarch, Virginians could “be subject only to its Government.”<sup>8</sup>

Written a year later, Mason’s Fairfax Resolves were more explicit and far more influential. In the spring of 1774, Parliament passed the [Coercive Acts](#), a series of punitive measures provoked by the Boston Tea Party. The House of Burgesses called for a special convention to formulate Virginia’s response. After conferring with George Washington, Mason prepared a set of resolves calling for a Continental Congress and the imposition of

an economic boycott on Great Britain, to be enforced aggressively. He repeated arguments from the “Extracts” and expanded on them. The Coercive Acts violated Virginia’s colonial charters, the English constitution, and “the natural Rights of Mankind.” Colonial assemblies, Mason now argued, had accepted Parliament’s regulation of American commerce simply as a matter of convenience, not law. Washington took the Fairfax Resolves to the Williamsburg convention—Mason had characteristically refused to serve—where, with a few amendments, they were adopted. The Continental Association, approved by the First Continental Congress in October 1774, generally tracked the Fairfax Resolves.<sup>9</sup>

In July 1775, Mason reluctantly agreed to replace Washington as one of Fairfax County’s delegates to a third Virginia convention. With the outbreak of hostilities between the colonies and Great Britain, Washington had been put in command of the Continental Army. For his part, Mason labored with mixed success and, he said, “Vexation & Disgust” to help organize Virginia’s defenses; his colleagues’ military aspirations far exceeded the colony’s financial resources.<sup>10</sup>

Mason’s work in the third convention was overshadowed by his service in a fifth convention, which assembled in Williamsburg in May 1776. A year of fighting made a formal declaration of American independence virtually inevitable, and independence would require the creation of new state governments. Mason meanwhile had earned an enviable reputation as an able writer, a learned defender of American rights, and a staunch republican. A committee was appointed to draft a new constitution, but it was overloaded with more than two dozen members. Mason, to widespread relief, took charge.

Mason began with a Declaration of Rights and drew on precedents ranging from the Magna Carta (1215) to the Continental Congress’s Declaration of Rights of October 1774 and on political philosophers from Montesquieu to Algernon Sidney. His first paragraph, proclaiming “[t]hat all Men are born equally free and independent, and have certain inherent natural Rights...among which are the Enjoyment of Life and Liberty, with the Means of acquiring and possessing Property, and pursueing and obtaining Happiness,” echoed John Locke and would be repeated by Thomas Jefferson (albeit in more felicitous prose) in the second paragraph of the Declaration of Independence.

Mason recognized that political sovereignty, “by God and Nature,” rested in the people and acknowledged their right to rebel against an oppressive government. He denounced hereditary privileges and officeholding. He called for the separation of executive and legislative powers and for “frequent, certain and regular Elections.” He added protections for private property, criminal defendants, and “the ancient Tryal by Jury.” He called a virtuous citizenry essential to the preservation of “free Government” and, in the longest section of his draft, asserted “that all Men shou’d enjoy the Fullest Toleration in the Exercise of Religion.” The “Duty which we owe to our divine and omnipotent Creator...can be governed only by Reason and Conviction, not by Force or Violence...”<sup>11</sup>

Thomas Ludwell Lee, a fellow committee member, made a few additions to Mason’s draft, including language recognizing freedom of the press as “the great bulwark of Liberty.” The full committee made additional changes, some apparently at Mason’s suggestion. He later claimed authorship, for example, of a new provision denouncing “cruel and unusual punishments.”

The full convention approved the committee draft largely as presented, but it also, spurred by James Madison, liberalized the provision on freedom of religion and replaced

Mason's "Fullest Toleration," which suggested religious liberty was a perhaps grudging gift from the state, with a recognition of all citizens' equal right to the free exercise of their faith. In light of his later defense of religious freedom, Mason could not have objected. The [Virginia Declaration of Rights](#) was widely reprinted in American newspapers and, as the first bill of rights adopted as part of a constitution, became a model for other states, influenced lawmakers around the world, and secured Mason's place in history.<sup>12</sup>

Mason took less pride in Virginia's first state constitution. His "Plan of Government" reflected the influence of Richard Henry Lee's "A Plan of Government" and John Adams's "Thoughts on Government." Mason proposed a two-house legislature with separate executive and judicial branches. Lawmakers would be elected annually. Judges would serve during good behavior. The legislature would appoint most state officials, including the governor and a council of state, which was to advise the chief executive. In keeping with popular resentment of the royal governors, Mason envisioned a weak governor who lacked the veto power and could serve no more than three consecutive one-year terms. His "Plan of Government" contained a few novel proposals, including the creation of an electoral college to select members of the upper house of the Assembly and expansion of voting rights beyond landowners to include fathers of three or more children. The full convention rejected those proposals. Otherwise, by making modest changes in Virginia's existing government, Mason's constitution proved generally acceptable to both conservative and more progressive delegates.<sup>13</sup>

Fairfax County elected Mason to serve in the Assembly's lower house, now christened the House of Delegates, and from 1776 until 1780, Mason was a legislative workhorse. He collaborated with Jefferson, Madison, and other reformers to expand religious freedom and end state support for the Anglican Church, although he opposed the confiscation of church property and demonstrated no ill will toward organized religion.<sup>14</sup> Hoping to put the state government on a sound fiscal basis, Mason sponsored tax legislation and sought to restrict the issuance of paper money, which tended to depreciate rapidly. He helped to settle a boundary dispute with Pennsylvania. Always interested in the West, Mason, in cooperation with Jefferson, supported bills to create a procedure for settling disputed land titles and to create a land office to sell public lands.

The Gunston Hall planter retired from the Assembly in 1781, not to reappear until October 1787, but he did represent Virginia at the Mount Vernon Conference of 1785. Convened by Virginia and Maryland to discuss issues involving the use of the Potomac River, the Mount Vernon Conference led to the Annapolis Convention, which led in turn to the Federal Convention of 1787 in Philadelphia.

## Mason and the Federal Constitutional Convention

The General Assembly appointed Mason to Virginia's delegation to Philadelphia, and somewhat uncharacteristically, he agreed to go. Under the Articles of Confederation, Congress lacked a secure source of revenue, the power to regulate foreign commerce, and the ability to enforce the [Treaty of Paris](#) of 1783, which ended the Revolutionary War. Mason saw a need for reform, and after reaching Philadelphia, he was favorably impressed with his

fellow delegates. Although never as ardent a nationalist as James Madison, Mason initially supported the Virginia Plan; largely Madison's work, it envisioned the creation of a far more powerful central government. Mason explicitly endorsed one linchpin of the plan: that the new federal government should be empowered to bypass state governments in some cases and act directly on their citizens.

Mason undoubtedly played a constructive role in the Convention. Speaking frequently, he supported the popular election of the House of Representatives, opposed federal restrictions on voting rights, and opposed discrimination against new states. He proposed that the Constitution take effect when ratified by popular conventions in nine states, thereby circumventing state lawmakers who might be reluctant to surrender power to the national government. The nine-state requirement, moreover, would give it credibility without erecting an insurmountable barrier to ratification. Mason also showed a willingness to compromise and served on the committee that recommended the Great Compromise, under which representation in the House would be based on population and each state would have an equal vote in the Senate.

The Convention's rejection of one provision of the compromise—the so-called Origination Clause—dealt Mason a critical blow. His longest recorded speech during the Convention was a defense of the committee's recommendation that tax and appropriations bills originate in the House and not be subject to amendment in the Senate; he never accepted a revision allowing the upper chamber to amend money bills. Worse, from his perspective, was a compromise between New England delegates and those from the Deep South that allowed Congress to pass laws regulating commerce by a simple majority. (To accommodate southern fears that a northern majority would discriminate against southern interests, the delegates had earlier approved a two-thirds threshold for commercial regulations, which Mason had supported.)

Moreover, the delegates forbade Congress from banning the foreign slave trade until 1800, a date later extended to 1808. Mason, passionately opposed to the slave trade, protested this provision. The Convention's unanimous rejection, toward its end, of Mason's suggestion that a bill of rights be added to the Constitution extinguished any lingering hope that he might support the document.

Instead, Mason produced his [\*"Objections to This Constitution of Government."\*](#) He began with the complaint that "[t]here is no Declaration of Rights," and although the "Objections" were not widely circulated, Mason gave the Anti-Federalists their most effective argument. Among his other objections, the longest concerned Congress's ability to pass navigation laws by a simple majority. In summary, "[t]his government," he wrote, "will set out a moderate aristocracy" and devolve into either "a monarchy, or a corrupt, tyrannical aristocracy."<sup>15</sup> Mason saw monarchial tendencies in the presidency and aristocratic tendencies in the Senate.

Stafford County voters elected Mason to represent them at the Richmond convention called to consider ratification of the Constitution in Virginia; Federalist supporters of the Constitution dominated his native Fairfax County. Mason and Patrick Henry led the Anti-Federalist opposition. They favored a second, national convention to consider revisions in the draft Constitution, but the best they could do was to persuade the state convention to recommend that several specific amendments, including protections for civil liberties, be



adopted after the Constitution took effect. The eventual adoption of the first 10 amendments partially placated Mason, and no one had done more to create the political momentum that produced what we know as the Bill of Rights. Yet he was never fully reconciled to the Constitution. As he wrote in the last year of his life and after Treasury Secretary Alexander Hamilton had unveiled his ambitious financial agenda, "Our new Government is a Government of Stock-jobbing and Favouritism. It required no extraordinary Degree of Penetration, to foresee that it wou'd be so...."<sup>16</sup>

## Protecting the People's Rights

Three interrelated themes might be said to run through Mason's political career: the need to protect the people's rights, the need for a virtuous citizenry, and the need to strike a balance of power between the national and state governments.

The "pole-star of his political conduct," Mason told the Philadelphia Convention, was "the preservation of the rights of the people," although he admitted elsewhere that in extreme cases, individual convenience would have to yield to the good of society. Mason feared it was "the natural propensity of rulers to oppress the people." Tyranny arose, he wrote on the eve of the American Revolution, from "the insidious acts of wicked and designing men, the various and plausible pretenses for continuing and increasing authority, the incautious nature of the many, and the inordinate lust of power in the few."<sup>17</sup>

Despite his opposition to the consolidation of power in the national government, Mason believed that state and even local officials also could abuse their authority. In a petition written on behalf of freeholders in Prince William County, he condemned Virginia Governor Thomas Nelson for, among other offenses, his arbitrary use of the impressment power during the siege of Yorktown. He exposed the local tobacco inspectors' practice of overcharging tobacco exporters. Mason conducted a long-running feud with Alexandria merchants on the Fairfax County Court. Over the years, he accused the court of imposing excessive taxes, mismanaging the county poorhouse, building roads to serve private interests, and generally discriminating against the countryside where the majority of the county's population lived. Mason alleged that the court, as a self-perpetuating body, could not truly represent the people. Mason's experience with local officials, especially those from the urban commercial classes, fed his political skepticism.

For Mason, the most fundamental rights were the right to effective representation and the "sacred and inestimable Right of Suffrage." Mason distinguished the two because he believed that for suffrage to be meaningful, the people's elected representatives had to be granted adequate powers, and legislative bodies had to be free of corruption. While Mason supported expanding voting rights to any white adult male who demonstrated a substantial attachment to his community, it was more critical that voters, whoever they might be, enjoy the right to "chuse the Men who are to make Laws for them." Otherwise, every other right would be in jeopardy.<sup>18</sup>

Elections alone, however, could not guarantee those rights unless they were held frequently and provisions made for rotation in office. "Nothing is so essential to the preservation of a republican government as a periodical rotation." His objections to the Constitution



included its failure to ensure “that the great officers of State, and particularly the Executive should at fixed periods return to that mass from which they were at first taken.”<sup>19</sup>

Mason deplored dual officeholding and legislative job-hopping; he feared the executive could use patronage to manipulate the people’s representatives as he thought the British monarch had done. He favored the separation of powers, especially separation of the power to tax from the power to make war, because “[w]hen the same man, or set of men, holds both the sword and the purse, there is an end of liberty.”<sup>20</sup> Because rulers had often used permanent professional militaries to suppress their own people, he considered standing armies to be “ever dangerous to liberty.” As he told the Virginia Ratifying Convention, “I abominate and detest the idea of a government, where there is a standing army.”<sup>21</sup>

In short, while Mason is best known for his advocacy of specific constitutional protections for fundamental freedoms, he understood that the preservation of liberty would also require attention to the very structure of a government.

## Promoting Virtue

“Virtue,” Mason once wrote, “is the vital principle in a republic.” In his mind, no republican government, however structured, could long survive if its citizens lacked personal probity or a commitment to the good of the community. Republican theorists like Mason held that individual extravagance, found most often in “great commercial cities,” bred avarice, selfishness, and decadence. As the imperial crisis worsened in the 1760s, Mason blamed Great Britain’s colonial policy in part on the nation’s “Wealth, Luxury, Venality, & Corruption.”<sup>22</sup> He eagerly supported boycotts of British goods as a form of protest because they discouraged “all Manner of Luxury and Extravagance.” He also hoped that the [Non-Importation Agreement](#) of 1769 would “induce the good People of this Colony to be frugal in the Use and Consumption of British Manufactures.” Fortunately, he wrote in 1773, “Luxury, Venality, and a general Corruption of Manners have not yet thoroughly taken Root among us.”<sup>23</sup>

Yet Mason feared for the future and regularly tested public measures by their impact on the people’s virtue. Notwithstanding his stalwart support for religious liberty, he concurred in the spring of 1779 with the Continental Congress’s call for a day of prayer and fasting: If “not too often repeated,” it could “have a good effect on the Minds of the People.”<sup>24</sup> To encourage citizens to do their civic duty, Mason suggested imposing “Moderate Penalties” on eligible voters who failed to vote; he hoped increased voter participation might keep “Men of desperate Circumstances & Principles” out of the General Assembly.

Mason unsuccessfully urged the adoption of sumptuary laws; common in the ancient world, they prohibited conspicuous consumption, often in the form of lavish funerals or excessively ornate clothing. He also labored for years to move the county courthouse from Alexandria to a more central location in the countryside. When confronted with the argument that the move would hurt the town’s taverns, he responded that the government should not encourage people to spend their time and money “in Tipling houses.” On this issue, he ultimately prevailed.<sup>25</sup>

Mason’s critique of slavery illustrated his concern for public morality. Ironically (and perhaps hypocritically for a large slave owner), he often went out of his way to condemn the

institution, especially the foreign slave trade, and its impact on “the Morals and Manners of our people.” In 1765, Mason managed to link his replevin plan for the orderly collection of debts after Virginia’s courts had closed to the need to encourage white immigration and then pivoted to a lesson learned from the fall of the Roman Republic: “[O]ne of the first Signs of the Decay, & perhaps the primary Cause of the Destruction of the most flourishing Government that ever existed was the Introduction of great Numbers of Slaves.” His “Extracts from the Virginia Charters,” ostensibly intended to buttress his headright claims, included a long paragraph describing the effects of slave ownership on whites: “Practiced in Acts of Despotism & Cruelty, we become callous to the Dictates of Humanity, & all the finer feelings of the Soul.”<sup>26</sup>

The non-importation plans Mason supported as a protest against British imperial policies before the American Revolution included bans on the importation of slaves. The Fairfax Resolves, for example, declared “our most earnest Wishes to see an entire Stop for ever put to such a wicked cruel and unnatural Trade.”<sup>27</sup> At the Constitutional Convention of 1787, Mason supported a federal ban on the slave trade, an “infernal traffic” that increased the risk of a slave rebellion; discouraged manufacturing, free labor, and white immigration; and produced “the most pernicious effect on manners. Every master of slaves is born a petty tyrant.... As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities.”<sup>28</sup> If the Convention would not approve an immediate ban on the trade, which to Mason’s dismay it refused to do, he argued that commerce in enslaved people should at least be taxed.

Admittedly, Mason’s rhetoric could sometimes appear opportunistic. During the debate over ratification of the Constitution in Virginia, he denounced the document for allowing the slave trade to continue for at least another 20 years while complaining that the Philadelphia Convention had taken no meaningful steps to protect slavery where it already existed. Mason, however, could be both principled and pragmatic. He attacked the evils of slavery in cases where he could have ignored them and, because the enslaved lacked political rights, opposed counting them as equal to free inhabitants for purposes of representation in Congress, thereby taking a position he acknowledged did not serve Virginia’s interests. As a realist, Mason must have understood that no prospect of abolishing slavery in Virginia existed in his lifetime, but the slave trade could be stopped without infringing on any Virginian’s property rights.

The racial prejudices of the times; his concerns for the economic security of his numerous children; fears of social upheaval; and, as historian Robert Rutland has suggested, his commitment to “the Lockean concept of a propertied society” all combined to prevent Mason from freeing his slaves or proposing a general plan for emancipation. Nevertheless, he understood the danger that slavery posed to the Republic and, unlike a later generation of white southerners, never attempted to justify the South’s “peculiar institution.”<sup>29</sup>

After the Revolution, the problem of collecting debts that many Virginians owed to British creditors presented, in Mason’s mind, a more immediate test of republican virtue. The Revolutionary War had disrupted normal commercial relations and had hardly improved the financial position of chronically cash-strapped planters. In 1777, they had secured passage of a bill allowing them to pay their debts in badly depreciated paper currency. With

independence, many apparently hoped to renege completely on their obligations and persuaded the General Assembly to bar British merchants from bringing collection suits in the state's courts. In 1780, Mason led a successful effort to repeal the 1777 law, and he supported the provision in the Treaty of Paris, recognizing the continuing validity of the British debts: Their payment was "no more than Justice requires."<sup>30</sup>

Unjust laws, Mason warned, "occasion a general Depravity of Manners, bring the Legislature into Contempt, and finally produce Anarchy & public Convulsion."<sup>31</sup> Legislative interference with private contracts and "flagrant Violations of the (state) Constitution" left him disillusioned by the end of the Revolutionary War, and if he did not despair, he was apprehensive about the future. "The Establishment of American Liberty & Independence has placed Happiness & Prosperity within our Reach;" he wrote one correspondent, "but to attain & preserve them must depend upon our own Wisdom & Virtue; judging of the future from the Past, the Prospect is not promising."<sup>32</sup>

## Balancing State and Federal Power

The American Revolution had been fought partly to preserve the autonomy of the individual 13 colonies. Before and during the conflict, a shared interest in that autonomy united them, however loosely. After the Revolution, building a true American nation would require some sacrifice of power by the newly independent states. Relinquishing power would not come easily. Despite a well-earned reputation as a fiscal conservative who supported the timely collection of taxes and the payments of British debts, and who generally opposed the issuance of paper money, Mason nevertheless objected in 1783 to a congressional proposal to adopt an impost, or a national tax on imports. In a petition to the Virginia General Assembly written on behalf of Fairfax County freeholders, he declared his opposition to "all encroachments of the American Congress upon the sovereignty and jurisdiction of the separate States; and every assumption of power, not expressly vested in them, by the Articles of Confederation."<sup>33</sup>

The impost was defeated, but another issue had to be resolved before Mason would consider strengthening the national government. By virtue of its colonial charters, Virginia claimed territory on the frontier that included the present-day state of Kentucky and extended west to the Mississippi River and north to the Great Lakes. Mason, Jefferson, and other Virginians understood that the state could not govern so vast a domain effectively and that clinging to it would incur the resentment of the other states. In fact, jurisdictional disputes over the western territories delayed ratification of the Articles of Confederation until 1780.

In June 1779, Mason drafted resolutions for the General Assembly asserting Virginia's jurisdiction. He hoped to secure the claims of the Ohio Company, his own headright claims, and the rights of existing settlers. At the same time, he sought to defeat the ambitions of rival land companies and leave enough acreage in the public domain to provide land bounties to veterans and replenish the public coffers with the revenue from land sales. He believed the disputed territory should eventually be ceded to Congress, but the cession would have to be negotiated; Congress could not assume control unilaterally. Writing to Congress on behalf

of the Virginia General Assembly in December 1779, Mason declared that an assumption of congressional authority would “establish in Congress a power which in process of Time must degenerate into an intolerable despotism.”<sup>34</sup> Negotiations for a voluntary cession tested his patience, but an agreement was finally implemented in 1784.

When Mason arrived in Philadelphia in May 1787, he was reasonably optimistic and apparently convinced by then of the need to create a new national government “with full legislative Powers upon all the Objects of the Union.” Nevertheless, he anticipated “much Difficulty in organizing a Government upon this great Scale” while leaving state legislatures with sufficient power to ensure “the Prosperity & Happiness of their respective Citizens.”<sup>35</sup> He worried that a northern majority in Congress would discriminate against the South. To protect regional interests, he favored the creation of a three-person executive branch consisting of members selected from the northern, middle, and southern states, but the proposal garnered little support.

The Convention’s decision to permit Congress to adopt laws regulating foreign trade by a simple majority dealt Mason his most serious defeat, but he came to see other features of the Constitution as also likely to create an overbearing federal government. The Necessary and Proper Clause could become a grant of almost unlimited power to Congress; the Supremacy Clause could allow Congress to preempt state bills of rights; and the federal judiciary, with its broad jurisdiction, could swallow up the state courts.

After serving in the Virginia Ratifying Convention, Mason devoted his remaining years to local politics and his domestic affairs. An old-school republican shaped by the struggle against British imperial policy, he believed that political corruption was virtually inevitable in a wealthy commercial society and that unless the people were diligent in defending their rights and discharging their civic duties, America’s governments would become as oppressive as the British Parliament had been.

JEFF BROADWATER

## SELECTED PRIMARY WRITINGS

### **Virginia Declaration of Rights (June 12, 1776)<sup>36</sup>**

A declaration of rights made by the representatives of the good people of Virginia, assembled in full and free convention; which rights do pertain to them and their posterity, as the basis and foundation of government.

Section 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Sec. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Sec. 3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Sec. 4. That no man, or set of men, are entitled to exclusive or separate emoluments and privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

Sec. 5. That the legislative and executive powers of the State should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

Sec. 6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses without their own consent, or that of their representative so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

Sec. 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Sec. 8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

Sec. 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sec. 10. That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

Sec. 11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

Sec. 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

Sec. 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

Sec. 14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

Sec. 15. That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

Sec. 16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.

### **Virginia Constitution** (June 29, 1776)<sup>37</sup>

#### THE CONSTITUTION OR FORM OF GOVERNMENT, AGREED TO AND RESOLVED UPON BY THE DELEGATES AND THE REPRESENTATIVES OF THE SEVERAL COUNTIES AND CORPORATIONS OF VIRGINIA

Whereas George the third, King of Great Britain and Ireland, and elector of Hanover, heretofore intrusted with the exercise of the kingly office in this government, hath endeavoured to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good:

By denying his Governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years:

By refusing to pass certain other laws, unless the persons to be benefitted by them would relinquish the inestimable right of representation in the legislature:

By dissolving legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people:

When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head:



By endeavouring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners:

By keeping among us, in times of peace, standing armies and ships of war:

By effecting to render the military independent of, and superior to, the civil power:

By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation:

For quartering large bodies of armed troops among us:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offences:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever:

By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people:

By inciting insurrections of our fellow subjects, with the allurements of forfeiture and confiscation:

By prompting our negroes to rise in arms among us, those very negroes whom, by an inhuman use of his negative, he hath refused us permission to exclude by law:

By endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence:

By transporting, at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation:

By answering our repeated petitions for redress with a repetition of injuries: And finally, by abandoning the helm of government, and declaring us out of his allegiance and protection.

By which several acts of misrule, the government of this country, as formerly exercised under the crown of Great Britain, is  
TOTALLY DISSOLVED.

We therefore, the delegates and representatives of the good people of Virginia, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country must be reduced, unless some regular, adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of Virginia to be as followeth:

The legislative, executive, and judiciary department, shall be separate and distinct, so that neither exercise the powers properly belonging to the other: nor shall any person exercise the powers of more than one of them at the same time, except that the Justices of the County Courts shall be eligible to either House of Assembly.



The legislative shall be formed of two distinct branches, who, together, shall be a complete Legislature. They shall meet once, or oftener, every year, and shall be called *The General Assembly of Virginia*. One of these shall be called, *The House of Delegates*, and consist of two Representatives, to be chosen for each county, and for the District of West-Augusta, annually, of such men as actually reside in, and are freeholders of the same, or duly qualified according to law, and also of one Delegate or Representative to be chosen annually for the city of Williamsburg, and one for the borough of Norfolk, and a Representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the legislature; but when any city or borough shall so decrease, as that the number of persons, having right of suffrage therein, shall have been for the space of seven years successively, less than half the number of voters in some one county in Virginia, such city or borough thenceforward shall cease to send a Delegate or Representative to the Assembly.

The other shall be called *The Senate*, and consist of twenty four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty four districts, and each county of the respective district, at the time of the election of its Delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty five years of age; and the Sheriffs of each county, within five days at farthest, after the last county election in the district, shall meet at some convenient place, and from the poll, so taken in their respective counties, return, as a Senator, the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes and numbered by lot. At the end of one year after the general election, the six members, elected by the first division, shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

The right of suffrage in the election of members for both Houses shall remain as exercised at present, and each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election, for the supplying intermediate vacancies.

All laws shall originate in the House of Delegates, to be approved of or rejected by the Senate, or to be amended, with consent of the House of Delegates; except money-bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

A Governor, or chief magistrate, shall be chosen annually by joint ballot of both Houses (to be taken in each House respectively), deposited in the conference room; the boxes examined jointly by a committee of each House, and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses, in all cases) who shall not continue in that office longer than three years successively, nor

be eligible, until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary, shall be settled on him, during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government according to the laws of this Commonwealth; and shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute or custom of England: But he shall, with the advice of the Council of State, have the power of granting reprieves or pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no reprieve or pardon shall be granted, but by resolve of the House of Delegates.

Either House of the General Assembly may adjourn themselves respectively. The Governor shall not prorogue or adjourn the Assembly, during their sitting, nor dissolve them at any time; but he shall, if necessary, either by advice of the Council of State, or on application of a majority of the House of Delegates, call them before the time to which they shall stand prorogued or adjourned.

A Privy Council, or Council of State, consisting of eight members, shall be chosen, by joint ballot of both Houses of Assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose out of their own members, a President, who, in case of death, inability, or necessary absence of the Governor from the government, shall act as Lieutenant-Governor. Four members shall be sufficient to act, and their advice and proceedings shall be entered on record; and signed by the members present, (to any part whereof any member may enter his dissent) to be laid before the General Assembly, when called for by them. This Council may appoint their own Clerk, who shall have a salary settled by law, and take an oath of secrecy, in such matters as he shall be directed by the board to conceal. A sum of money, appropriated to that purpose, shall be divided annually among the members, in proportion to their attendance; and they shall be incapable, during their continuance in office, of sitting in either House of Assembly. Two members shall be removed, by joint ballot of both Houses of Assembly, at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections, in the same manner.

The Delegates for Virginia to the Continental Congress shall be chosen annually, or superseded in the mean time, by joint ballot of both Houses of Assembly.

The present militia officers shall be continued, and vacancies supplied by appointment of the Governor, with the advice of the Privy-Council, on recommendations from the respective County Courts; but the Governor and Council shall have a power of suspending any officer, and ordering a Court Martial, on complaint for misbehaviour or inability, or to supply vacancies of officers, happening when in actual service.

The Governor may embody the militia, with the advice of the Privy Council; and when embodied, shall alone have the direction of the militia, under the laws of the country.

The two Houses of Assembly shall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney-General, to be commissioned by the Governor, and continue in office during good behaviour. In case of death, incapacity, or resignation, the Governor, with the advice of the Privy Council, shall appoint persons to succeed in office, to be approved or displaced by both Houses. These officers shall have fixed and adequate salaries, and, together with all others, holding lucrative offices, and all ministers of the gospel of every denomination, be incapable of being elected members of either House of assembly or the Privy Council.

The Governor, with the advice of the Privy Council, shall appoint Justices of the Peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective County Courts. The present acting Secretary in Virginia, and Clerks of all the County Courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a Secretary shall be appointed, as before directed; and the Clerks by the respective Courts. The present and future Clerks shall hold their offices during good behaviour, to be judged of, and determined in the General Court. The Sheriffs and Coroners shall be nominated by the respective Courts, approved by the Governor, with the advice of the Privy Council, and commissioned by the Governor. The Justices shall appoint Constables; and all fees of the aforesaid officers be regulated by law.

The Governor, when he is out of office, and others, offending against the State, either by maladministration, corruption, or other means by which the safety of the State may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney-General, or such other person or persons as the House may appoint in the General Court, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as the laws shall direct.

If all or any of the Judges of the General Court should on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences above mentioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

Commissions and grants shall run, "*In the name of the Commonwealth of Virginia,*" and bear test by the Governor, with the seal of the commonwealth annexed. Writs shall run in the same manner, and bear test by the Clerks of the several Courts. Indictments shall conclude, "*Against the peace and dignity of the commonwealth.*"

A treasurer shall be appointed annually, by joint ballot of both Houses.

All escheats, penalties, and forfeitures, heretofore going to the King, shall go to the Commonwealth, save only such as the Legislature may abolish, or otherwise provide for.

The territories, contained within the Charters, erecting the Colonies of Maryland, Pennsylvania, North and South Carolina, are hereby ceded, released, and forever confirmed, to the people of those Colonies respectively, with all the rights of property, jurisdiction and government, and all other rights whatsoever, which might, at any time heretofore, have been claimed by Virginia, except the free navigation and use of the rivers Potomaque and Pokomoke, with the property of the Virginia shores and strands, bordering on either of the said rivers, and all improvements, which have been, or shall be made thereon. The western and northern extent of Virginia shall, in all other respects, stand as fixed by the Charter of King James I, in the year one thousand six hundred and nine, and by the public treaty of peace between the Courts of Great Britain and France in the year one thousand seven hundred and sixty-three; unless by act of this Legislature, one or more governments be established westward of the Alleghany mountains. And no purchases of land shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

In order to introduce this government, the Representatives of the people met in the convention shall choose a Governor and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of March next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the Speaker of either House shall issue writs for new elections.

## RECOMMENDED READINGS

- Jeff Broadwater, *George Mason, Forgotten Founder* (Chapel Hill: University of North Carolina Press, 2006).
- Pamela Copeland and Richard K. MacMaster, *The Five George Masons: Patriots and Planters of Virginia and Maryland* (Lorton, VA: Board of Regents of Gunston Hall, 1989).
- Terry K. Dunn, ed., *The Recollections of John Mason: George Mason's Son Remembers His Father and Life at Gunston Hall* (Marshall, VA: EPM Publications, 2004).
- Helen Hill Miller, *George Mason, Gentleman Revolutionary* (Chapel Hill: University of North Carolina Press, 1975).
- John R. Vile, *More Than a Plea for a Declaration of Rights: The Constitutional and Political Thought of George Mason of Virginia* (Clark, NJ: Talbot Publishing, 2019).
- Peter Wallenstein, "Flawed Keepers of the Flame: The Interpreters of George Mason," *The Virginia Magazine of History and Biography*, Vol. 102, No. 2 (April 1994), pp. 229–260.



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# Thomas Jefferson

## Life

Thomas Jefferson was born April 13, 1743, in Shadwell, Albemarle County, Virginia, the third child of Peter Jefferson and Jane Randolph [Jefferson]. In 1772, he married Martha Skelton Wayles. They had six children, of whom two daughters lived into adulthood. Martha died in 1782. Some historians hold that Jefferson later fathered children by his slave, Sally Hemmings; other scholars dispute this claim. Jefferson died on July 4, 1826, the 50th anniversary of the signing of the Declaration of Independence, at Monticello, his home in Virginia, where he is buried.

## Education

Jefferson's early education was provided by tutors and schools run by Virginia clergymen. He attended the College of William and Mary from 1761–1762 and then studied law under George Wythe.

## Religion

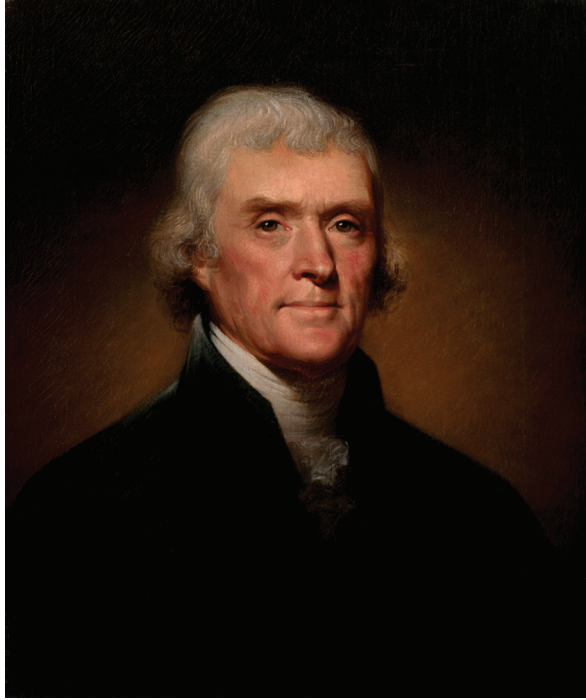
Anglican/Episcopalian

## Political Affiliation

Co-founder (with James Madison) of the Republican Party in 1792

## Highlights and Accomplishments

1769–1775	Virginia House of Burgesses
1775–1776	Virginia Delegate to the Second Continental Congress
1776–1779	Virginia House of Delegates
1779–1781	Governor of Virginia
1782–1784	Virginia Delegate to the Confederation Congress
1785–1789	Minister to France
1790–1793	Secretary of State
1797–1801	Vice President of the United States
1801–1809	President of the United States
1819	Founder, University of Virginia



Official Presidential portrait of Thomas Jefferson by Rembrandt Peale, 1800, public domain.

All honor to Jefferson—to the man who, in the concrete pressure of a struggle for national independence by a single people, had the coolness, forecast, and capacity to introduce into a merely revolutionary document, an abstract truth, applicable to all men and all times, and so to embalm it there, that to-day, and in all coming days, it shall be a rebuke and a stumbling-block to the very harbingers of re-appearing tyranny and oppression.

—*Abraham Lincoln, April 6, 1859*<sup>1</sup>



# Thomas Jefferson: Champion of Liberty

**M**ORE THAN TWO CENTURIES AFTER HIS PASSING, THOMAS Jefferson remains one of the most celebrated and consequential statesmen of the American Founding. Jefferson served for more than 30 years in political offices of the highest responsibility. This distinguished career embraced the entire history of the Founding, from America's quest for national independence to the firm establishment of the system of constitutional self-government that persists to this day. During the American Revolution, Jefferson was a delegate to the Second Continental Congress and then governor of Virginia. Under the [Articles of Confederation](#), he returned to national office as the American minister to France. Finally, after the Constitution was ratified and the new government was put into operation, Jefferson served as the nation's first Secretary of State, its second Vice President, and its third President, administering the nation's highest office for two full terms before turning to a lengthy and well-earned retirement.

Over the course of these momentous decades, Jefferson worked closely with—and sometimes against—the other titans of the Founding generation: George Washington, Alexander Hamilton, John Adams, Benjamin Franklin, and James Madison. Amid the controversies that divided the nation in the first few years after ratification of the Constitution, Jefferson emerged as the principal figure in one of the nation's first political parties. It is a testament to his political stature that this party first took its name from that of its great leader. The Jeffersonians, also called the Jeffersonian Republicans, later were known as Democratic Republicans and then simply as the Democratic Party. Jefferson was thus the founder of the nation's oldest political party, which still plays a key role in shaping American politics.

These deeds alone constitute a record of achievement that almost any politician would envy. Jefferson's importance to our country, however, resides not only in his deeds, but also in his thoughts and words—that is, in the political ideas to which he gave such powerful and memorable expression. As the primary author of the Declaration of Independence, Jefferson

formulated the bedrock moral and philosophical principles on which our government rests. Although Jefferson played no direct part in framing the Constitution, his interpretations of it have powerfully shaped the thinking of many Americans, even down to the present day.

Few Americans—and, for that matter, few statesmen anywhere in the world—have left such a lasting impression on their country. Jefferson's importance is visible in the impressive monuments erected to his memory. He is one of only four Presidents honored on Mount Rushmore and one of only a handful whose memorials surround the National Mall in Washington, D.C. His prominence in the imagination of our people is evident in the vast number of schools, towns, and counties that bear his name. Moreover—and perhaps more important than all these tangible signs of respect—Jefferson's ideas continue to be invoked and his legacy continues to be debated by generations of Americans born long after he died. It is no exaggeration to say that we cannot fully understand America without understanding Thomas Jefferson's contributions to its political development.

## Natural Rights and Government by Consent

Thomas Jefferson is perhaps most famous as the principal author of America's Declaration of Independence. The Continental Congress entrusted the important task of developing this pivotal statement to a committee of five men: Jefferson, Franklin, Adams, Roger Sherman, and Robert Livingston. Jefferson's august colleagues on this committee then selected him to write the initial draft. The final version of the Declaration is not entirely Jefferson's work. The committee and the Congress made some revisions. Nevertheless, the officially adopted public text closely reflects the work of Jefferson's pen, and he could claim with just pride to be the "Author of the American Declaration of Independence"—one of the three accomplishments he listed on his tombstone.

As author of the Declaration, Jefferson listed the many specific grievances that the colonists believed justified their decision to break with the mother country once and for all, establishing America as an independent nation. Jefferson also did something else of much greater and more lasting significance: He used the opening paragraphs of the [Declaration](#) to express the fundamental moral, political, and philosophical "truths" that "we" Americans "hold...to be self-evident." These truths are still familiar to and cherished by almost all Americans: "that all men are created equal"; that they are "endowed by their creator" with certain fundamental and "inalienable rights," including those "to life, liberty, and the pursuit of happiness"; that governments are "instituted" by "the consent of the governed" in order to protect these rights; and that the people may "alter and abolish" their forms of government whenever they become "destructive" of their rights, and institute a new government that they believe will protect their rights more effectively.<sup>2</sup> Jefferson was thus instrumental in establishing, or at least in memorializing, something that makes America unusual among the nations: its commitment to a specific political creed that it believes is required by universal principles of justice—its sense that its very identity is bound up with certain political axioms that it cannot betray without betraying itself.

Thanks to Jefferson's inclusion of this statement of principles, the Declaration has been able to function as a kind of touchstone of American politics, a moral standard that

statesmen and citizens can consult from generation to generation, especially when grappling with issues in relation to which the nation seems to have strayed from its Founding commitments. As a result, the Declaration—and Jefferson’s words—have played a key role in many of America’s most important political controversies. In the 1850s, Abraham Lincoln appealed to the Declaration’s doctrines of equality and consent to contend that America could not tolerate slavery’s further extension without undermining the nation’s commitment to freedom and self-government. A century later, Martin Luther King, Jr., cited the claim that “all men are created equal” in his celebrated “[I Have a Dream](#)” speech calling for an end to racial segregation.

[Some](#) have used the word “radical” to describe the Declaration’s political teaching.<sup>3</sup> Is this an accurate characterization? Was Jefferson himself a political radical? These are complicated questions, and it is necessary to explore them to gain a full understanding of the political thought of the Founding and Jefferson’s contributions to it.

The Declaration was certainly radical in its insistence on the centrality of the rights and consent of the people. Here it departed from older traditions of thought that emphasized deference to established forms of government. For many generations, Europeans had tended to think that their ancient monarchical and aristocratic regimes could justly demand the people’s obedience because they were established by divine right, were part of a precious civilizational inheritance built up under the guidance of God’s providence, or (at the very least) were believed to be an immovable fact of life to which people had to submit to maintain any kind of tolerable social order. In contrast to such thinking, the Declaration held that the people have the authority to create their own governments in order to protect their rights.

Nevertheless, neither Jefferson nor anybody else considered these principles radical in the American context. In writing the Declaration, Jefferson had drawn on a body of political thought—especially the work of the English political philosopher John Locke—that had powerfully influenced the American colonists’ thinking over a period of many years. Accordingly, looking back from his retirement, Jefferson [remarked](#) that the Declaration had been intended as “an expression of the American mind,” giving “the common sense” on the issues at stake, and not as seeking to “find out new principles, or new arguments, never before thought of.”<sup>4</sup>

In fact, there are some senses in which the Declaration’s principles are not radical but conservative in their character. Jefferson was careful to temper the Declaration’s assertion of a popular right to revolution with a reminder that such a right must be exercised with due caution and for sufficiently weighty reasons. Thus, he included in the Declaration the observation that “prudence”—a virtue the Founders recognized as essential to wise statesmanship—“will dictate that governments long established should not be changed for light and transient causes.”

For Jefferson and the Founding generation, revolution was not the first resort every time a government happened to have violated some of the rights of the governed; rather, it was the last resort to which the people were compelled when the government clearly aimed “to reduce them under absolute despotism.” Moreover, by appealing to “the laws of nature and of nature’s God,” the Declaration reflected a kind of thinking—the effort to ground moral and political standards in the order of nature—that had informed Western civilization since the emergence of political philosophy among the ancient Greeks.<sup>5</sup> Thus,

Jefferson later [indicated](#) that the Declaration reflected the teaching not only of the modern “elementary books of public right” by authors such as Locke and Algernon Sidney, but also ancient ones by Aristotle and Cicero.<sup>6</sup>

The idea that Jefferson himself could be called a radical has some basis in his differences with some of the other Founders. The principles of the Declaration represented a common ground for the Founding generation, but different figures interpreted and applied them differently—and Jefferson can be found sometimes pressing them to extremes that other Founders rejected. Jefferson, for example, once [wrote](#) to James Madison that “*the earth belongs in usufruct to the living*” and that, accordingly, “the dead have neither powers nor rights over it.”<sup>7</sup> Jefferson drew the conclusion that constitutions of government and even ordinary laws ought to expire at the end of every generation so that the coming generation has a genuine right to consent to them or to different ones if they so choose. Writing in [reply](#) to his friend, Madison suggested that such a doctrine was “liable in practice to some weighty objections.” A constantly changing constitution, Madison observed, would forfeit the habitual respect of the people that is a beneficial support to any government, and the recurring constitutional revisions would create factional conflict and “agitate the public mind more frequently and more violently than might be expedient.”<sup>8</sup>

Moreover, where men like Washington and Hamilton were horrified by acts of lawless opposition to the government, such as Shays’ Rebellion and the later Whiskey Rebellion, Jefferson was notably more tolerant of such extra-legal assertions of the people’s power, viewing them as necessary to preserve liberty in the face of a potentially overbearing government. “I hold it,” he famously [wrote](#) to Madison, “that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical.” Accordingly, he continued, “honest republican governors” should be “so mild in their punishment of rebellions, as not to discourage them too much” since they provide “a medicine necessary for the sound health of government.”<sup>9</sup>

Nevertheless, unlike some later American radicals who have misunderstood or abused the Declaration’s claim that “all men are created equal,” Jefferson was no egalitarian. For him, as for the rest of the Founders, the crucial moral fact that all are equal in their fundamental rights—to life, liberty, and property—did not mean that all would be equal in their accomplishments, status, or power. Jefferson made this clear in his private and public pronouncements. [Writing](#) to his friend and former political rival, John Adams, Jefferson admitted that “there is a natural aristocracy among men” based on “virtue and talents.” This aristocracy, he added, was “the most precious gift of nature for the instruction, the trusts, and government of society.” Remaining true to the Declaration’s claim that a just government must rest on the consent of the governed, Jefferson never suggested that this natural aristocracy had any right to rule, but he did observe to Adams that the best form of government would provide “most effectually for a pure selection” of the natural aristocrats “in the offices of government” so that their “virtue and wisdom” could be used in managing “the concerns of the society” successfully.<sup>10</sup>

In a similar spirit, Jefferson, in his [Second Inaugural Address](#) as President, expressed it as his “wish”—and the common wish of all Americans—that “equality of rights be maintained,” as well as “that state of property, equal or unequal, which results to every man from his own industry, or that of his fathers.”<sup>11</sup> Unlike some contemporary left-wing critics of

American society, Jefferson saw nothing morally suspect in the inequalities of wealth that arise in a free society from different degrees of success in work or even from inheritance.

Perhaps slavery, more than any other single issue, best illustrates the ambiguities of Jefferson's radicalism. On the one hand, Jefferson came from a slave state, Virginia, and was himself a lifelong slave owner. Unlike George Washington, Jefferson made no provision to free his slaves upon his death. Although he urged his home state to adopt a plan of gradual emancipation, the abolition of slavery was no part of Jefferson's program as a statesman at the national level. On the other hand, Jefferson never let his own or his fellow citizens' personal economic interest in slavery blind him to its incompatibility with the principles he had expressed for the country in the Declaration of Independence. Nor did he permit such considerations to deter him from openly declaring the injustice of slavery. In his 1774 *Summary View of the Rights of British America*, Jefferson criticized King George for protecting the slave trade, an "infamous practice" that "deeply wounded" the "rights of human nature."<sup>12</sup> Jefferson included an even stronger denunciation of the slave trade in his original draft of the *Declaration*, although the Congress removed this language from the final version.<sup>13</sup> In his discussion of slavery in his *Notes on the State of Virginia*, Jefferson famously remarked: "Indeed I tremble for my country when I reflect that God is just" and "that his justice cannot sleep forever."<sup>14</sup>

As a man and as a politician, Jefferson was a pragmatist whose actions in opposition to slavery were limited by how deeply rooted it was both in his own life and the life of the nation. Nevertheless, he deserves considerable credit for his clear and repeated public condemnations of it, which helped to guide later generations of statesmen like Abraham Lincoln who led the efforts to restrict and finally destroy American slavery.

## Strict Construction and States' Rights

Thomas Jefferson's thought is also essential to understanding our nation's other most important Founding document: the Constitution. To be sure, Jefferson played no direct role in framing the original Constitution (which was done while he was on the other side of the Atlantic serving as minister to France) or of the Bill of Rights (which was drafted by Congress while Jefferson was serving in the executive branch as the nation's first Secretary of State). Nevertheless, Jefferson was deeply involved in the country's early debates over the meaning of the Constitution, and the views he expressed had a lasting influence on many Americans, both in his own time and in later generations.

In general, to use terms popularized later in American history, Jefferson was a proponent of "strict construction" and "states' rights." That is, he favored a narrow interpretation of the powers of the federal government, partly out of a desire to protect individual liberty, but partly as a way to safeguard states' powers from national encroachments. Here it is helpful to think of Jefferson's position in relation to the contending factions in the great debate over whether to ratify the Constitution in the first place. Jefferson could be counted as a Federalist in the sense that he favored ratification of the Constitution because he agreed that the government under the Articles of Confederation was too weak to govern the country effectively. At the same time, he was also very sympathetic to Anti-Federalist fears of an

excessively strong central government that would eventually usurp all political power and destroy the remaining sovereignty of the state governments. In light of these latter concerns, Jefferson favored a more limited interpretation of the federal power under the Constitution than some other leading Founders wanted.

Jefferson first developed his defense of strict construction of the federal power in debates with Alexander Hamilton and later, more generally, in opposition to the policies of the Federalist Party. Jefferson's constitutional contest with Hamilton deserves to be classed as one of the greatest political rivalries in American history, giving rise to the nation's first party system, with Federalists favoring an expansive, Hamiltonian reading of the powers of the national government and Jeffersonian Republicans contending for stricter limits. These disputes began to emerge as early as George Washington's first term as President while Hamilton was serving as Secretary of the Treasury and Jefferson was serving as Secretary of State.

Their first important constitutional disagreement concerned Hamilton's plan for a national bank. After the law to create this institution was approved by both houses of Congress, President Washington, uncertain of its constitutionality, sought the advice of the members of his Cabinet. In his written opinion submitted to the President, Jefferson argued strenuously that the Constitution gave Congress no power to charter a bank. Such an authority, he noted, was nowhere to be found among the enumerated powers of the federal government: those expressly listed in Article I, Section 8.

This argument, however, was not in itself conclusive. Perhaps the bank could be justified, as Hamilton suggested, under the Necessary and Proper Clause—that provision at the end of the enumeration that gave Congress the power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” According to Hamilton, the bank could be understood as necessary to the successful execution of the federal government's enumerated powers to raise taxes, borrow money, and regulate commerce among the states. For Jefferson, Hamilton's argument depended on an unreasonably and dangerously loose interpretation of the term “necessary.” A bank, Jefferson [contended](#), was not really necessary to the execution of these enumerated powers because all of them could be executed without it. It was at best only “convenient” for their execution.<sup>15</sup> Hamilton's interpretation, Jefferson believed, pushed the federal power further than it was intended to go.

A similar dispute arose later over Hamilton's *Report on Manufactures*, which called for federal “bounties” or subsidies to promote American manufacturing. Hamilton argued that such a spending policy could be justified under the constitutional provision authorizing Congress to raise taxes and spend money for the sake of the “general welfare.” Jefferson, however, [thought](#) that Hamilton was again seeking to take the federal power beyond its proper limits because the Constitution did not expressly contemplate paying out federal money in bounties to private persons.<sup>16</sup>

For Jefferson, much more than a couple of arguable constitutional violations was at stake in these disagreements. He believed—and [argued strongly](#)—that Hamilton's interpretations tended to destroy the constitutional limits on the federal government's power. Hamilton's approach to the Necessary and Proper Clause was so loose that it could justify practically anything because there are innumerable policies that could plausibly be presented as useful or convenient (as opposed to truly necessary) to the execution of the enumerated



powers.<sup>17</sup> Moreover, Jefferson [held](#) that Hamilton treated the General Welfare Clause as a blanket authorization for Congress to do anything that it believed would be good for the United States.<sup>18</sup>

The effect of Hamilton's constitutionalism was therefore to destroy the enumeration of powers as a real limit on the authority of the government and thus to undermine one of the main purposes of the Constitution itself. In Jefferson's view, Hamilton was a threat not only to the Constitution, but even to the fundamental American commitment to republican self-government. Jefferson [warned](#) President Washington that he feared Hamilton and his party were seeking to eliminate the Constitution in order eventually to introduce a monarchy in its place.<sup>19</sup>

As it turned out, Jefferson's fears for the future of American constitutionalism and republicanism did not end with Hamilton's departure from national office. In 1798, after Hamilton had left the Treasury and Washington had retired from the presidency, the Federalist Congress passed and President John Adams signed into law the Alien and Sedition Acts. Jefferson, now Vice President under Adams, viewed these acts as another example of the Federalist Party's willingness to violate the Constitution. In this case, however, Jefferson viewed the danger as so serious that he felt called not only to disagree, but even to encourage resistance. To that end, he drafted for the Kentucky Legislature a set of resolutions urging the state governments to unite in opposition to the Alien and Sedition Acts. Here he collaborated with his friend and co-founder of the Jeffersonian-Republican Party, James Madison, who authored a set of protest resolutions for the Virginia Legislature, making arguments similar to (but not identical to) Jefferson's.

According to Jefferson's Kentucky Resolutions, the Alien Acts exercised powers not granted by the Constitution. They violated the separation of powers and the Due Process Clause of the Fifth Amendment by giving the President broad authority to order certain foreigners to leave the country. The Sedition Act, which punished false and defamatory publications against the government, claimed to exercise a power over the press that was not granted in the Constitution's enumeration of powers—and in fact was explicitly ruled out by the First Amendment's prohibition on any law "abridging the freedom of speech, or of the press." Jefferson went further, however, and put forward a theory proposing that state governments had the authority to judge for themselves whether the federal government had gone beyond its legitimate powers and violated the Constitution.

For [Jefferson](#), the Constitution was properly understood as a "compact" among the states by which they had agreed to create the federal government for certain limited purposes, leaving to themselves "the residuary mass" of authority. Therefore, any act of the federal government that went beyond the "definite powers" delegated to it by the states was "unauthoritative, void, and of no force." Moreover, Jefferson continued, the Constitution did not make the federal government or any part of it, such as the Supreme Court, "the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers." Rather, because the Constitution was a compact among the states, each state, as a party to the agreement, had "an equal right to judge for itself" whether the federal government had violated the Constitution and what "mode and measure of redress" ought to be pursued in such a case. Later in his draft of the resolutions, Jefferson argued that when the federal government

acted outside its proper powers, “a nullification of the act” by the state government “is the rightful remedy” because “every state has a natural right” to “nullify” by its “own authority all assumptions of power” within its limits that are not justified by the constitutional compact among the states.<sup>20</sup>

Jefferson left America a mixed legacy as a strict constructionist and states’ rights constitutionalist. His narrow interpretation of the federal power even complicated his thinking about his greatest accomplishment as President. Because the Constitution did not expressly authorize the government to acquire new territory, Jefferson worried that the Louisiana Purchase, which paved the way for America to become a great and powerful nation, was unconstitutional—although he went ahead with it anyway.<sup>21</sup> This example and many others suggest that Jeffersonian strict construction was not adequate to the needs of the nation. The Supreme Court itself came to this conclusion later when, in *McCulloch v. Maryland* (1819),<sup>22</sup> it affirmed the constitutionality of the Second Bank of the United States and explicitly rejected the narrow interpretation of the Necessary and Proper Clause that Jefferson had advanced a generation before. Later Supreme Court rulings also affirmed the constitutionality of federal spending programs that depended on a broad interpretation of the General Welfare Clause.

It would seem, then, that, despite the crushing political blow that Jefferson and his party dealt to the Federalists in the election of 1800, Hamiltonian constitutionalism prevailed in the end. Nevertheless, Jefferson’s concerns and arguments continue to exert influence even today. The need to protect the legitimate powers of the state governments and to avoid interpretations of the federal powers that would render them unlimited in practice has been invoked by the Supreme Court many times in our nation’s history when the federal government has sought to overstep its proper constitutional boundaries.

Chief Justice John Marshall’s opinion in *McCulloch* also made a point of rejecting Jefferson’s compact theory. The Constitution, Marshall observed for a unanimous Court, was an agreement among the people of the United States as a nation, not among the states. Despite this ruling, Jefferson’s account of the Constitution as a compact among sovereign states continued to exert influence—and, one might say, work mischief—for many decades. In the 1830s, the state of South Carolina asserted that its sovereignty as a state included a right to nullify the federal tariff and even to secede from the Union. A generation later, many Southern states, influenced by such thinking, attempted to secede from the Union and thereby precipitated the crisis of the American Civil War—with the Union’s victory finally putting an end to such extreme theories of state sovereignty.

It would be unjust, however, to cast too much blame on Jefferson for the acts of later Americans who carried his arguments further than he had himself. Jefferson explicitly repudiated secession and disunion, saying that those who took such a step would be perpetrating an “act of suicide on themselves and of treason against the hopes of the world.” Moreover, whatever the merits or demerits of Jefferson’s compact theory, we may certainly acknowledge that it is an inherent feature—and advantage—of American federalism that state officials can find ways, without going so far as to claim a power of “nullification,” to shelter their citizens from what they think are abuses of the federal power. Attempts to do so have continued down to the present day.

## Church and State, Religion and Politics

As historian Wilfred McClay has observed, America at the time of the Founding was dominated by two “distinctive intellectual currents”: Protestant Christianity and Enlightenment rationalism.<sup>23</sup> Jefferson clearly belonged more to the Enlightenment current. This is not to say that Jefferson was irreligious. He was raised in Virginia’s Anglican Church, remained an active member in his young manhood, and attended public religious services during his presidency. Nevertheless, Jefferson’s Enlightenment leanings were evident in his choice to give a prominent place at Monticello to portraits of Francis Bacon, Isaac Newton, and John Locke—as well as in his [remark](#) to Alexander Hamilton that he regarded them as his “trinity of the three greatest men the world had ever produced.”<sup>24</sup> Moreover, Jefferson’s deviation from traditional Christian orthodoxy was displayed in his compilation of the moral teachings of Jesus, carefully omitting references to miracles and claims of Jesus’ divinity, which he believed did not originate with Jesus but had been added by his followers.

Throughout his life, Jefferson considered himself a staunch champion of religious liberty. He was the author of Virginia’s [Statute for Religious Freedom](#), one of the three accomplishments he memorialized on his tombstone. In memorable phrases characteristic of Jefferson’s public eloquence, the Statute denounced as “sinful and tyrannical” any measure “to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves” and held that “our civil rights have no dependance on our religious opinions, any more than on our opinions in physics or geometry.” The law went on to provide that “all men shall be free to profess, and by argument to maintain, their opinions in matters of religion,” which would in no way “diminish, enlarge, or affect their civil capacities.”<sup>25</sup>

Jefferson also showed his understanding of the proper relationship between politics and religion in his conduct of the presidency. Here, too, his choices bring to light differences of opinion among the Founders about the meaning of the Constitution. Both of his great presidential predecessors, George Washington and John Adams, had issued formal Thanksgiving proclamations calling on their fellow citizens to set aside a day for prayer and expressions of gratitude to God for his many blessings upon America. Jefferson declined to do so, believing that the practice was inconsistent with the Constitution. “In matters of religion,” he observed in his [Second Inaugural Address](#), “I have considered that its free exercise is placed by the Constitution independent of the powers of the general government.” Therefore, he explained, he had “undertaken, on no occasion,” to “prescribe” any “religious exercises.”<sup>26</sup>

Jefferson’s most famous and consequential statement on the question of religion, politics, and the Constitution can be found in his 1802 [letter](#) to the Danbury Baptist Association in which he stated that “religion is a matter which lies solely between man and his God, that he owes account to none other for his faith and worship,” and “that the legislative powers of government reach actions only, not opinions.” Accordingly, he continued, “I regard with sovereign reverence that act of the whole American people”—the First Amendment—“which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between church and state.”<sup>27</sup>

Both Jefferson’s “wall of separation” metaphor and the principles he expressed in the Virginia Statute for Religious Freedom have powerfully influenced the Supreme Court’s

understanding of the First Amendment over the past several decades in cases limiting the government's ability to promote religion. Contemporary critics of the Court's Jeffersonian interpretation have appealed more to the precedents set by Washington and Adams, which give more constitutional scope to government encouragement of religion.

In view of this influence, Jefferson has been treated as something of a hero by extreme American secularists who wish to see religion completely banished from public life. Here again, however, Jefferson's thought is more subtle than might be suggested by those who try to appropriate it for their own purposes.

While Jefferson held that the federal government had no power to promote religion, he did not believe that religion was politically irrelevant. On the contrary, he agreed with most of the other leading Founders that religion is a necessary support to the morality that sustains a free and just society. In his *Notes on the State of Virginia*, he suggested that "the liberties of a nation" cannot be "secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God" and "are not to be violated but with his wrath."<sup>28</sup> Accordingly, Jefferson thought it appropriate to use his *First Inaugural Address* as an occasion to praise religion by numbering among the nation's "blessings" a "benign religion, professed indeed and practiced in various forms, yet all of them inculcating honesty, truth, temperance, gratitude and the love of man, acknowledging and adoring an overruling providence, which by all its dispensations proves that it delights in the happiness of man here, and his greater happiness hereafter."<sup>29</sup>

## A Complicated Legacy

As the preceding discussion indicates, Jefferson's legacy is complicated. On the one hand, he is a powerful symbol of what unifies us as Americans. It fell to him at the moment of the nation's birth to express the fundamental truths on which our political way of life is established. On the other hand, he is also a symbol of division. He became the founder and leader of a great political party, contending for interpretations of the Constitution that clashed with those favored by other important figures among the Founders. That Jefferson was involved in such controversies in no way diminishes his greatness. Politics is inherently controversial, and all of the towering figures among the Founders were parties to these controversies.

In any case, there is no doubt that Jefferson earned lasting greatness through his contributions to both unity and controversy. When called upon to speak for the nation in the Declaration of Independence, he did it in so powerful and memorable a fashion that it is now almost impossible to imagine America apart from the principles he stated and the words he chose to express them. When acting in the realm of constitutional controversy, Jefferson proved himself one of the most energetic and intelligent exponents of ideas that have influenced American politics from his time until our own. No one, not even his critics, can deny that to understand America fully, we must understand the political career and ideas of Thomas Jefferson.

## SELECTED PRIMARY WRITINGS

### **A Bill for Establishing Religious Freedom (1779)<sup>30</sup>**

Section 1. Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do, but to extend it by its influence on reason alone; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time: That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness; and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labors for the instruction of mankind; that our civil rights have no dependance on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy [of] the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that the opinions of men are not the object of civil government, nor under its jurisdiction; that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions

the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

Sect. II. We the General Assembly of Virginia do enact that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Sect. III. And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this act irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right.

### **First Inaugural Address (1801)<sup>31</sup>**

Friends & Fellow Citizens,

Called upon to undertake the duties of the first Executive office of our country, I avail myself of the presence of that portion of my fellow citizens which is here assembled to express my grateful thanks for the favor with which they have been pleased to look towards me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge, and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye; when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation & humble myself before the magnitude of the undertaking. Utterly indeed should I despair, did not the presence of many, whom I here see, remind me, that, in the



other high authorities provided by our constitution, I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely, and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the constitution all will of course arrange themselves under the will of the law, and unite in common efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate would be oppression. Let us then, fellow citizens, unite with one heart and one mind, let us restore to social intercourse that harmony and affection without which liberty, and even life itself, are but dreary things. And let us reflect that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance, as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others; and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans: we are all federalists. If there be any among us who would wish to dissolve this Union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know indeed that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear, that this government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it the only one, where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern.—Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have

we found angels, in the form of kings, to govern him? Let history answer this question.

Let us then, with courage and confidence, pursue our own federal and republican principles; our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high minded to endure the degradations of the others, possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation, entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow citizens, resulting not from birth, but from our actions and their sense of them, enlightened by a benign religion, professed indeed and practiced in various forms, yet all of them inculcating honesty, truth, temperance, gratitude and the love of man, acknowledging and adoring an overruling providence, which by all its dispensations proves that it delights in the happiness of man here, and his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens, a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government; and this is necessary to close the circle of our felicities.

About to enter, fellow citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our government, and consequently those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations.—Equal and exact justice to all men, of whatever state or persuasion, religious or political:—peace, commerce, and honest friendship with all nations, entangling alliances with none:—the support of the state governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies:—the preservation of the General government in its whole constitutional vigor, as the sheet anchor of our peace at home, and safety abroad: a jealous care of the right of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided:—absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of the despotism:—a well-disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them:—the supremacy of the civil over the military authority:—economy in the public expense, that labor may be lightly burthened:—the honest payment of our debts and sacred preservation of the public faith:—encouragement of agriculture, and of commerce as its

handmaid:—the diffusion of information, and arraignment of all abuses at the bar of the public reason:—freedom of religion; freedom of the press; and freedom of person, under the protection of the Habeas Corpus:—and trial by juries impartially selected. These principles form the bright constellation, which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages, and blood of our heroes have been devoted to their attainment:—they should be the creed of our political faith; the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps, and to regain the road which alone leads to peace, liberty and safety.

I repair then, fellow citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this the greatest of all, I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation, and the favor, which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not if seen in all its parts. The approbation implied by your suffrage, is a great consolation to me for the past; and my future solicitude will be, to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choices it is in your power to make. And may that infinite power, which rules the destinies of the universe, lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

## RECOMMENDED READINGS

- Jeremy D. Bailey, *Thomas Jefferson and Executive Power* (New York: Cambridge University Press, 2007).
- John B. Boles, *Jefferson: Architect of American Liberty* (New York: Basic Books, 2017).
- Kevin R.C. Guzman, *Thomas Jefferson, Revolutionary: A Radical's Struggle to Remake America* (New York: St. Martin's Press, 2017).

David N. Mayer, *The Constitutional Thought of Thomas Jefferson* (Charlottesville: University of Virginia Press, 1995).

Garrett Ward Sheldon, *The Political Philosophy of Thomas Jefferson* (Baltimore: Johns Hopkins University Press, 1993).

Jean M. Yarbrough, *Thomas Jefferson and the Character of a Free People* (Lawrence, KS: University Press of Kansas, 1998).

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# John Dickinson

## Life

Dickinson was born November 13, 1732, in Talbot County, Maryland, to Samuel Dickinson and Mary Cadwalader Dickinson. He had one full brother, Philemon, and two half-siblings, Henry and Elizabeth. At the age of 38 on July 19, 1770, he married Mary (Polly) Norris, daughter of Isaac Norris, longtime speaker of the Pennsylvania Assembly. They had five children: Sally Norris (1771–1855); Mary (1774–1775); John (1778); an unnamed son (1779); and Maria (1783–1860). Dickinson died on February 14, 1808, at his home in Wilmington, Delaware. He is buried in Wilmington Friends Burial Ground.

## Education

Dickinson studied under private tutors at home until age 18; read law with former king's attorney John Moland and passed the bar in Philadelphia (1750–1753); and studied law at the Middle Temple of London's Inns of Court (1754–1757).

## Religion

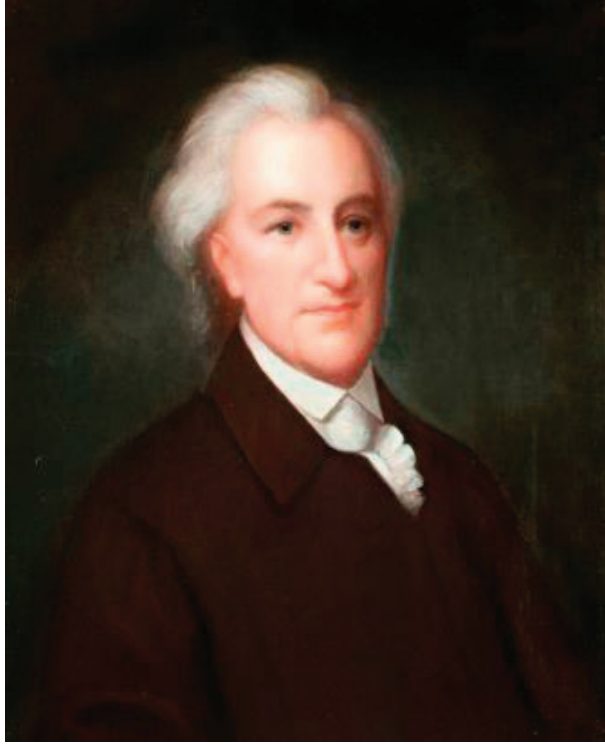
Unaffiliated; leaned Quaker

## Political Affiliation

Republican

## Highlights and Accomplishments

1759–1761	Member, Three Lower Counties (Delaware) Assembly
1762–1765	Member, Pennsylvania Assembly
1765	Delegate from Pennsylvania to Stamp Act Congress
1765	Declaration of Rights from Stamp Act Congress
1765	Petition to the King from Stamp Act Congress
1768	<i>Letters from a Farmer in Pennsylvania to the Inhabitants of the British Colonies</i>
1770, 1774–1776	Member, Pennsylvania Assembly
1774	Delegate from Pennsylvania to First Continental Congress
1774	First Petition to the King
1774	<i>To the Inhabitants of the Colonies</i>
1774	Bill of Rights [and] List of Grievances
1774	<i>Letter to the Inhabitants of the Province of Quebec</i>
1775–1776	Colonel, First Philadelphia Battalion of Associators
1775–1776	Delegate from Pennsylvania to Second Continental Congress
1775	Second Petition to the King (Olive Branch Petition)
1775	Declaration on the Causes and Necessity of Taking Up Arms
1776	Draft of the Articles of Confederation
1776	Draft of Plan of Treaties
1777	Private, Delaware Militia
1779	Delegate from Delaware to Second Continental Congress
1781–1782	President of Delaware
1782–1785	President, Supreme Executive Council of Pennsylvania
1786	Chairman, Annapolis Convention
1787	Delegate from Delaware to Constitutional Convention
1788	<i>Letters of Fabius</i> (on ratification of the Constitution)
1791–1792	President, Delaware Constitutional Convention



John Dickinson, n.d., Library Company of Philadelphia.

John Dickinson was a republican in his manners and his sentiments—in public life the powerful advocate of his fellow citizens, and in a private station, *the friend of the poor*.... He treated all men with great suavity of manners and knew no distinction in society but virtue.

—City Gazette and Daily Advertiser,  
*Charleston, South Carolina, March 4, 1808*



# John Dickinson: Penman of the Founding

**D**ESPITE HIS PRESENT-DAY RELATIVE OBSCURITY, BEFORE AMERICA DECLARED independence from Great Britain, no American was better known and none was more critical to the cause of resistance and preparation than John Dickinson. Afterward, few were as central to the creation of the new nation. Beginning in 1765 during the Stamp Act crisis and into the era of the early Republic, Dickinson wrote more for the American cause than any other figure, becoming America's first celebrity and the internationally recognized leader of the response to British measures. His leadership united the colonies and instructed Americans about their rights and how to defend them. As independence looked likely, he restrained separatist impulses among the colonies and worked to build institutions so that a revolution could succeed.

After independence, Dickinson likewise held more public offices at all levels than any other Founder, from the executive office of two states to serving as a private in a state militia. Throughout his life as a lawyer, statesman, and private person, he championed rights not only for the American people as a whole, but also for those with the least power, including laborers, African Americans, women, Native Americans, and criminals. His philanthropy in the early Republic was unsurpassed as he used his vast wealth for the establishment of institutions—including schools, libraries, medical societies, churches, and the first prison reform society—that would serve all Americans. In each capacity, Dickinson attempted to realize the ideal he had set for himself as he finished his legal training: Stand for right and justice whatever the personal cost.

## The Life of John Dickinson

John Dickinson was born into a wealthy Quaker family on a Maryland tobacco plantation. His father moved the family to Kent County, one of the Three Lower Counties

of Pennsylvania (now Delaware), when Dickinson was seven. At the age of 18, he was apprenticed to former king's attorney John Moland in Philadelphia, after which he received three years of training at the Middle Temple, one of London's Inns of Court, to become a barrister. As a lawyer, he imagined himself "defending the Innocent & redressing the Injurd," because this was the "Noblest Aim of Human Abilities & Industry."<sup>1</sup> In London, he became acutely aware and proud of his American identity, believing virtue and industry were its hallmarks.<sup>2</sup> After establishing his law practice in Philadelphia, he rose quickly to prominence, taking all manner of work from lucrative prize cases in the Admiralty Court to trespass cases for yeomen to pro bono cases defending accused murderers.

His career in public service began in 1759 when he was elected to the Assembly of the Lower Counties. The next year, he was reelected and chosen as speaker of the House. He was elected to the Pennsylvania Assembly in 1762 and reelected frequently through 1776. His first service to America as a whole was as a delegate to the 1765 Stamp Act Congress in New York, where he was the main draftsman of the [Declaration of the Stamp Act Congress](#) and its Petition to the King. In his private capacity, he wrote several treatises concerning British measures and how Americans should resist them peacefully. He was among the earliest American advocates of natural rights.

With the passage of the Townshend Acts in 1767, Dickinson published his most famous document, [Letters from a Farmer in Pennsylvania](#), which launched him to international celebrity as the spokesman for the American cause. These 12 letters educated Americans about their rights and how British legislation threatened them, instructed them in peaceful resistance, and taught them to see themselves as Americans with an identity distinct from that of their British cousins. Dickinson's star status was solidified in the summer of 1768 when he published America's first patriotic song, the "Liberty Song," containing the line "By *uniting* We stand, by *dividing* We fall," which became the nation's first motto. Known as "the Pennsylvania Farmer," Dickinson was toasted across the colonies; poems were written about him; treatises were dedicated to him; and his likeness was represented in copper, wax, and oil. His name was used to advertise goods and services, from American-made clothing to taverns, ships, and stud horses. Leaders in the other colonies, including Samuel Adams in Massachusetts, the Lees of Virginia, and Alexander McDougall in New York, looked to him for guidance.

In 1770, Dickinson married Mary (Polly) Norris from the most prominent Quaker political family in Pennsylvania. She and their two daughters influenced his thinking on religion, politics, and social justice.

When the First Continental Congress met in 1774, lesser-known men such as George Washington, John Adams, and Patrick Henry sought introductions to the Farmer. Although Dickinson was not initially among the delegates, his agenda for reconciliation and peaceful resistance to British measures dominated. He was the primary draftsman of most of the major congressional documents through 1776. In 1775, his influence continued as Congress pursued his dual plan of seeking reconciliation while preparing for war. At this time, he was the de facto commander of the Pennsylvania militia. Dickinson's power and influence were such that only George Washington's rivaled them.

In the winter and spring of 1776, after Thomas Paine's *Common Sense* opened the public debate over independence and sentiment shifted in favor of revolution, Dickinson's influence

waned. Yet as his colleagues rushed for independence, Dickinson not only restrained them by prohibiting Pennsylvania from voting for it, but also used that precious time to prepare America to be independent. Had he favored separation in June, he would most likely have been assigned to draft the Declaration. Instead, he drafted the model treaty that became the blueprint for American foreign policy and America's first constitution, the Articles of Confederation, although the version implemented in 1781 bore little resemblance to his. On July 1, he gave an eloquent speech against the Declaration and then, knowing both that it would pass and that it should be unanimous, intentionally absented himself from the vote. Because he was not a Quaker and believed in defensive war, he soon deployed to the front, leading his militia unit to face the British.

Dickinson's public service was no less active after independence was declared. Following his enlistment as a private in the Delaware militia in 1777, he served in Congress in 1779 as a delegate from Delaware. A key member, he sat on nearly 25 committees addressing myriad issues, including corruption in the government, nonpayment of taxes by individuals and the states, negotiations with Britain for peace, and reformation of maritime affairs. In 1781, he was elected to the presidency of Delaware, turning it from a failing to a model state. Before his first term was finished, he was elected president of the Executive Council of Pennsylvania, a state that was in no better shape than Delaware. When he stepped down in 1785, he had resolved several crises that could have damaged the state and nation, including the [Mutiny of 1783](#), which evidence suggests was fomented by Congressmen Gouverneur Morris, William Jackson, and Alexander Hamilton.<sup>3</sup>

Dickinson then wanted to retire and focus on philanthropy. At this point in his life, he was almost indistinguishable from a Quaker. He used plain speech ("thee" and "thou"); dressed and lived plainly and frugally; and believed deeply in Quaker causes, including abolitionism, poor relief, prison reform, and education. But he was called into public service many more times. In 1786, he was chairman of the [Annapolis Convention](#) that met to strengthen the Articles of Confederation. He was an important contributor to the 1787 Federal Convention, offering key concepts, proposals, and solutions for the creation of the Constitution, including the basis for the so-called Connecticut Compromise—the idea that there should be equal representation in one house of the legislature and proportional representation in the other.<sup>4</sup> The following year, he wrote nine well-received letters under the pen name "Fabius" to encourage ratification of the Constitution. His constitutional work continued as president of the Delaware constitutional convention of 1791–1792 and the Delaware Senate in the spring of 1793.

In his final years, Dickinson and his wife focused on philanthropy, but he did not abstain from politics altogether. As the first party system took shape, Dickinson identified as a Republican and opposed the policies of Washington and Adams. He led a citizens' group against the 1794 Jay Treaty, supported the democratic agrarian movement, wrote treatises and odes in support of France and the French Revolution, and served as an informal advisor to President Thomas Jefferson. He also continued to write and advocate legislation for Pennsylvania, Delaware, and the United States.

Over the 15 years of his retirement, Americans never ceased to call for Dickinson's return to elected office. He obliged them only once. In the fall of 1807, in the wake of the [Chesapeake-Leopard Affair](#), he agreed to stand for election to the U.S. House of Representatives.

He was not chosen, which at 75 years of age was a relief. On his deathbed, he gave a final oration on the dangers of Napoleon to the United States. After his death, the demonstrations of public grief were second only to those for George Washington and on a par with those for Benjamin Franklin.

## Dickinson's Character

John Dickinson was described by those who met him as gracious, generous, cheerful, and having a "sweet disposition."<sup>5</sup> He made friends easily among all ranks of people wherever he went. Despite occasional health issues, he worked hard; spoke energetically and eloquently about favorite topics, especially politics and religion; and was considered one of the finest orators of the Revolutionary generation. He was also widely seen as a man of the highest character. As a young man studying in England, he was appalled by the corruption in the British political system and spoke of the need for a reformation of manners (that is, morals). Thirty years later, he spoke of the need for a reformation of manners among the American people, which he tried to effect while president first of Delaware and then of Pennsylvania by issuing proclamations on suppressing vice and immorality. Between these times, he attempted to pass legislation in colonial Pennsylvania to prevent politicians—such as Benjamin Franklin, whom Dickinson may have had in mind—from accepting certain offices that would compromise their integrity.

Virtue and honor were not empty talk for Dickinson. He was principled to a fault, refusing so adamantly and consistently to do anything that violated his conscience that he exasperated those closest to him. Honesty and integrity informed all of his work as a statesman, lawyer, and businessman. "[N]o offers however extravagant," he proclaimed, "shall tempt Me to undertake the sordid Employment of acquiring Gain by violating my Conscience."<sup>6</sup> Nor would he even agree to marry in a Quaker ceremony, despite the love of his life's requiring this as a condition of marriage. His conscience dictated a civil ceremony, and she eventually obliged.

If there was a single refrain in Dickinson's life, it was speaking truth to power regardless of the personal cost to himself, his fortune, or his legacy. Innumerable times over his 40-year career, he stood up to assemblies of his superiors and his peers, to judges and juries, even to the American public to say, Martin Luther-like, that here he stood, and his conscience would allow nothing else. He repeatedly made some version of his July 1, 1776, pronouncement: "Silence would be guilt. I despise its Arts. I detest its Advantages. I must speak, though I should lose my Life, though I should lose the Affections of my Countrymen."<sup>7</sup> He embodied the virtue that the Founding generation believed necessary for the survival of the Republic. Defining what it meant to him, he explained that "[a] Man's Virtue may cost him his Reputation & even his Life. By Virtue, [I] mean an inflexible & undaunted Adherence in public Affairs to his Sentiments concerning the Interests of his Country."<sup>8</sup>

## Quaker Constitutionalism

Dickinson was influenced by the same sources that influenced other leading Founders, including classical literature, European history, English jurisprudence, and Whig political thought. But the uniqueness of his thought and action stemmed from his Quaker heritage (although it is crucial to remember that Dickinson was not a Quaker himself). Members of the Religious Society of Friends, called Quakers by their enemies, believed in universal salvation, meaning that God's Light could shine in any properly prepared soul regardless of race, sex, or socioeconomic status. This central theological tenet differed from Calvinism—the religion of many Americans—which held that God predestined some to be saved and others to be damned. Since God's Light was the same in every individual, Quakers also believed in human equality.<sup>9</sup> Moreover, because God might speak through any individual, all should be allowed to preach. Over the centuries, the Quakers' belief in spiritual equality evolved to become a belief in civil equality. Dickinson believed strongly in these Quaker concepts.

Another key tenet of Quakerism concerned how dissent should occur within the civil constitution: in other words, what a people should do if the government oppressed them. Englishmen generally had two options. Tories believed that the king could do no wrong and must not be resisted. Radical Whigs believed that oppression legitimized violent revolution. Quakers held the middle ground between the Tories and the Whigs. As pacifists, they believed that man should not destroy God's creations, meaning not just other men, but also the civil constitution—the sacred unity of the polity, but they also advocated a new mode of resistance against brutal religious persecution in the English polity: civil disobedience, the public, nonviolent breaking of unjust laws with the intent of raising awareness of the injustice and achieving their repeal. When Dickinson advocated civil disobedience as a response to the Stamp Act, he was the first person to do so to the general public.

When Quakers had the opportunity to form and control their own government in Pennsylvania, they wrote a constitution (an unusual practice) in 1701 with an amendment clause (a novel inclusion) so that even civil disobedience would be unnecessary because a mechanism for change was built into the new plan of government. Thus, when Pennsylvania politicians Joseph Galloway and Benjamin Franklin attempted in 1764 to abolish the Quakers' unique 1701 constitution, Dickinson sought to preserve it to protect both religious liberty and civil unity. He took the same approach in leading the resistance to Britain—using peaceful dissent to preserve the British constitution, of which America was a part. In particular, he urged civil disobedience: The colonists should conduct their “business as usual” while ignoring offending legislation, thus repealing it virtually before Parliament would repeal it actually.<sup>10</sup>

Dickinson may have been inspired by Quaker constitutionalism to contribute to another key American idea: federalism. Whereas before 1787, most Americans scoffed at the idea of divided sovereignty (a state within a state) as a monster with two heads, Dickinson seems to have envisioned exactly that as a possible solution for the problems with Britain. He continued this thinking when he drafted the 1776 Articles of Confederation with a strong central government and subordinate states. Well before the Federal Convention, he depicted that relationship as a solar system with planet-states revolving around a federal sun. In the

Convention, he used the solar system metaphor to explain his solution for how representation in the legislature should work—proportional in one house and equal in the other.<sup>11</sup>

It is not likely a coincidence that Dickinson grew up within the Quaker meeting structure, which is itself a sort of federal system. Organized geographically and temporally, a group of states has an overarching, central governing body in which representatives meet once a year. This yearly meeting presides over constituent quarterly meetings covering smaller regions, which themselves are composed of representatives from local monthly meetings. At all levels, the meetings are egalitarian bureaucracies that form other bodies to accomplish the larger society's goals. These replicating structures allowed Quakerism to expand easily from England to distant continents and from the East Coast of North America to the West.<sup>12</sup>

## Freedom of the Press, Speech, and Religion

Dickinson was a lifelong champion of the fundamental rights of freedom of the press, speech, and religion. He first gained notoriety in 1758 as defense counsel for Rev. William Smith when Smith was tried for libel of the Pennsylvania Assembly *by* the Pennsylvania Assembly. Although it was a sham trial and Smith did not prevail, Dickinson risked his own liberty to argue for his rights. “The Freedom of the Press is truly inestimable,” he explained to the Assembly. “It is the Preserver of every other Freedom, & the Antidote to every kind of Slavery. By the Assistance of the Press, the Language of Liberty flies like Lightning thro the Land, and when the least attack is made upon her Rights, spreads the Alarm to all her Sons & raises and rouses a Whole people in her Cause.” He concluded that “Freedom of the Press is so opposite & dreadful to the Usurpers of unjust Power & the Enemies of Mankind, that **Liberty** however maimd & wounded **still** breathes & struggles, while that prevails.”<sup>13</sup> Forty years later, Dickinson published a pamphlet critical of the Adams Administration, seemingly to test the [1798 Sedition Act](#).

As a member of the Pennsylvania Assembly in 1764, Dickinson resisted the faction led by Galloway and Franklin that was seeking to remove the Penn family as proprietors of the colony and place it under royal control. Doing so would have meant abolishing the unique Pennsylvania 1701 constitution that protected liberty of conscience. Arguing eloquently to preserve that constitution, he explained that “we here enjoy that best and greatest of all rights, *a perfect religious freedom*.” Because Quakers refused to swear oaths, elsewhere they were excluded from participation in government. But in Pennsylvania, “posts of honour and profit are unfettered with *oaths* or *tests*.”<sup>14</sup> For Dickinson, although religion and politics were related, “Religion and Government are certainly very different Things” and “instituted for different ends; the Design of the one being to promote our temporal Happiness; the Design of the other to procure the Favour of God, and thereby the Salvation of our Souls.” Improperly mixing them had “deluged the World in Blood.”<sup>15</sup>

Dickinson married freedom of religion with freedom of speech in his 1776 draft of the Articles of Confederation. He copied the religious liberty clause from the 1701 Pennsylvania constitution to freeze religious rights where they currently stood in each colony so that, although dissenters might not immediately gain more liberty, neither could they be denied



the rights they currently exercised. He also made a significant change to remedy a defect he saw in the text. He initially followed the original clause, writing that “[n]o person or persons in any Colony living peaceably under the Civil Government shall be molested or prejudiced in his or their persons or Estate” but then went back and edited his work: “No person ~~or persons~~ in any Colony living peaceably under the Civil Government shall be molested or prejudiced in ~~his or their~~ persons or Estate....” Moreover, in place of “his or their,” he inserted “his or her.”

With this change, Dickinson’s draft of the Articles of Confederation was the first instance of an Anglo–American constitution protecting a fundamental right of both men and women. But he went further still. The clause continues: “for his or her religious persuasion or Practise.” When specifying that women should be allowed to practice their religion, Dickinson knew that, for Quaker women such as his wife and her female relatives, this meant public preaching. Thus, this clause protected not only women’s freedom to worship, but also their freedom of public speech, a right most women did not imagine they possessed. Though it was not, strictly speaking, illegal for women to speak in public, it was generally considered to be a masculine privilege. Therefore, this clause anticipated the First Amendment, the Fourteenth Amendment that incorporated the First against the states, and state constitutions from the late 20th century that used gender-inclusive language to protect women’s rights.<sup>16</sup>

## The Rights and Welfare of Individuals

Dickinson was a leading advocate of the principles of individual rights stated in the Declaration of Independence even before that document was issued. For example, his concern for improving the situation of women and protecting their rights did not begin with his attempt to protect their freedom of religion and public speech in the Articles of Confederation. Rather, it stemmed from his Quakerly beliefs and close relationships with and admiration for the women in his life. His circle of highly educated female friends and relatives was notably wide and included such luminaries as Susanna Wright, Elizabeth Graeme Fergusson, Mercy Otis Warren, and Catharine Macaulay. His erudite and virtuous Quaker mother was a significant influence on him, as was his literary and strong-willed Quaker wife and her many female Quaker relatives who lived with her at the Norris estate and wrote poetry objecting to the inequality of the sexes and the strictures men and a male-dominated society placed on women.<sup>17</sup>

When John and Polly married, John simply moved in with Polly and joined the Quaker poets’ sorority. His daughter inspired his closer adherence to Quakerism. Owing at least in part to their influence, he was acutely aware of the difficulties women faced in a society in which a woman’s legal identity was subsumed under her husband’s. She had few rights or responsibilities. Dickinson was especially solicitous of poor widows, arguing on their behalf in court and personally providing them with the necessities of life. As president of Pennsylvania, he proposed legislation that would allow women to divorce and receive alimony, and he counseled his daughters never to give any part of their inheritance to a husband.<sup>18</sup>

Before the Founding and during all of its phases, Dickinson paid special attention to ordinary laboring people without property. In his capacities as statesman, lawyer, and private citizen, he tried to raise up downtrodden and misfortunate individuals. He did this through legislation he wrote and championed throughout his life; pro bono work in his law practice; and philanthropy directed to immigrants, soldiers and veterans, and families of deceased religious ministers. With the help of Benjamin Rush and the Quakers, he founded what is now called the Pennsylvania Prison Society, the first prison reform organization.

Normally, elites believed that people low in the socioeconomic hierarchy did not possess enough virtue to be included in the political process. Nowhere did they have the right to vote. However, in the *Farmer's Letters*, Dickinson spoke particularly to the "lower sort" to educate them about the issues of the day. He invited them to contribute to the discussion, saying that although a person might be poor, "let not any honest Man suppress his Sentiments concerning Freedom, however small their Influence is likely to be."<sup>19</sup> Arguing for ratification of the Constitution in 1788, he said, "What concerns all, should be considered by all; and individuals may injure a whole society, by not declaring their sentiments. It is therefore not only their *right*, but their *duty*, to declare them."<sup>20</sup>

Dickinson also attempted to secure rights for African Americans. Although he had benefited from the institution of slavery and had inherited many enslaved people from his father, he long disliked the institution and the mistreatment of black people. As speaker of the Delaware Assembly at the age of 28, he passed legislation protecting free black people from enslavement, imposing significant fines both on the white enslavers and on the law enforcement officers who assisted them.<sup>21</sup> He began to object to slavery publicly beginning in the early 1770s and suggested that it be outlawed in the new United States and Pennsylvania.<sup>22</sup> At the earliest opportunity after adoption of the Declaration of Independence, he began the process of freeing the people he enslaved. In 1777, he freed them conditionally upon 21 additional years of service, but his conscience nagged at him, so he freed some unconditionally in 1781 and the remainder in 1786. He then tried multiple times to achieve abolition of slavery in Delaware, but all of his attempts failed. He continued to support elderly, formerly enslaved people for the remainder of their lives.<sup>23</sup>

## Civic Education

Education of young people was a lifelong interest for Dickinson, and one of his most lasting contributions to ordinary Americans was providing them with an education. He had always valued his own liberal education, which he credited with inculcating in him critical thinking, open-mindedness, humility, and a recognition of human equality.<sup>24</sup> Even before he had his own children and throughout much of his life, Dickinson was legal guardian of the children of several deceased family friends. Sometimes he took them into his home; sometimes they were placed in other homes. They always received an education, as did many other individuals who applied to Dickinson for assistance. His law practice was a veritable law school for young men in Philadelphia where, following his own mentors, he assigned them work not just in the law books, but also in literature, history, and the classics. When

he refused Polly's request to get married under the care of the Quaker meeting, he lectured her on the benefits of open-mindedness that come from a liberal education rather than the contracted habits of thought created by the Quakers' "guarded" education.

But more than these efforts relating to individuals, Dickinson and his wife sought to use their vast wealth for the benefit of the least fortunate in society—orphans and children experiencing poverty. They donated land, building materials, and books for schools around the Delaware Valley. In 1796, Dickinson authored a treatise on his ideas of education for youth as a sublime pairing of religious faith and scientific knowledge.

The Dickinsons' two lasting achievements were Dickinson College, founded in their name by Benjamin Rush, and Westtown School, a Quaker boarding school. Their vision for both was to give students a liberal arts education, which to them meant instruction in the classical languages and literature, history, science, and religion. Their aim was to create virtuous citizens who could contribute productively to American democracy and live peaceably in a religiously diverse society. To Dickinson College, they donated 600 acres in Carlisle, Pennsylvania, and a library's worth of books. Dickinson was also the president of the board of trustees. However, the Dickinsons seem to have become disenchanted with the institution, possibly because of curricular disagreements with Rush, who preferred "useful learning" to the liberal arts, which may explain why they stopped supporting the institution financially. They had a similar conflict with the Quakers over Westtown. The Dickinsons had proposed a boarding school in Chester County, Pennsylvania, for needy children of all backgrounds, insisting on a liberal arts curriculum. The Quakers objected, wanting to protect children from sin with a "guarded education." They refused to take the Dickinsons' donations for a decade before finally relenting.

Both Dickinson College and Westtown School flourish today, but Dickinson knew that private efforts for civic education would not be enough. "I look upon the protection of education by government," he wrote to Benjamin Rush, "as indispensably necessary for... advancing the happiness of our fellow citizens as individuals and for securing the continuance of equal liberty to them in society."<sup>25</sup>

## The Independence Decision

Dickinson's refusal to vote on or sign the Declaration of Independence has perplexed and even angered historians for centuries. They have not understood someone who would lead Americans in resistance to Britain and then voluntarily give up his power and influence on the eve of American greatness, but they wrote from a vantage point of knowing the outcome of the Revolution, forgetting that no one on the eve of independence did.

Dickinson did not want American independence from Britain for several quite rational reasons—some practical, others ideological. Most obviously, America was unprepared to wage war against the world's most powerful military or to function as an independent nation. Contrary to Dickinson's strategic bluster in the 1775 [Declaration on Taking Up Arms](#), America's military was immature and untested, in addition to which the country lacked the means to manufacture weapons or munitions at scale as well as foreign support, a unified populace, and a constitution. Dickinson also knew that the people of Pennsylvania—his

constituents—were evenly divided on the question of independence and that many more in the Lower Counties were opposed.

Moreover, Dickinson believed that independence was unnecessary. In his speech against it, he argued that when the British lost a couple of campaigns, they would give Americans everything they had sought in their 1774 Petition to the King. He was not wrong. In 1778, after humiliation in the 1777 Battle of Saratoga, the British dispatched a commission to treat with the Americans and accede to all their demands. Dickinson informed them that nothing short of their acknowledgment of America's independence would suffice.

Dickinson worried for Americans in another way. He thought both war and the threatened loss of the British constitution exposed the rights of the most vulnerable Americans to injury. In particular, he believed that Quakers in Pennsylvania would be persecuted by whichever side prevailed in the war—by the Anglicans if the British won or the Presbyterians if America dominated. This concern is why he wrote an extensive religious liberty clause into his draft of the Articles of Confederation.

Again, he was proven correct. When Quakers refused to engage in displays of patriotism, they were harassed in the streets, and their property was destroyed. In 1777, with John Adams in the lead, Congress acted on a suggestion by Thomas Paine to arrest all the leading Quakers in Philadelphia. Some were Polly's relatives. They were exiled to Virginia for nine months, during which time some died and their businesses and families languished. The following year, when approximately 130 confessed Loyalists turned themselves in to the Pennsylvania authorities, the only two who were executed were also the only Quakers among them.<sup>26</sup>

Dickinson also worried about black people. He had taken notice when *Somerset v. Stewart* (1772), which held that slavery was incompatible with the common law, was decided in England. He had lamented what he considered to be the illegitimate American laws that allowed slavery and began to speak out against the institution and trade. Evidence suggests that Dickinson believed that black people, like religious dissenters, might have a better chance for protection of their most basic rights under the British constitution than under an as-yet-undecided American one.<sup>27</sup>

On an ideological level, Dickinson was an adherent of Quaker constitutionalism. Of paramount importance in this theologico-political theory was the unity of the polity, or the constitution of the people. Quakers believed that in order to discern God's will, the sacred constitution must remain intact and dissent must be peaceful. Thus, he counseled against American independence—a move that, from his perspective, would have rent the unity of the British polity and precipitated untold violence throughout the land. But when Dickinson had to choose his primary identity—British or American—he had always been first and foremost an American. Thus, when forced to decide whether to stay with the British constitution or place his faith in an American one, there was no contest. He then withdrew his objection to independence and supported the cause.

Although waging war, even a defensive one, is forbidden by Quakers, Dickinson's choice to adhere to the decision of Congress otherwise could hardly have been more Quakerly. In the Quaker meeting, after a dissenter has spoken his or her piece and the meeting decides to take a different course, that individual is obliged to step aside and support the meeting in the direction it has chosen. When it was clear that Congress had decided against his

position, Dickinson stepped aside. Then he supported the decision by leading his men to the New Jersey front to fight the British. As he explained it,

Though I spoke my sentiments freely, as an honest man ought to do, yet, when a determination was reached upon the question against my opinion, I received that determination as the sacred voice of my country, as a voice that proclaimed her destiny, in which, by every impulse of my soul, I was resolved to share, and to stand or fall with her in that plan of freedom which she had chosen.<sup>28</sup>

In word and deed, John Dickinson exemplified virtuous democratic deliberation and participation. Disdaining personal advantage, he served his country for over 40 years, encouraging his countrymen to defend their rights and speaking truth to power on behalf of themselves and those who could not advocate for themselves. He recommended to Americans his own way of realizing the foundational principles stated in the Declaration of Independence: “[W]e never consult our own happiness more effectually,” he explained, “than when we most endeavour to correspond with the Divine designs, by communicating happiness, as much as we can, to our fellow-creatures.”<sup>29</sup>

JANE E. CALVERT

## SELECTED PRIMARY WRITINGS

### “Friends and Countrymen” (November 1765)<sup>30</sup>

THE critical Time is now come, when you are reduced to the Necessity of forming a Resolution, upon a Point of the most alarming Importance that can engage the Attention of Men. Your Conduct *at this Period* must decide the *future* Fortunes of yourselves, and of your Posterity—must decide, whether *Pennsylvanians*, from henceforward, shall be Freemen or Slaves. So vast is the Consequence, so extensive is the Influence of the Measures you shall *at present* pursue. May GOD grant that every one of you may consider your Situation with a Seriousness and Sensibility becoming the solemn Occasion; and that you may receive this Address with the same candid and tender Affection for the public Good by which it is dictated.

WE have seen the Day on which an Act of Parliament, imposing Stamp Duties on the *British* Colonies in *America*, was appointed to take Effect; and we have seen the Inhabitants of these Colonies, with an unexampled Unanimity, compelling the Stamp-Officers throughout the Provinces to resign their Employments. The virtuous Indignation with which they have thus acted, was inspired by the generous Love of Liberty, and guided by a perfect Sense of Loyalty to the best of Kings, and of Duty to the Mother Country. The Resignation of the Officers was judged the most effectual and the most

decent Method of preventing the Execution of a Statute, that strikes the Axe into the Root of the Tree, and lays the hitherto flourishing Branches of *American* Freedom, with all its precious Fruits, low in the Dust.—

THAT this is the fatal Tendency of that Statute, appears from Propositions so evident, that he who runs may read and understand. To mention them is to convince. Men cannot be happy, without Freedom; nor free, without Security of Property; nor so secure, unless the sole Power to dispose of it be lodged in themselves; *therefore* no People can be *free*, but where Taxes are imposed on them *with their own Consent*, given personally, or by their Representatives. If then the Colonies are equally intitled to Happiness with the Inhabitants of *Great-Britain*, and Freedom is essential to Happiness, they are equally intitled to Freedom. If they are equally intitled to Freedom, and an exclusive Right of Taxation is essential to Freedom, they are equally intitled to such Taxation.

WHAT further Steps you can now take, without Injury to this sacred Right, demands your maturest Deliberation.

IF you comply with the Act, by using Stamped Papers, you fix, you rivet perpetual Chains upon your unhappy Country. You unnecessarily, voluntarily establish the detestable Precedent, which those who have forged your Fetters ardently wish for, to varnish the future Exercise of this new claimed Authority. You may judge of the Use that will be made of it, by the Eagerness with which the Pack of Ministerial Tools have hunted for Precedents to palliate the Horrors of this Attack upon *American* Freedom. After all their infamous Labour, they could find nothing that even *their* unlimited Audacity could dare to call *Precedents* in this Case, but the Statute for establishing a Post-Office in *America*, and the Laws for regulating the Forces here, during the late War.

THESE Instances were greedily seized upon, and the Press groaned with Pamphlets to prove, that *they* would justify the Taxation of *America* by *Great-Britain*.— But no sooner were these boasted Examples produced to public View, and examined, than the Absurdity of applying them to the present Occasion, appeared so glaring, that they became more the Subject of Ridicule, than of Argument.—

YOUR Compliance with this Act, will save future Ministers the Trouble of reasoning on this Head, and your Tameness will free them from any Kind of Moderation, when they shall hereafter meditate any other Taxations upon you.

THEY will have a Precedent furnished by yourselves, and a Demonstration that the Spirit of *Americans*, after great Clamour and Bluster, is *a most submissive servile Spirit*.— Ministers will rejoice in the Discovery, and as no Measure can be more popular at Home, than to lessen the Burthens of the People *there*, by laying Part of the Weight on you, they will of Course be tempted by that Motive, and emboldened by your Conduct, to make you "*Hewers of Wood, and Drawers of Water.*"



THE Stamp Act, therefore, is to be regarded only as an EXPERIMENT OF YOUR DISPOSITION. If you quietly bend your Necks to that Yoke, you prove yourselves ready to receive any Bondage to which your *Lords* and *Masters* shall please to subject you. Some Persons perhaps may fondly hope, it will be as easy to obtain a Repeal of the Stamp Act after it is put in Execution, as if the Execution of it is avoided. But be not deceived. The late Ministry publicly declared, "that it was *intended* to establish the Power of *Great-Britain* to tax the Colonies." Can we imagine then, that when so great a Point is carried, and *we have tamely submitted*, that any other Ministry will venture to propose, or that the Parliament will consent to pass, an Act to renounce this Advantage? No! Power is of a tenacious Nature: What it seizes it will retain.

ROUSE yourselves therefore, my dear Countrymen. Think, oh! think of the endless Miseries you *must* entail upon yourselves, and your Country, by touching the pestilential Cargoes that have been sent to you. Destruction lurks within them.— To receive them is Death—is worse than Death—it is SLAVERY!— If you do not, and I trust in Heaven you will not use the Stamped Papers, it will be necessary to consider how you are to act. Some Persons are of Opinion, that it is proper to stop all Business that requires written Instruments, subject to Duties.

AGAINST this Proposal there are many weighty Objections. In the first Place, it will be nearly the same Acknowledgment of the Validity of the Stamp Act, and of its legal Obligation upon you, as if you use the Papers. It will also be extremely injurious to Individuals, and I apprehend the Inconveniences arising from the Stoppage of Business will be so great, that many People, whose immediate Interest may have too much Influence on their Judgment, may be induced to believe, that this Obstruction will be more pernicious than the Execution of the Stamp Act; and thus I am afraid, that a mistaken Zeal to avoid the Execution, may really produce it. How long can this Stoppage be endured? Or how long must it be continued? Until we can obtain Relief, by a Repeal of the Law, perhaps some may say. If this *should* happen, you cannot expect to hear of the Repeal in less than three or four Months. But if you act in this Manner, in my Opinion, you will never hear of it. For as soon as the News of your stopping all Business arrives in *Great-Britain*, the Parliament, Ministry and People, will be convinced of two Things: first, that you are intimidated to the utmost Degree; and secondly, that your Method of eluding the Act will at length compel you to comply with it.— They will therefore give themselves no further Trouble about you, unless it be to send over a few Regiments, to quicken the Execution.

FOR these Reasons, and many more, it appears to me the wisest and the safest Course for you to proceed in all Business as usual, without taking the least Notice of the Stamp Act. If you behave in this spirited Manner, you may be assured, that every Colony on the Continent will follow the Example of a Province so justly celebrated for its Liberty. Your Conduct will convince *Great-Britain*, that the Stamp Act will never be carried into Execution, but

by Force of Arms; and this one Moment's Reflection must demonstrate, that she will never attempt.

As to any Penalties that may be incurred, it will be vain to think of extorting them from the whole Continent, or from a whole Province. It may be objected, perhaps, that our Ships will be liable to Seizure, if their Clearances be not upon Stamped Papers; but I believe no Lawyer will say, that this would be a legal Reason for such Seizures. However, we need be under no Apprehension of this Kind; for proceeding in that Way, would be in Fact a Declaration of War against the Colonies, that at this Time would by no Means suit the Mother Country.—

THUS, my Friends and Countrymen, have I plainly laid before you my Sentiments on your present affecting Situation; and may Divine Providence inspire you with Wisdom to act in such a Manner, as will most advance that Happiness I ardently wish you may enjoy.

**“Letters from a Farmer in Pennsylvania, Letter III”** (December 14, 1767)<sup>31</sup>

I rejoice to find, that my two former letters to you, have been generally received with so much favour by such of you, whose sentiments I have had an opportunity of knowing. Could you look into my heart, you would instantly perceive an ardent affection for your persons, a zealous attachment to your interests, a lively resentment of every insult and injury offered to your honour or happiness, and an inflexible resolution to assert your rights, to the utmost of my weak power, to be the only motives that have engaged me to address you.

I am no further concerned in any thing affecting *America*, than any one of you; and when liberty leaves it, I can quit it much more conveniently than most of you: But while Divine Providence, that gave me existence in a land of freedom, permits my head to think, my lips to speak, and my hand to move, I shall so highly and gratefully value the blessing received, as to take care, that my silence and inactivity shall not give my implied assent to any act, degrading my brethren and myself from the birthright, wherewith heaven itself “*hath made us free*.”

Sorry I am to learn, that there are some few persons, who shake their heads with solemn motion, and pretend to wonder, what can be the meaning of these letters. “*Great-Britain*,” they say, “is too powerful to contend with; she is determined to oppress us; it is in vain to speak of right on one side, when there is power on the other; when we are strong enough to resist, we shall attempt it; but now we are not strong enough, and therefore we had better be quiet; it signifies nothing to convince us that our rights are invaded, when we cannot defend them; and if we should get into riots and tumults about the late act, it will only draw down heavier displeasure upon us.”

What can such men design? What do their grave observations amount to, but this—“that these colonies, totally regardless of their liberties, should

commit them, with humble resignation, to *chance, time*, and the tender mercies of *ministers*."

Are these men ignorant, that usurpations, which might have been successfully opposed at first, acquire strength by continuance, and thus become irresistible? Do they condemn the conduct of these colonies, concerning the *Stamp-Act*? Or have they forgot its successful issue? Ought the colonies at that time, instead of acting as they did, to have trusted for relief, to the fortuitous events of futurity? If it is needless "to speak of rights" now, it was as needless then. If the behaviour of the colonies was prudent and glorious then, and successful too; it will be equally prudent and glorious to act in the same manner now, if our rights are equally invaded, and may be as successful. Therefore it becomes necessary to enquire, whether "our rights *are* invaded." To talk of "defending" them, as if they could be no otherwise "defended" than by arms, is as much out of the way, as if a man having a choice of several roads to reach his journey's end, should prefer the worst, for no other reason, but because it *is* the worst.

As to "riots and tumults," the gentlemen who are so apprehensive of them, are much mistaken, if they think, that grievances cannot be redressed without such assistance.

I will now tell the gentlemen, what is "the meaning of these letters." The meaning of them is, to convince the people of these colonies, that they are at this moment exposed to the most imminent dangers; and to persuade them immediately, vigorously, and unanimously, to exert themselves, in the most firm, but most peaceable manner, for obtaining relief.

The cause of liberty is a cause of too much dignity, to be sullied by turbulence and tumult. It ought to be maintained in a manner suitable to her nature. Those who engage in it should breathe a sedate, yet fervent spirit, animating them to actions of prudence, justice, modesty, bravery, humanity and magnanimity.

To such a wonderful degree were the ancient *Spartans*, as brave and free a people as ever existed, inspired by this happy temperature of soul, that rejecting even in their battles the use of trumpets, and other instruments for exciting heat and rage, they marched up to scenes of havock and horror, with the sound of flutes, to the tunes of which their steps kept pace—"exhibiting," as *Plutarch* says, "at once a terrible and delightful sight, and proceeding with a deliberate valour, full of hope and good assurance, as if some divinity had sensibly assisted them."

I hope, my dear countrymen, that you will, in every colony, be upon your guard against those, who may at any time endeavour to stir you up, under pretences of patriotism, to any measures, disrespectful to our Sovereign and our mother country. Hot, rash, disorderly proceedings, injure the reputation of a people, as to wisdom, valour and virtue, without procuring them the least benefit. I pray GOD, that he may be pleased to inspire you and your posterity, to the latest ages, with that spirit of which I have an idea, but find a difficulty

to express. To express it in the best manner I can, I mean a spirit, that shall so guide you, that it will be impossible to determine whether an *American's* character is most distinguishable, for his loyalty to his Sovereign, his duty to his mother country; his love of freedom, or his affection for his native soil.

Every government at some time or other falls into wrong measures. These may proceed from mistake or passion. But every such measure does not dissolve the obligation between the governors and the governed. The mistake may be corrected; the passion may pass over. It is the duty of the governed to endeavour to rectify the mistake, and to appease the passion. They have not at first any other right, than to represent their grievances, and to pray for redress, unless an emergence is so pressing, as not to allow time for receiving an answer to their applications, which rarely happens. If their applications are disregarded, then that kind of *opposition* becomes justifiable, which can be made without breaking the laws, or disturbing the public peace. This consists in the *prevention of the oppressors reaping advantage from their oppressions*, and not in their punishment. For experience may teach them, what reason did not; and harsh methods cannot be proper, till milder ones have failed.

If at length it becomes UNDOUBTED, that an inveterate resolution is formed to annihilate the liberties of the governed, the *English* history affords frequent examples of resistance by force. What particular circumstances will in any future case justify such resistance, can never be ascertained, till they happen. Perhaps it may be allowable to say generally, that it never can be justifiable, until the people are FULLY CONVINCED, that any further submission will be destructive to their happiness.

When the appeal is made to the sword, highly probable is it, that the punishment will exceed the offence; and the calamities attending on war outweigh those preceding it. These considerations of justice and prudence, will always have great influence with good and wise men.

To these reflections, on this subject, it remains to be added, and ought for ever to be remembered, that resistance, in the case of colonies against their mother country, is extremely different from the resistance of a people against their prince. A nation may change their king, or race of kings, and, retaining their ancient form of government, be gainers by changing. Thus *Great-Britain*, under the illustrious house of *Brunswick*, a house that seems to flourish for the happiness of mankind, has found a felicity, unknown in the reigns of the *Stewarts*. But if once *we* are separated from our mother country, what new form of government shall we adopt, or where shall we find another *Britain*, to supply our loss? Torn from the body, to which we are united by religion, liberty, laws, affections, relation, language and commerce, we must bleed at every vein.

In truth—the prosperity of these provinces is founded in their dependance on *Great-Britain*; and when she returns to her “old good humour, and her old good nature,” as Lord *Clarendon* expresses it, I hope they will always

think it their duty and interest, as it most certainly will be, to promote her welfare by all the means in their power.

We cannot act with too much caution in our disputes. Anger produces anger; and differences, that might be accommodated by kind and respectful behaviour, may, by imprudence, be enlarged to an incurable rage. In quarrels between countries, as well as in those between individuals, when they have risen to a certain height, the first cause of dissension is no longer remembered, the minds of the parties being wholly engaged in recollecting and resenting the mutual expressions of their dislike. When feuds have reached that fatal point, all considerations of reason and equity vanish; and a blind fury governs, or rather confounds all things. A people no longer regards their interest, but the gratification of their wrath. The sway of the *Cleons* and *Clodius*'s, the designing and detestable flatterers of the prevailing passion, becomes confirmed. Wise and good men in vain oppose the storm, and may think themselves fortunate, if, in attempting to preserve their ungrateful fellow citizens, they do not ruin themselves. Their *prudence* will be called *baseness*; their *moderation* *guilt*; and if their virtue does not lead them to destruction, as that of many other great and excellent persons has done, they may survive to receive from their expiring country the mournful glory of her acknowledgment, that their counsels, if regarded, would have saved her.

The constitutional modes of obtaining relief, are those which I wish to see pursued on the present occasion; that is, by petitions of our assemblies, or where they are not permitted to meet, of the people, to the powers that can afford us relief.

We have an excellent prince, in whose good dispositions towards us we may confide. We have a generous, sensible and humane nation, to whom we may apply. They may be deceived. They may, by artful men, be provoked to anger against us. I cannot believe they will be cruel or unjust; or that their anger will be implacable. Let us behave like dutiful children, who have received unmerited blows from a beloved parent. Let us complain to our parent; but let our complaints speak at the same time the language of affliction and veneration.

If, however, it shall happen, by an unfortunate course of affairs, that our applications to his Majesty and the parliament for redress, prove ineffectual, let us THEN take *another step*, by withholding from *Great-Britain* all the advantages she has been used to receive from us. THEN let us try, if our ingenuity, industry, and frugality, will not give weight to our remonstrances. Let us all be united with one spirit, in one cause. Let us invent—let us work—let us save—let us, at the same time, keep up our claim, and incessantly repeat our complaints— But, above all, let us implore the protection of that infinitely good and gracious being, “by whom kings reign, and princes decree justice.”

*Nil desperandum.*

Nothing is to be despaired of.

## RECOMMENDED READINGS

Jane E. Calvert, *Quaker Constitutionalism and the Political Thought of John Dickinson* (New York: Cambridge University Press, 2009).

Jane E. Calvert, *Penman of the Founding: A Biography of John Dickinson* (New York: Oxford University Press, 2024).

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Richard Alan Ryerson, *“The Revolution Is Now Begun”: The Radical Committees of Philadelphia, 1765–1776* (Philadelphia: University of Pennsylvania Press, 1978).

Charles J. Stillé, *The Life and Times of John Dickinson, 1732–1808* (Philadelphia: Historical Society of Pennsylvania, 1891).

Frederick Tolles, “John Dickinson and the Quakers,” in *“John and Mary’s College”: The Boyd Lee Spahr Lectures in Americana* (Westwood, NJ: Fleming H. Revell Co., 1956), pp. 67–88.



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## Mercy Otis Warren

### Life

Mercy Otis Warren was born September 14, 1728, in Barnstable, Massachusetts, the third of 13 children of James Otis and Mary Allyne Otis. At the age of 26, she married James Warren. They had five children. Mercy Warren died on October 19, 1814, at the age of 86.

### Education

Warren was tutored by her uncle, the Reverend Jonathan Russell, who had an extensive library. She studied ancient and modern history, Greek and Roman literature, English plays and poetry, and philosophy. She had a particular propensity for the ancients, and Sir Walter Raleigh's *History of the World* was a favorite.

### Religion

Puritan

### Political Affiliation

Anti-Federalist, Jeffersonian Republican

### Highlights and Accomplishments

1772	<i>The Adulateur</i>
1773	<i>The Defeat</i>
1775	<i>The Group</i>
1788	<i>Observations on the New Constitution</i>
1790	<i>Poems, Dramatic and Miscellaneous</i>
1805	<i>History of the Rise, Progress and Termination of the American Revolution</i>



Mrs. James Warren (Mercy Otis Warren)  
by John Singleton Copley, c. 1763,  
public domain.

Pray introduce, Mr. Petry to Madame Warren[,] the  
most accomplished Lady in America....

—*John Adams to James Warren, March 18, 1780*<sup>1</sup>

# Mercy Otis Warren: The Conscience of the American Revolution

MERCY OTIS WARREN WAS A REMARKABLE WOMAN AMONG remarkable men. Along with many of the Founding Fathers, she was acquainted with Shakespeare, Milton, Pope, Dryden, Virgil, Homer, Machiavelli, Sidney, Gibbon, Hume, and Locke. Her uncle, Reverend Jonathan Russell, tutored her and her brothers and provided all the masters necessary for a rigorous classical education; in “some of the ancients” she found “most excellent company.”<sup>2</sup> Reverend Russell’s copy of Sir Walter Raleigh’s *History of the World* was particularly worn by Warren’s assiduous and loving care.

Leading up to the American Revolution, an adult Warren anonymously published satirical plays and poems, featured on the front pages of newspapers, to drum up support for the colonial cause. Her *Observations on the New Constitution*, which appeared under the pseudonym “A Columbian Patriot,” would help to ensure the adoption of the Bill of Rights. *Poems, Dramatic and Miscellaneous* was the first work Warren published under her own name and the third notable body of poetry produced by an American woman.<sup>3</sup> Perhaps most impressive is her comprehensive, three-volume *History of the Rise, Progress and Termination of the American Revolution*, one of the earliest histories of the Revolution.

In short, Mercy Otis Warren was an accomplished woman, conceivably having improved “her mind by extensive reading” that was substantive enough to have earned the praise of *Pride & Prejudice*’s Mr. Darcy.<sup>4</sup>

## The Life of Mercy Otis Warren

In addition to books, Warren resided with many of the remarkable men and women of the American Founding. Her father was a selectman in Barnstable before becoming a delegate to the Massachusetts House of Representatives and serving on several notable

committees. Growing up among her 12 siblings, her closest friend was her brother, James Otis, whom she called Jemmy. James was an early and prominent Revolutionary lawyer who argued against British writs of assistance, which were general warrants that allowed British officers to search colonists' homes, storehouses, and ships without evidence that the law had been violated. John Adams noted that when James Otis railed against the writs in court, "Then and there the Child Independence was born."<sup>5</sup> Among Warren's female correspondents were Abigail Adams; Hannah Winthrop, the wife of distinguished Harvard professor and scientist John Winthrop; Martha Washington; and the first female English historian, Catharine Macaulay.

At the age of 26, Mercy married James Warren, a Harvard peer of her brother, and they raised five sons together. While she devoted much of her life to managing their household, her husband served as speaker of the Massachusetts House of Representatives and the Continental Army's Postmaster-General. Their marriage was an affectionate one, and James encouraged her writing. Mercy often referred to James as the first friend of her heart and sometimes, out of loneliness, urged him to decline political positions that took him far away from her.

Among the Warrens' friends were fellow Founders John and Abigail Adams. Mercy and James were roughly a generation ahead of the Adams's, with Mercy being 16 years older than Abigail, but the couples were united by republican principles. En route to visit her husband during the war, Mercy would sometimes stop at the Adams's farm in Braintree to converse with Abigail, and Abigail sent her daughter and namesake, Nabby, to stay for an extended period with Mercy, who tutored the girl. John often praised and supported Mercy Otis Warren's writing and, on occasion, aided in its publication. For example, he sent her third satirical play, *The Group*, to be published in Philadelphia before it was circulated in New York as a pamphlet and appeared in the *Boston Gazette* and the *Massachusetts Spy*.

Sadly, Warren's relationship with John Adams would become strained, as she, a staunch republican, believed he became sympathetic toward monarchy in his later years (she was not alone in that belief). Adams's refusal while serving as President to help secure a position for her wayward and favorite son, Winslow, contributed to the tension between them, and their relationship would experience a break when Warren published her *History*. In it, she wrote that John Adams's "prejudices and his passions were sometimes too strong for his sagacity and judgement," and he responded by sending her 10 blistering and lengthy letters, not always waiting for a response from her between postings.<sup>6</sup> Mutual friend and Constitutional Convention delegate Elbridge Gerry (who was long thought to be the author of Warren's *Observations on the New Constitution*) would aid in repairing Warren's relationship with Adams.

For all their accomplishments and notoriety, the Warren and Otis families were not immune to setbacks and tragedies. James Otis suffered ill health and became erratic, particularly following a physical assault in 1769, before dying from a lightning strike in 1783. Mercy had a delicate constitution; her vision began to fail after she was inoculated for smallpox in 1776; and by 1778, she was increasingly bedridden. James Warren's reputation was harmed by unfair claims that he had been involved in [Shays' Rebellion](#), the armed uprising in Massachusetts that precipitated replacement of the Articles of Confederation with the Constitution. Their sons Charles, Winslow, and George died in 1785, 1791, and

1800, respectively, and their eldest, James, suffered a mental breakdown and while serving in the American Navy lost his leg after it was shattered by a British cannonball. In 1781, James and Mercy purchased Massachusetts Governor Thomas Hutchinson's former country house, only to relinquish it for financial reasons in 1788 and retire back to Plymouth. James passed away in 1808 at the age of 82, and Mercy died in 1814 at the age of 86.

## Warren's Plays and Poetry

Mercy Otis Warren began her patriotic career by anonymously publishing a series of satirical plays and poems. The plays were short, characterized by long speeches, and not aimed at entertaining an audience for an evening (the performance of plays was banned under Boston law). Rather, Mercy's plays fall into the realm of pamphlet literature, intended to rally the American colonists. Like Thomas Paine's *Common Sense*, Warren's work was replete with such lines as "That man dies well who sheds his blood for freedom."<sup>7</sup>

Pamphlet literature and political poems were popular among the colonists, who were remarkably literate and particularly interested in the classics and classical republicanism. Students aiming for college were expected to read Cicero and Virgil in Latin and the New Testament in Greek. Warren herself was drawn to the ancients, often choosing Roman names for her characters and emphasizing the importance of virtue in maintaining a regime in her tragedy *The Sack of Rome*. She would write in her *History* that the American Revolutionaries' "self-denying virtues had rivaled the admired heroes of antiquity."<sup>8</sup>

Lacking lengthy plots and robust character development, Warren's plays and poems were primarily responses and thinly veiled references to contemporaneous Revolutionary events. In her first anonymous play, *The Adulateur*, she introduced her antagonists as Massachusetts Governor Thomas Hutchinson (Rapatio) and Lieutenant Governor Andrew Oliver (Limpet); standing against them are James Otis (Brutus), James Warren (Rusticus), and John Adams (Hortensius) among others.<sup>9</sup> Hutchinson, a native-born colonial Loyalist, was charged with enforcing the Stamp Act, a British measure that taxed items like newspapers and playing cards. In 1765, anti-Stamp Act protestors ransacked Hutchinson's mansion, and in *The Adulateur*, Rapatio is seeking revenge. He aims to "trample down the choicest of [the patriots'] rights" and would "smile at length to see my country bleed." In comparison, the American patriots are determined and willing to "perish like [ ] freem[e]n."<sup>10</sup> The climax of the play is the Boston Massacre, during which British soldiers fired on a crowd of Bostonians.

Warren's second play, *The Defeat*, followed publication of the Hutchinson–Oliver letters. Benjamin Franklin, while in England, had obtained private correspondence between the Massachusetts governor and lieutenant governor, and the exchanges (against Franklin's wishes) were printed in the newspapers. In those letters, Hutchinson suggested that "an abridgement of English liberties in colonial administration" might be appropriate.<sup>11</sup> The people of Boston were appalled and inflamed by such temerity, and Hutchinson soon reemerged in the *Boston Gazette* as Warren's character Rapatio. Unfortunately for Hutchinson, Warren's plays were so popular that Rapatio became a "recognizable label" for the Loyalist governor.<sup>12</sup> Warren's rancor toward Hutchinson seems to have been both political

and personal. Hutchinson was disliked by many, but he had also successfully opposed the appointment of Warren's father to a political position.<sup>13</sup>

The final play in Warren's series, *The Group*, focused on the Loyalist councilors who had been appointed by the Crown pursuant to the [Intolerable Acts of 1774](#), which were punishing restrictions put in place by England following the Boston Tea Party. The people of Boston viewed the acts as infringements on the principle of self-government and a violation of the Massachusetts charter. The "group" of councilors who accepted royal appointments, instead of being elected by the lower colonial house, were depicted as traitorous, greedy, and power-hungry.

Warren furthered the patriot cause not only through plays, but also in poems. John Adams encouraged her to write "The Squabble of the Sea Nymphs" (or "The Sacrifice of the Tuscararoes"), a poem about the Boston Tea Party, and arranged for it to be published in the *Boston Gazette*. In 1790, Warren included the piece in *Poems, Dramatic and Miscellaneous*, the first of her works to appear under her own name. By his permission, she dedicated the volume to George Washington, with whom she claimed "the honour of private friendship," and who praised the "Merits of the respectable and amiable writer."<sup>14</sup> Warren rewarded him with a copy of her poems, which she also sent to John Adams, Alexander Hamilton, and Paul Revere. After reading them, Hamilton contended that "[i]n the career of dramatic composition at least, female genius in the United States has outstripped the Male."<sup>15</sup>

## Warren's *Observations*

Warren's impact was not confined to the events leading up to the American Revolution. As an Anti-Federalist, she joined in the deliberations surrounding the Constitution and publicly identified what she saw as its shortcomings and faults. Her *Observations on the New Constitution*, published under the pseudonym "A Columbian Patriot," was a 19-page pamphlet intended to influence the ratification debates, particularly in the important state of New York. New York state committees received more than 1,600 copies, and it was printed in several newspapers.<sup>16</sup>

A Columbian Patriot viewed the Constitution as an anti-republican encroachment on liberty that consolidated too much power in the federal government to the detriment of individual citizens and the states. Overall, the Constitution proposed a system of government that was a "many-headed monster; of such motley mixture, that its enemies cannot trace a feature of Democratic or Republican extract."<sup>17</sup> Warren went on to list numerous objections in her *Observations*. Among them were the absence of a Bill of Rights, the presence of a standing army, a lack of annual elections, the blending of the judiciary and executive, too few representatives by population, and the process by which the Constitution was written and set to be ratified. While many of these concerns were voiced by other Anti-Federalists, respected Anti-Federalist scholar Herbert Storing concluded that Warren's objections were "more philosophical than most of her fellows."<sup>18</sup>

Years after the Constitution's ratification and implementation, Warren (perhaps partly to promote national unity) would admit that the Constitution had proved sound, writing



in her *History* that with amendments, the Constitution was “at the present period as wise, as efficient, as respectable, as free, and we hope as permanent, as any constitution existing on earth.”<sup>19</sup>

In categorizing Founders as Federalists and Anti-Federalists, it is tempting to exaggerate certain political disputes and lose sight of the fact that there was widespread agreement on fundamental moral principles. For example, Warren, like the Federalists, was a staunch republican and proponent of natural law and natural rights. In her *Observations* she wrote that:

[M]an is born free, and possessed of certain unalienable rights—that government is instituted for the protection, safety, and happiness of the people, and not for the profit, honour, or private interest of any man, family, or class of men. That the origin of all power is in the people, and that they have an incontestable right to check the creatures of their own creation, vested with certain powers to guard the life, liberty, and property of the community.<sup>20</sup>

While Warren had voiced concerns about whether or not the Constitution properly protects inalienable rights, there is no doubt that she understood the meaning and importance of first principles. The language she uses is notably similar to the language employed in the Declaration of Independence, a document she praised highly. Consistent with natural law, the principles of the Declaration had been put forth “under the awe of the Divine Providence,” which gives human beings a sense of their proper place and the obligations they owe the Creator and each other:

From the principles, manners, habits, and education of Americans, they expected from their rules, economy in expenditure (both public and private,) simplicity of manners, pure morals, and undeviating probity. These they considered as the emanations of virtue, grounded on a sense of duty, and a veneration for the Supreme Governor of the universe, to whom the dictates of nature teach all mankind to pay homage....<sup>21</sup>

By contrast, the “hardiness of atheism sets at defiance both human and divine laws, until the man is lost to himself and to the world.”<sup>22</sup> Mercy believed that human nature is unchangeable and that human beings are capable of reason and possess inalienable rights, such as freedom of conscience. Mercy’s view of human nature, like that of Publius (the pseudonym for James Madison, Alexander Hamilton, and John Jay), was optimistic but not naïve: Both reason and impulse are part of the human condition. In her *History*, she wrote that:

The study of the human character opens at once a beautiful and a deformed picture of the soul. We there find a noble principle implanted in the nature of man, that pants for distinction. This principle operates in every bosom, and when kept under the control of reason, and the influence of humanity, it produces the most benevolent effects. But when the checks of conscience

are thrown aside, or the moral sense weakened by the sudden acquisition of wealth or power, humanity is obscured....<sup>23</sup>

While Warren believed the human soul could be “beautiful” and her advocacy for republican government denotes a fundamental confidence in the human capacity for self-government, character education remains necessary. The dangers of avarice and the centrality of morals, manners, and virtue are persistent themes in Warren’s writing that she would examine more fully in her *History*.

## Warren’s *History*

Warren’s close relationships with many key players in the American Revolution enabled her to write one of the first historical accounts of the War of Independence, her *History of the Rise, Progress and Termination of the American Revolution*. As she indicates in her introduction, Warren was “[c]onnected by nature, friendship, and every social tie, with many of the first patriots, and most influential characters on the continent.”<sup>24</sup> Her home in Plymouth, Massachusetts, became a “breeding place” for the Revolution; it was situated in the thick of Revolutionary events, her husband was chosen for the Massachusetts Committee of Correspondence, and the Sons of Liberty passed in and out to plan their resistance to British interference. She was also in “epistolary intercourse with several gentlemen employed abroad in the most distinguished stations, and with others since elevated to the highest grades of rank and distinction” and thus “had the best means of information, through a long period that the colonies were in suspense.”<sup>25</sup>

Warren completed a draft of her three-volume *History* by 1787, but it remained unpublished until 1805, in part because a female historian was an anomaly during the Founding period. Much of her narrative focuses on the Revolution itself and is dedicated to military accounts. It begins with the Stamp Act and continues through the adoption of the Constitution and the election of 1800, which signaled the ascendancy of the Jeffersonian Republicans. In party politics, Warren sided with the Jeffersonian Republicans, led by Thomas Jefferson and James Madison, who were champions of yeoman farmers and concerned with the dominance of urban speculators, against the Federalist party of Alexander Hamilton.

Although her historical opus did not enjoy as much popularity as some of her other works did, Warren’s accurate and detailed *History* is the only Anti-Federalist account of the Revolution. However, her personal assessments are quite evident in places, perhaps earning her the charge of being biased. Her Anti-Federalist and Jeffersonian Republican views are reflected in her treatment of George Washington, whom she initially praised profusely, both in her public writings and in private correspondence, but later saw as being too influenced by the financial schemes of Alexander Hamilton.<sup>26</sup> It is hardly surprising that President Thomas Jefferson extolled her *History* highly and sent copies to his Cabinet members.

Throughout her *History*, Mercy reflects on the work in which she is engaged and her purpose in writing an account of the American Revolution. Consistent with other Founders and as a student of the ancients, Mercy believed that “Empire decays when virtue’s not

the base.”<sup>27</sup> In a republic, the will of the majority will ultimately prevail, and if that will is corrupt and misguided, the law will be as well. By writing her *History*, Mercy was contributing to the preservation of virtue and memory in America, and thus of America itself. In her first chapter, she writes that:

Many who first stepped forth in vindication of the rights of human nature are forgotten, and the causes which involved the thirteen colonies in confusion and blood are scarcely known, amidst the rage of accumulation and the taste for expensive pleasures that have since prevailed.... Thus the hurry of spirits, that ever attends the eager pursuit of fortune and a passion for splendid enjoyment, leads to forgetfulness; and thus the inhabitants of America cease to look back with due gratitude and respect on the fortitude and virtue of their ancestors.... But the historian and the philosopher will ever venerate the memory of those pious and independent gentlemen....<sup>28</sup>

Gratitude is a virtue that must be maintained in a republic, and Mercy bookends her *History* with discussions of gratitude. The preceding quote, as noted, appears at the beginning in her first chapter, and at the end, Mercy notes (paraphrasing a quote from Xenophon) that “ancient Persians considered ingratitude as the source of all enmities among men. They considered it ‘an indication of the vilest spirit, nor believe it possible for an ungrateful man to love the gods or even his parents, friends, or country.’”<sup>29</sup> By writing a history of the American Revolution, Warren was protecting the American national character and inviting subsequent generations to share in maintaining that character. She was well aware that empires rise and fall and knew that the experiment in self-government, because it depends on the virtue of the American people, is never fully and permanently attained. Her *History*, then, was a “manual of republican ethics” designed to inspire future generations who will need to continue the “uncompleted struggle.”

The *History* is not a stale and dry account of the facts of the Revolution. Warren contended that “a just knowledge of character” is necessary for the historian, and no explanation of the American Revolution would be complete without adequate attention to the American national character.<sup>30</sup> It was ultimately that character, that body of virtues, morals, and principles, that gave rise to the Revolution. The American colonists were not being treated significantly worse than other subjects under British rule, but because of their belief in republican principles, they resented the very status of “subject.”

What defines the American character and unites Americans are those republican principles that are laid out most clearly in the Declaration of Independence. As Warren wrote:

[T]he independence of the United States must be secured by an undeviating adherence to the principles that produced the Revolution. These principles were grounded on the natural equality of man, their right of adopting their own modes of government, the dignity of the people, and that sovereignty which cannot be ceded either to representatives or to kings.<sup>31</sup>

According to historians Lawrence J. Friedman and Arthur H. Shaffer, when Warren referred to the United States, she “meant more than geography or a territorial state; ‘America’ meant more than nationality. Both terms symbolized a way of life, an ideology. The United States was not only a new nation but a new society.”<sup>32</sup> Warren’s pre-Revolutionary writings were part of the effort to create that society, and she meant her *History* to be part of the effort to preserve it.

## Warren’s Manners

Throughout her life, Warren was particularly interested in morals, manners, and virtue. For example, when her favorite child, Winslow, praised Lord Chesterfield’s *Letters to His Son*, a guidebook on the education of young men that became popular in high society, she responded with a letter denouncing Chesterfield’s theories. To her, Chesterfield was Machiavelli in epistolary form, insidiously contending that the appearance of virtue was more desirable than virtue itself. Warren’s searing critique of Chesterfield did not reach Winslow alone. When she shared her letter with Abigail Adams, Abigail believed Warren had taken Chesterfield to task so meticulously that she forwarded the letter to the *Boston Chronicle*, where it was published.

As historian Rosemarie Zagarri writes, “Like many other eighteenth-century authors, Mercy used the term ‘manners’ not simply to refer to etiquette or social deportment, but to denote social norms or mores.... Changes in manners thus reflected changes in virtue.”<sup>33</sup> Following the Revolution, Warren grew concerned that the morals of the American people had degenerated, that too many were animated by commercial interests, greed, and personal profit and were not as strongly attached to the republican principles that had been the cause of the Revolution. The acquisition of wealth was not “very favorable to the virtue or manners of the possessors. It had a tendency to contract the mind, and led it to shrink into selfish views and indulgences, totally inconsistent with genuine republicanism.”<sup>34</sup> To Warren, a republic depends on self-government, and self-government on the individual level is about inculcating virtue so that reason prevails over impulse.

By Warren’s accounting, the American system needed republican manners supported by institutions, virtues, and a particular way of life—manners completely different from those that characterized the aristocratic British feudal system in which a few aristocrats owned land and the many worked that land. Americans were used to economic mobility, equality, and having the opportunity to rise or fall based on their own actions and merits. An aristocratic character is animated by superiority and distinction; the “republican spirit” is more modest, requiring “patience, probity, industry, and self-denial” and a “simplicity of life and manners.”<sup>35</sup>

Warren disapproved of anything in America that seemed to hint of aristocracy. For example, she criticized the Society of the Cincinnati, which she viewed as creating an American nobility because membership was hereditary and limited to former officers of the Continental Army. Even the ranks of an army—and especially a standing army—were met with her skepticism. Commanders could improve their condition above the general populace and become accustomed to obedience from others, and “the aggrandizement of particular families by distinguished orders, and assumed nobility, appeared to originate in the army.”<sup>36</sup>

When Boston saw a rise in fashionable new clubs that featured music, dining, dancing, and gambling, Warren spoke out against them. She was wary of association with European powers, fearing that “fascination with the splendor of courts and the baubles of ambitious spirits, scepters, diadems, and crowns” could “undermine the beautiful fabric of republicanism.”<sup>37</sup> The spirit of avarice had already spread throughout Europe, and she did not want it to take hold in America.

As Herbert Storing has noted, Warren’s views were characteristic of many of the Anti-Federalists:

Homogeneity implied, for the Anti-Federalists, not only likeness but likeness of a certain kind: a society in which there are no extremes of wealth, influence, education, or anything else—the homogeneity of a moderate, simple, sturdy, and virtuous people. Republican government depends on civic virtue, on a devotion to fellow citizens and to country so deeply instilled as to be almost as automatic and powerful as the natural devotion to self-interest.<sup>38</sup>

## Warren’s Providence

To maintain proper manners and republican principles, Warren advocated civic education and a firm attachment to religion. In her *History*, she criticized the South for the lack of attention paid to the education of the young and praised the North where “[b]oth knowledge and property were more equally divided” and “consequently a spirit of more equal liberty was diffused.”<sup>39</sup> While formal education was certainly a part of Warren’s vision, she had in mind both “public and private” education: the cultural, civic, and moral education of being raised and residing in a society that is constantly signaling through its institutions, laws, and practices what it honors and abhors.

Warren saw religion as indispensable both for moral education and for the continuation of a republic because “every domestic enjoyment depends on the unimpaired possession of civil and religious liberty,” and religion was perhaps “the only certain restraint of the passions, those dangerous inlets to licentiousness and anarchy.”<sup>40</sup> The example of Europe, where religion had broken down to the detriment of moral ties and constraint, demonstrated this reality.<sup>41</sup>

Warren did not view religion simply as useful; she saw Providence as both favoring and imposing obligations on the American people. Among America’s advantages were its distance from Europe, increasing population, immense territory, mild climate, and abundant natural resources. Moreover, the nation was founded in an era of education when arts and manners had been elevated and the rights of human beings were recognized and understood.<sup>42</sup> These considerable favors came with requisite obligations. The principles of the Declaration had been put forth “under the awe of the Divine Providence,”<sup>43</sup> which had “clearly pointed out the duties of the present generation, particularly the paths which Americans ought to tread. The United States form a young republic, a confederacy which ought ever to be cemented by a union of interests and affection, under the influence of those principles which obtained their independence.”<sup>44</sup>

Americans had recognized the laws of nature and nature's God and had an obligation to protect those principles by preserving their homeland as a republic because the success of the experiment in self-government would have implications not only for America's citizenry, but also for mankind as a whole. America was the first nation founded on the human capacity for self-government and the first republic established over an extended territory. In the arc of human history, the "American Revolution may be a means in the hands of Providence of diffusion [of] universal knowledge over a quarter of the globe, that for ages had been enveloped in darkness, ignorance, and barbarism."<sup>45</sup> Warren believed and trusted, both in her personal life and in her politics, that a grander plan was at work.

## Conclusion

Mercy Otis Warren was better known in the Founding era than she is in our own. As an Otis, she came to love the ancient principles of republican government, and as a Warren, she defended those principles in poetry, plays, and history. She revered the Declaration of Independence in her *History* and influenced the Constitution with her *Observations*. While surrounded by the Founding Fathers in life, in American memory she now belongs to a remarkable set of women who helped to write the American story. Warren joins the company of Abigail Adams, Harriet Beecher Stowe, and Harriet Tubman, herself serving as the "Conscience of the American Revolution."

BRENDA HAFERA

## SELECTED PRIMARY WRITINGS

### Observations on the New Constitution (1788)<sup>46</sup>

Mankind may amuse themselves with theoretic systems of liberty, and trace its social and moral effects on sciences, virtue, industry and every improvement of which the human mind is capable; but we can only discern its true value by the practical and wretched effects of slavery; and thus dreadfully will they be realized, when the inhabitants of the Eastern States are dragging out a miserable existence *only* on the gleanings of their fields; and the Southern, blessed with a softer and more fertile climate, are languishing in hopeless poverty; and when asked, what is become of the flower of their crop, and the rich produce of their farms—they may answer in the hapless stile of the *Man of La Mancha*,—"The steward of my Lord has seized and sent it to *Madrid*." Or, in the more literal language of truth, the *exigencies* of government require that the collectors of the revenue should transmit it to the *Federal City*.

Animated with the firmest zeal for the interest of this country, the peace and union of the American States, and the freedom and happiness of a people who have made the most costly sacrifices in the cause of liberty—who have



braved the power of Britain, weathered the convulsions of war, and waded thro' the blood of friends and foes to establish their independence and to support the freedom of the human mind, I cannot silently witness this degradation without calling on them, before they are compelled to blush at their own servitude, and to turn back their languid eyes on their lost liberties—to consider, that the character of nations generally changes at the moment of revolution....

## **History of the Rise, Progress and Termination of the American Revolution (1805)<sup>47</sup>**

### **Chapter I**

History, the deposite of crimes, and the record of every thing disgraceful or honorary to mankind, requires a just knowledge of character, to investigate the sources of action; a clear comprehension, to review the combination of causes; and precision of language, to detail the events that have produced the most remarkable revolutions.

To analyze the secret springs that have effected the progressive changes in society; to trace the origin of the various modes of government, the consequent improvements in science, in morality, or the national tincture that marks the manners of the people under despotic or more liberal forms, is a bold and adventurous work.

The study of the human character opens at once a beautiful and a deformed picture of the soul. We there find a noble principle implanted in the nature of man, that pants for distinction. This principle operates in every bosom, and when kept under the control of reason, and the influence of humanity, it produces the most benevolent effects. But when the checks of conscience are thrown aside, or the moral sense weakened by the sudden acquisition of wealth or power, humanity is obscured, and if a favorable coincidence of circumstances permits, this love of distinction often exhibits the most mortifying instances of profligacy, tyranny, and the wanton exercise of arbitrary sway. Thus when we look over the theatre of human action, scrutinize the windings of the heart, and survey the transactions of man from the earliest to the present period, it must be acknowledged that ambition and avarice are the leading springs which generally actuate the restless mind. From these primary sources of corruption have arisen all the rapine and confusion, the depredation and ruin, that have spread distress over the face of the earth from the days of Nimrod to Cesar, and from Cesar to an arbitrary prince of the house of Brunswick.

### **Chapter XXX**

At the same time that these wayward appearances began early to threaten their internal felicity, the inhabitants of America were in general sensible, that the freedom of the people, the virtue of society, and the

stability of their commonwealth, could only be preserved by the strictest union; and that the independence of the United States must be secured by an undeviating adherence to the principles that produced the revolution.

These principles were grounded on the natural equality of man, their right of adopting their own modes of government, the dignity of the people, and that sovereignty which cannot be ceded either to representatives or to kings. But, as a certain writer has expressed it,

Powers may be delegated for particular purposes; but the omnipotence of society, if any where, is in itself. Princes, senates, or parliaments, are not proprietors or masters; they are subject to the people, who form and support that society, by an eternal law of nature, which has ever subjected a part to the whole.

These were opinions congenial to the feelings, and were disseminated by the pens, of political writers; of Otis, Dickinson, Quincy, and many others, who with pathos and energy had defended the liberties of America, previous to the commencement of hostilities.

On these principles, a due respect must ever be paid to the general will; to the right in the people to dispose of their own monies by a representative voice; and to liberty of conscience without religious tests: on these principles, frequent elections, and rotations of office, were generally thought necessary, without precluding the indispensable subordination and obedience due to rulers of their own choice. From the principles, manners, habits, and education of the Americans, they expected from their rulers, economy in expenditure, (both public and private,) simplicity of manners, pure morals, and undeviating probity. These they considered as the emanations of virtue, grounded on a sense of duty, and a veneration for the Supreme Governor of the universe, to whom the dictates of nature teach all mankind to pay homage, and whom they had been taught to worship according to revelation, and the divine precepts of the gospel. Their ancestors had rejected and fled from the impositions and restrictions of men, vested either with princely or priestly authority: they equally claimed the exercise of private judgment, and the rights of conscience, unfettered by religious establishments in favor of particular denominations.

They expected a simplification of law; clearly defined distinctions between executive, legislative, and judiciary powers: the right of trial by jury, and a sacred regard to personal liberty and the protection of private property, were opinions embraced by all who had any just ideas of government, law, equity, or morals....

The declaration of independence, which has done so much honor to the then existing congress, to the inhabitants of the United States, and to the genius and heart of the gentleman who drew it, in the belief, and under the awe, of the Divine Providence, ought to be frequently read by the rising

youth of the American states, as a palladium of which they should never lose sight, so long as they wish to continue a free and independent people.

This celebrated paper, which will be admired in the annals of every historian, begins with an assertion, that all men are created equal, and endowed by their Creator with certain unalienable rights, which nature and nature's God entitle them to claim; and, after appealing to the Supreme Judge of the world for the rectitude of their intentions, it concludes in the name of the *good people* of the *colonies*, by their representatives assembled in congress, they publish and declare, that they are, and of right ought to be, Free and Independent States: in the *name of the people*, the fountain of all just authority, relying on the protection of Divine Providence, they mutually pledged themselves to maintain these rights, with their lives, fortunes, and honor.

These principles the *Sons of Columbia* had supported by argument, defended by the sword, and have now secured by negotiation, as far as the pledges of national faith and honor will bind society to a strict adherence to equity. This however is seldom longer than it appears to be the interest of nations, or designing individuals of influence and power. Virtue in the sublimest sense, operates only on the minds of a chosen few: in their breasts it will ever find its own reward.

## Chapter XXXI

It was thought by some, who had been recently informed of the secret transactions of the convention at Philadelphia, that the greatest happiness of the greatest number was not the principal object of their contemplations, when they ordered their doors to be locked, their members inhibited from all communications abroad, and when proposals were made that their journals should be burnt, lest their consultations and debates should be viewed by the scrutinizing eye of a free people. These extraordinary movements appeared to them the result of the passions of a few. It is certain, that truth, whether moral, philosophical, or political, shrinks not from the eye of investigation.

The ideas of royalty, or any thing that wore the appearance of regal forms and institutions, were generally disgusting to Americans, and particularly so to many characters who early came forward, and continued to the end of the conflict, steadfast in opposition to the crown of Britain. They thought that after America had encountered the power, and obtained a release from foreign bondage, and had recently overcome domestic difficulties and discontents, and even quieted the spirit of insurrection in their own states; that the republican system for which they had fought, should not be hazarded by vesting any man or body of men with powers that might militate with the principles, which had been cherished with fond enthusiasm, by a large majority of the inhabitants throughout the union.

Republicanism, the idol of some men, and independence, the glory of all, were thought by many to be in danger of dwindling into theory; the first had

been defaced for a time, by a degree of anarchy, and fears were now awakened that the last might be annihilated by views of private ambition.

The people were generally dissatisfied with the high pretensions of the officers of the army, whose equality of condition previous to the war, was, with few exceptions, on the same grade with themselves. The assumption of an appropriate rank was disgusting, in a set of men, who had most of them been taken from mechanic employments, or the sober occupations of agriculture. Thus jealousies were diffused, with regard to the officers of the old army, the Cincinnati, and several other classes of men, whom they suspected as cherishing hopes and expectations of erecting a government too splendid for the taste and professions of Americans. They saw a number of young gentlemen coming forward, ardent and sanguine in the support of the principles of monarchy and aristocracy. They saw a number of professional characters too ready to relinquish former opinions, and adopt new ones more congenial to the policy of courts, than to the maxims of a free people. They saw some apostate whigs in public employments, and symptoms of declension in others, which threatened the annihilation of the darling opinion, that the whole sovereignty in the republican system is in the people: "that the people have a right to amend and alter, or annul their constitution and frame a new one, whenever they shall think it will better promote their own welfare and happiness to do it."

This brought forward objections to the proposed constitution of government, then under consideration. These objections were not the result of ignorance; they were made by men of the first abilities in every state; men who were sensible of the necessity of strong and energetic institutions, and a strict subordination and obedience to law. These judicious men were solicitous that every thing should be clearly defined; they were jealous of each ambiguity in law or government, or the smallest circumstance that might have a tendency to curtail the republican system, or render ineffectual the sacrifices they had made, for the security of civil and religious liberty to themselves; they also wished for the transmission of the enjoyment of the equal rights of man to their latest posterity. They were of opinion, that every article that admitted of double confusion, should be amended, before it became the supreme law of the land. They were now apprehensive of being precipitated, without due consideration, into the adoption of a system that might bind them and their posterity in the chains of despotism, while they held up the ideas of a free and equal participation of the privileges of pure and genuine republicanism....

Indeed the United States of America embrace too large a portion of the globe, to expect their isolated situation will forever secure them from the encroachments of foreign nations, and the attempts of potent Europeans to interrupt their peace. But if the education of youth, both public and private, is attended to, their industrious and economical habits maintained, their moral character and that assemblage of virtues supported, which is necessary

for the happiness of individuals and of nations, there is not much danger that they will for a long time be subjugated by the arms of foreigners, or that their republican system will be subverted by the arts of domestic enemies. Yet, probably some distant day will exhibit the extensive continent of America, a portrait analogous to the other quarters of the globe, which have been laid waste by ambition, until misery has spread her sable veil over the inhabitants. But this will not be done, until ignorance, servility and vice, have led them to renounce their ideas of freedom, and reduced them to that grade of baseness which renders them unfit for the enjoyment of that rational liberty which is the natural inheritance of man. The expense of blood and treasure, lavished for the purchase of freedom, should teach Americans to estimate its real worth, nor ever suffer it to be depreciated by the vices of the human mind, which are seldom single. The sons of America ought ever to bear in grateful remembrance the worthy band of patriots, who first supported an opposition to the tyrannic measures of Great Britain. Though some of them have long since been consigned to the tomb, a tribute of gratitude is ever due to their memory, while the advantages of freedom and independence are felt by their latest posterity....

It will be the wisdom, and probably the future effort of the American government, forever to maintain with unshaken magnanimity, the present neutral position of the United States. The hand of nature has displayed its magnificence in this quarter of the globe, in the astonishing rivers, lakes, and mountains, replete with the richest minerals and the most useful materials for manufactures. At the same time, the indigenous produce of its fertile lands yields medicine, food, and clothing, and every thing needful for man in his present condition. America may with propriety be styled a land of promise; a happy climate, though remarkably variegated; fruitful and populous, independent and free, both necessity and pleasure invite the hand of the industrious to cherish and cultivate the prolific soil, which is ready to yield all that nature requires to satisfy the reasonable wishes of man, as well as to contribute to the wealth, pleasure, and luxury of the inhabitants. It is a portion of the globe that appears as a fair and fertile vineyard, which requires only the industrious care of the laborers to render it for a long time productive of the finest clusters in the full harvest of prosperity and freedom, instead of yielding thorns, thistles, and sour grapes, which must be the certain fruits of animosity, disunion, venality, or vice.

Though in her infantile state, the young republic of America exhibits the happiest prospects. Her extensive population, commerce, and wealth, the progress of agriculture, arts, sciences, and manufactures, have increased with a rapidity beyond example. Colleges and academies have been reared, multiplied, and endowed with the best advantages for public instruction, on the broad scale of liberality and truth. The effects of industry and enterprise appear in the numerous canals, turnpikes, elegant buildings, and well constructed bridges, over lengths and depths of water that open, and render the

communication easy and agreeable, throughout a country almost without bounds. In short, arts and agriculture are pursued with avidity, civilization spreads, and science in full research is investigating all the sources of human knowledge.

Indeed the whole country wears a face of improvement, from the extreme point of the northern and western woods, through all the southern states, and to the vast Atlantic ocean, the eastern boundary of the United States. The wisdom and justice of the American governments, and the virtue of the inhabitants, may, if they are not deficient in the improvement of their own advantages, render the United States of America an enviable example to all the world, of peace, liberty, righteousness, and truth. The western wilds, which for ages have been little known, may arrive to that stage of improvement and perfection, beyond which the limits of human genius cannot reach, and this last civilized quarter of the globe may exhibit those striking traits of grandeur and magnificence, which the Divine Economist may have reserved to crown the closing scene, when the angel of his presence will stand upon the sea and upon the earth, lift up his hand to heaven, and swear by Him that liveth for ever and ever, that there shall be time no longer.

## RECOMMENDED READINGS

- Joan Hoff Wilson and Sharon L. Bollinger, "Mercy Otis Warren: Playwright, Poet, and Historian of the American Revolution," in *Female Scholars: A Tradition of Learned Women Before 1800*, ed. J.R. Brink (St. Albans, VT: Eden Press Women's Publications, 1980).
- Jean Fritz, *Cast for a Revolution: Some America Friends and Enemies, 1728–1814* (Boston: Houghton Mifflin Company, 1972).
- Nancy Rubin Stuart, *The Muse of the Revolution: The Secret Pen of Mercy Otis Warren and the Founding of a Nation* (Boston: Beacon Press, 2008).
- Rosemarie Zagarri, *A Woman's Dilemma: Mercy Otis Warren and the American Revolution* (Malden, MA: Wiley Blackwell, 2015).



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# Charles Carroll

## Life

Charles Carroll of Carrollton was born on September 19, 1737, in Annapolis, Maryland, to a prominent Irish Catholic family. In 1748, at the age of 11, Carroll travelled to France to study at the Jesuit College of St. Omer, and continued his studies in Paris and England. Carroll returned to Maryland in 1765. Shortly after the death of his fiancée, Rachel Cooke, Carroll married his cousin Mary (Molly) Darnall on June 5, 1768. They had seven children, three of whom survived past infancy. Carroll made his political debut as the “First Citizen” in the early 1770s and later became a Maryland State Senator and U.S. Senator. He died on November 14, 1832, in Baltimore.

## Education

Carroll received his BA at the College of St. Omer in northern France and MA in philosophy at the Louis-le-Grand in Paris. He studied civil law and common law in France and Great Britain.

## Religion

Roman Catholic

## Political Affiliation

Federalist (moderate)

## Highlights and Accomplishments

1773	Author, “First Citizen” letters
1776	Signer, Declaration of Independence (only Catholic to sign)
1776	Member, committee that drafted Maryland Constitution
1776–1778	Delegate from Maryland to Continental Congress
1777–1800	Maryland State Senator
1789–1792	U.S. Senator
1832	Last of the Signers to die



Charles Carroll of Carrollton by Sir Joshua Reynolds, 1763, Yale Center for British Art, public domain.

The general tone and content of his conversation breathed the spirit of the English aristocracy, mingled sometimes in a peculiar way with the habits of democratic government under which he lived and the glorious memories of the American Revolution. He ended by saying to us: “A mere Democracy is but a mob. The English form of government,” he said to us, “is the only one suitable for you; if we tolerate ours, that is because every year we can push our innovators out West.” The whole way of life and turn of mind of Charles Carroll make him just like a European gentleman.

—*Alexis de Tocqueville, Journey to America*<sup>1</sup>

# Charles Carroll: First Citizen

## Life of Charles Carroll

The last of the American signers of the Declaration of Independence to pass from this world, Charles Carroll of Carrollton was also one of the most formally educated of the American Founders. Living 17 years in France and England, Carroll earned his BA in the traditional liberal arts and an MA in philosophy. He also studied civil law in France and common law in England.

Irish immigrants to the English American colonies, the Carrolls suffered at the hands of anti-Catholic bigots in Maryland for three generations. When Charles Carroll came into the world, his parents remained unmarried because of the law and chose to send their only son to live in France. Had they educated him in Maryland, the authorities had the legal sanction to remove children—taught in a “Catholic fashion”—from the parents and place them permanently with English Protestants. Although America is called “the land of the free,” its 13 English colonies were anything but tolerant. More than any other colony in the 17th century, Maryland promoted religious toleration, but a coup in the name of William and Mary in 1689 ended that tolerance for nearly a century. Maryland went from being one of the world’s most tolerant societies (and arguably *the* most tolerant society) to one of the least tolerant almost overnight.

Beginning in 1689, Catholics were not allowed to participate in politics or the law, nor were they allowed to worship openly or freely. However, they remained generally free in their property rights. They could own land and lend (and borrow) money, but they were double-taxed, and their lands were always subject to forfeiture. The Carrolls used the freedom of property rights to accumulate huge sums of wealth, some sources suggesting they were among the wealthiest families in the colonies by the time of the American Revolution.

In the summer of 1748, Charles Carroll sailed across the Atlantic and became a student at St. Omer. The school was founded in 1593 on the Aa River in the Pas-de-Calais, and the mission engraved above its entrance revealed its intentions without trepidation: “Jesus, Jesus, convert England, may it be, may it be.” Known to English Catholics as “the seminary of martyrs—the school of confessors,” the college offered the Jesuit version of the liberal arts, the “[Ratio atque Institutio Studiorum Societas Jesu](#)” (“Method and System of the Studies of the *Society of Jesus*”) or, in its abbreviated form, the “*Ratio Studiorum*.”

Based on the *Spiritual Exercises* and the teachings of the founder of the Society of Jesus, St. Ignatius of Loyola, the *Ratio Studiorum* reflected the martial, humane, and rigorous spirit of the Jesuits. Additionally influenced by the teachings of Spanish humanist Luis Vives and Strasburg educational theorist John Sturm, the *Ratio Studiorum* combined scholastic and humanist methods, ideals, and goals. True to the Catholic teachings of such vital figures as St. Augustine, the *Ratio Studiorum* allowed for local options as long as the local schools remained true to larger, universal principles. Therefore, what Carroll learned at St. Omer reflected to a great extent the beliefs of the local Catholic community as well as those of the superior or rector of the school.

Over six years, a student, led by a (hopefully) devoted tutor, studied literature, philosophy, and science. The curriculum called for frequent recitations and intense repetitions—through compositions, discussions, debates, and contests—on the part of the student. The *Ratio Studiorum* also promoted physical exercise, mild discipline in terms of punishments, and serious “moral training.” Students learned Greek and Latin throughout the six-year course, and the system encouraged the speaking of Latin even in casual conversation. Ultimately, the student was to aim for “the perfect mastery of Latin” and especially “the acquisition of a Ciceronian style.” With the six-year course, the Jesuits helped to release and harmonize “the various powers or faculties of the soul—of memory, imagination, intellect, and will.”<sup>2</sup>

By late November 1753, as Carroll graduated, he received the highest praise of all. His master, Father John Jenison, claimed he was “the finest young man, in every respect, that ever enter’d the House.” Hoping not to have his words considered an exaggeration, Father John explained:

’Tis very natural I should regret the loss of one who during the whole time he was under my care, never deserv’d, on any account, a single harsh word, and whose sweet temper rendered him equally agreeable both to equals and superiors, without ever making him degenerate into the mean character of a favorite which he always justly despis’d. His application to his Book and Devotions was constant and unchangeable.... This short character I owe to his deserts;—prejudice, I am convince’d, has no share in it.<sup>3</sup>

Father John assured Charles’s father that the community of priests and students shared this view of the graduating Carroll.

## “First Citizen”

When Carroll returned to Maryland in 1765, he remained aloof from politics because of his non-legal standing as a practicing Roman Catholic. As the American colonies moved toward independence from Britain, however, Carroll accepted the role of republican and conservative revolutionary. In 1773, two debates dominated political discourse: whether the governor had the right to issue taxes and whether or not the Church of England should enjoy a legal monopoly in the colony. Revealing his liberal education as inculcated by the French Jesuits, Carroll challenged both ideas, writing under the pseudonym “First Citizen.”

[Over four debates](#)—carried on formally in the main Maryland newspaper and informally on the streets and in every pub in the colony—Carroll challenged the more pro-British ideas of Daniel Dulany (“Antilon”).

During the debates, Carroll drew upon a number of classical (Cicero and Tacitus especially) and medieval figures as well as recent thinkers. For example, he began his fourth letter with arguments of Lord Bolingbroke, a “noble author,” and peppered it with quotes from legal theorists, satirists, fellow Founders, and philosophers; historians Sir Edward Coke, William Hawkins, and Sir William Blackstone; Dulany, who had published an attack on the Stamp Act; and David Hume, Jonathan Swift, John Dickinson, Alexander Pope, and John Milton, concluding with the words of Horace. This gives us an indication of his education and the influences upon him as he studied at St. Omer.

His arguments are even more interesting. While continuing his claim that fees were taxes, he posited much of the debate in terms of man’s will, sophistry, and ingenuity against eternal truths and natural law. Though distrustful at times of the “earthiness” of the common law as opposed to the “other worldliness” of the natural law, Carroll explained the role of inherited rights succinctly. “[I]t required the wisdom of ages, and accumulated efforts of patriotism, to bring the constitution to its present point of perfection; a thorough reformation could not be effected at once....” And yet Carroll, like many of his contemporaries, found the notion of inherited rights and the common law to be somewhat haphazard and lacking. “Upon the whole,” the “fabrick is stately, and magnificent.” However, he continued, “a perfect symmetry, and correspondence of parts is wanting; in some places, the pile appears to be deficient in strength, in others the rude and unpolished taste of our Gothic ancestors is discoverable.”<sup>4</sup>

But Carroll also believed that these flaws should never call into question the necessity or importance of inherited rights or the common law. The long, gradual process of discovery through trial and error reveals the flawed state of man, his creations, and his political orders. “Inconsistencies in all governments are to be met with,” First Citizen recognized. Even in the English constitution, “the most perfect, which was ever established, some may be found.”<sup>5</sup>

True civilization, then, must recognize the limitations of man in his fallen or flawed state. It recognizes the expansive nature of pride in men. Therefore, Carroll argued, taking his claim from Blackstone, proper liberty comes best from “the limited power of the sovereign.” Only a vigilant, wise, and virtuous people can maintain a free society. “Not a single instance can be selected from our history of a law favourable to liberty obtained from government, but by the unanimous, steady, and spirited conduct of the people.”<sup>6</sup>

Carroll believed that the Anglo-Saxon culture and constitution best manifested this spirit of liberty but that the Norman Conquest of 1066 had destroyed it. "The liberties which the English under their Saxon kings, were wrested from them by the Norman conqueror; that invader intirely [sic] changed the ancient by introducing a new system of government, new laws, a new language and new manners."<sup>7</sup>

## "CX"

On May 27, 1774, 161 citizens of Maryland, including the Dulanys, signed a counter-resolution protesting the resolves and the legitimacy of the meeting of the Annapolis Convention of May 25.<sup>8</sup> "All of America is in a flame!" wrote William Eddis, an officer serving in the administration of Maryland governor Sir Robert Eden. Nearly the entire population of Maryland, according to Eddis, has "caught the general contagion. Expresses are flying from province to province. It is the universal opinion *here* that the mother country cannot support a contention with these settlements." Eddis foresaw nothing but disaster for the colonies. Nevertheless, he held out hope because, in his view, the [Annapolis Resolves](#) were written by disreputable figures. The truly important men of the community, those of "first importance in this city and in the neighborhood," had signed the counter-resolution.<sup>9</sup> All those of "first importance" had to do now was make the population realize this.

However, as Eddis fully understood and regretted, the sentiment of the Marylanders ran against these counter-protestors. Extralegal meetings in Queenstown on May 30, Baltimore on May 31, and Chestertown on June 2 passed resolutions supporting the Annapolis Resolves of May 25, thanking the citizens of Annapolis for their patriotism and initiative, and calling for a general Convention to meet to decide the fate of Maryland and her support of Boston. On June 4, 1774, the extralegal Annapolis meeting reconvened and elected representatives to this first general Maryland extralegal Convention. The first Convention, made up of 92 men, met in Annapolis from June 22 to June 25, 1774, discussing primarily the fate of Boston and the British denial of the Massachusetts charter. The Convention condemned the acts of Parliament as "cruel and oppressive invasions of the natural rights of the people of the Massachusetts bay as men, and of their constitutional rights as English subjects."<sup>10</sup> The Convention more or less embraced the Annapolis Resolves of May 25 and elected five men, including William Paca and Samuel Chase, "or any two of them," to be representatives to a Congress of all colonies if one should be called.<sup>11</sup> Similar calls for a colonial-wide assembly were made throughout the 13 colonies.<sup>12</sup>

Carroll placed his own understanding of the events of 1774 in the classical and Whiggish historical and mythical Anglo-Saxon frameworks. Additionally, having known Edmund Burke personally, Carroll's own views significantly reflected those of the Anglo-Irish statesman. In several very open and emotional letters to William Graves, he discussed those views. "Provincial committees constituted of deputies nominated by their respective counties have met in the capital city of each [colony] to collect the sense of the whole colony," he wrote in August 1774. Together, these delegates would meet on September 5 in Philadelphia. Most likely, he predicted, this Congress would challenge "the corrupt ministers intent on spreading that corruption thro' America" by ending all imports of British goods into America.<sup>13</sup>



Further, he claimed with exuberance, any person blocking these resolves in any way would be treated as the Romans treated criminals against the state: by executing them.

Six months later, Carroll gladly informed Graves that the committees fully controlled America: “Our numerous Committees, and the men we have under arms will compel a Strict Observation of the general Association, tho’ few I believe will dare to attempt a violation of that solemn Compact.” Nearly 10,000 militia protected Maryland and Virginia, he continued, but only in a defensive manner. Most likely, the “tools of Administration” would label these colonials “seditious, Rebellious, Unconstitutional,” etc., but nothing could be further from the truth. Far from violating the English constitution, such measures in the colonies were invoking, reestablishing, and defending the traditional constitution.

Parliament had been founded to protect the constitution from the excesses of the king, but it was currently failing in this job. Drawing on relatively recent history, Carroll wrote that “James the 2ds. infractions of the Constitution were not so dangerous and alarming as the present.” In the 17th century, only the monarchy challenged the constitution, but the constitution was “now sapped by the very Body which was instituted for its defence.” Citing Bolingbroke as his philosophical authority, Carroll laid responsibility for the subversion of the English constitution not on the patriots of the American colonies, but on Parliament. When the colonies had protested abuses in government through the proper institutions—the colonial assemblies—Parliament had ignored them. Instead, the British government as a whole had promoted the power of the governors at the expense of the indigenous assemblies.

Without any real choice, Carroll believed, the various extralegal conventions, committees, associations, and militias of the American patriots in 1775 stood as the only real protectors of the English constitution, now controlled by designing men who loved “new fangled Devices, unthought of, or perhaps despised by your Ancestors as ungenerous and impolitic.”<sup>14</sup> Carroll ended his letter to Graves by quoting Joseph Addison’s play, *Cato: A Tragedy*, an extremely popular 18th century play about the meaning of republican liberty and the necessity of sacrifice to combat tyranny.

Carroll also aired his views very publicly—though under the pseudonym “CX”—and importantly in the spring of 1776 in two long articles in the pages of the Baltimore newspaper *Dunlap’s Maryland Gazette*. The articles reveal much about Carroll’s historical and political views and are worth considering and quoting at length. By the time Carroll wrote these articles, he had served in several important roles as an elected representative in the Maryland Convention, and the Continental Congress had invited him to be a diplomat to Canada. Each article is well-written and well-argued.

The [first article](#), printed on March 26, 1776, encouraged the people of Maryland to accept independence from Great Britain and the need for a new government as inevitable facts. Should men ignore these facts, necessity would force a new government on them, and consequently, with little time for reflection, the colonists might not adopt the best form of government. If, however, patriots accepted these facts, they would be in a better position to reflect on history and culture and adopt the best government possible. More practical than theoretical, the [second article](#), published on April 2, 1776, criticized the current constitution of England as manifested in the colonies and argued for reform and the extralegal patriot Convention. Each article reflected and built upon the views he had advanced and defended as First Citizen in 1773.

At the beginning of his first article, Carroll quoted David Hume's essay "[The Idea of a Perfect Commonwealth](#)," noting that tradition and authority rather than an abstract Reason have governed the majority of men throughout history. Carroll quoted this not as a criticism, but as a statement of fact. Men of the 18th century, and specifically those influenced by the various enlightenments, might very well desire men to be governed primarily by Reason, but reality told a different story. For Reason to govern men and governments, it must be carefully cultivated in each generation and passed on to the following generations time and time again. In essence, then, a properly understood Reason is deeply cultivated, understood, and protected by tradition, education, and sacrifice. One could not simply assume that Reason would reveal itself unaided. Consequently, Carroll not so subtly implied, American patriots would have to rethink the nature of government and their relationship to it if they were to form a new commonwealth and be happy, especially if that commonwealth was to take seriously the notion of Reason.

Unlike John Locke, Carroll believed revolutions are not inevitable when governments become oppressive and destructive of the proper ends of man. Instead, men must overcome their own natures to reach true republican happiness. Such a reluctance to revolt also has a profoundly good side, however, as it prevents men from desiring unadulterated innovations in government. Such conservatism "restrains the violence of factions, prevents civil wars, and frequent revolutions; more destructive to the Commonwealth, than the grievances real, or pretended, which might otherwise have given birth to them."<sup>15</sup>

Deeply attached to the English constitution, the colonists understandably mistook the forms for the essence. The English had offered mere pretense and deception: They might keep the forms of government and the language of virtue, but corruption had spread through all levels of government. When, therefore, corruption seems widespread and its continued corrosiveness inevitable, "all oaths of allegiance cease to be binding, and the parts attacked are at liberty to erect what government they think best suited to the temper of the people, and exigency of affairs." Men have a right to rebel if their liberty and property are insecure, but they also—and more importantly—have a duty "to bring back the constitution to the purity of its original principles."<sup>16</sup> In the case of the American colonists, this would mean protection of liberty and property as understood through the Judeo-Christian, Greco-Roman, and Anglo-Saxon traditions.

For all intents and purposes, Carroll rightly noted, the colonists already understood self-governance. They had governed themselves for a considerable amount of time and had the habit, whether they understood this explicitly or not, of self-government. But Carroll believed that the extralegal Maryland Convention had numerous problems. Following Montesquieu, he criticized the concentration of legislative, executive, and judicial branches into one set of hands as constituting a form of despotism. Given the circumstances, he preferred a monarchy to an oligarchy, as "one tyrant is better than twenty." Should the convention neglect "the true interest of the people" by failing to create a government with three separate branches, it could become as "obnoxious to the nation" as the Long Parliament did under Cromwell. Such was Carroll's warning as he ended the first of his articles.

Published a week after the first, Carroll's second article also began with a quote from Hume's "The Idea of a Perfect Commonwealth" that set the tone for the entire article. A wise governor "will bear a reverence to what carries the marks of age; and though he may attempt

some improvement for the public good, yet he will adjust his innovation, as much as possible, to the ancient fabric, and preserve entire the chief pillars and supports of the constitution.”<sup>17</sup>

Carroll proceeded to offer a number of suggestions for reforming the English constitution consistently with these “chief pillars and supports.” He continued in the same vein as in the previous article: Independence is coming, and Marylanders should prepare as soon as possible so as not to have necessity force a less than ideal government on them. They should follow Hume’s advice and, instead of remaking the English constitution, return to first principles and reform it. If the Marylanders succeeded, they would have created a more English constitution than the English currently enjoyed. Rooted in the principles of the past, a reformed constitution would also adopt the best in the science of government as understood historically and adapt to the particular needs of the province. Importantly, he believed independence would bring about a constitutional continuity, not a revolutionary overthrow of the constitution.

Carroll offered a number of criticisms of the current constitution and even more suggestions on how to reform it to respond to Maryland’s particular needs. As they reformed the constitution, bringing it back to first principles, Marylanders should recognize their possibilities as well as their limitations. It would not do, for example, to compare the relationship of the United Colonies to each colony to the relationship of Maryland to each of its counties. While each of the United Colonies was “separately independent” and thus in need of mechanisms to preserve this independence, the counties of Maryland should submit to a reformed legislature, recognizing “its jurisdiction [as] supreme.”

Not surprisingly, given the debates of 1773, Carroll claimed that the greatest threat to Maryland lay in the power of the executive under the current constitution. Sounding very much like First Citizen, CX argued that the executive wielded an inordinate power in the province, corrupting both the office and Maryland. Officers of the governor and court should not hold places in the upper or lower houses of the Assembly, he claimed, and the governor should not have the power to place or remove judges at his pleasure.

Carroll’s vision of government was rooted in the traditional notion of three branches representing monarchy, aristocracy, and democracy. Real power, he argued in a very Whiggish vein, should reside in the legislature; in an Aristotelian and aristocratic vein, he argued that this power should be concentrated specifically in the upper house of a bicameral legislature and that this upper house “should be composed of gentlemen of the first fortune and abilities in the Province” who “should hold their seats for life,” giving this chamber an aristocratic function. Counties would be equally represented—within limits—in the lower house. Time and experimentation would allow Maryland to find a proper mode of representation in the lower house, thus avoiding the “rotten boroughs” so infamous in the English Parliament. The governor and his council, he proposed, would be selected by the two houses on a year-to-year basis. No governor could serve more than three one-year terms. These suggestions would have the most influence on the shape of the Maryland Senate and, to a very limited degree, on the U.S. Senate.

## Post-Independence

Carroll signed the Declaration of Independence proudly on August 2, 1776 (the official day for signing the document even though it had been adopted on July 4). During the

Revolution, Carroll financially supported the Continental Army under George Washington as well as European officers who came to fight for the burgeoning republic. Additionally, he served in the Continental Congress, not only using his influence to support the army, but also attempting to stamp out the ever-growing corruption in the body. He also reportedly did what he could to recruit Irish immigrants to the United States during the war, hoping to increase the number of anti-English patriots.

Throughout the war, Carroll worried intensely about the concentration of power in the various Committees of Safety. They were necessary, he knew, as a transition from English government to permanent republican government; but no matter how democratic they might be, they were unhealthy over the long run because they concentrated power in a single body of power. When the war ended, Carroll supported the proposed federal Constitution as a means to separate the three functions of government into executive, legislative, and judicial.

As discussed at the 1787 Constitutional Convention and by James Madison in *Federalist* No. 63, the U.S. Senate was modeled after Maryland's, itself a creation of Charles Carroll. In Carroll's view, the Senate ought to combine the strengths of popular sovereignty, aristocracy, and monarchy in order to achieve the "protection of the lives, Liberty, & property of ye persons living under it." Carroll continued:

The Govt. which is best adapted to fulfill these three great objects must be the best; and the Govt. bids fairest to protect lives, Liberty, & property of its citizens, Inhabitants, or subjects, [which is] founded on the broad basis of a common interest, & of which the sovereignty, being lodged in the Representatives of the People at large, unites the vigor & dispatch of monarchy with the steadiness, secrecy, & wisdom of an aristocracy.<sup>18</sup>

Although Carroll considered his primary role to be a promoter of stability in Maryland rather than in the United States, he did serve in the first U.S. Senate under the 1787 Constitution, and he gave away much of his property to allow the new country to establish its capital in what would become Washington, D.C. He also fought for hard money (rather than paper) and fervently defended the rights of Tories (those who remained loyal to Britain during the Revolution) to be treated as full Americans in their personal and property rights.

Though he definitely liked Thomas Jefferson on a personal level, Carroll believed Jefferson too radical to be a proper President and became one of Jefferson's most ardent opponents in the early 19th century. "Mr. Jefferson is too theoretical and fanciful a statesman to direct with steadiness and prudence the affairs of this extensive and growing confederacy," he wrote to Alexander Hamilton. Jefferson "might safely try his experiments, without much inconvenience, in the little Republic of San Marino, but his fantastic trickes would dissolve this Union."<sup>19</sup>

Even worse in Carroll's view, Jefferson as President would unleash all the latent [French-style Jacobinism](#) in the American republic. "I much fear that this country is doomed to great convulsions, changes, and calamities," Carroll again lamented to Hamilton. "The turbulent and disorganizing spirit of Jacobinism, under the worn out disguise of equal liberty, and rights and division of property held out as a lure to the indolent, and needy, but not really intended to be executed, will introduce anarchy which will terminate, as in France, in military despotism."<sup>20</sup>

Carroll's fears proved untrue, of course, and as Jefferson's reputation soared, Carroll's dropped precipitously.

Though Carroll lived until November 14, 1832, he remained relatively silent throughout much of the last three decades of his life. However, he did meet with the greatest of 19th century French thinkers, Alexis de Tocqueville. The two, not surprisingly, got on well. Their conversation covered a number of topics, including the signing of the Declaration and the war for independence, government, and democracy. To Tocqueville, Carroll represented the end of a period in history. "This race of men is disappearing now after having provided America with her greatest spirits," Tocqueville lamented. "With them the tradition of cultivated manners is lost; the people becoming enlightened, attainments spread, and a middling ability becomes common."<sup>21</sup>

One can only wonder about Carroll's influence on Tocqueville's magisterial *Democracy in America*. Certainly, one finds at least a parallel to Carroll's understanding of the dangers of democracy and the need for men of noble character—even a self-sacrificing aristocracy—in Volume Two's chapter on "Why Democratic Nations Show a More Ardent and Enduring Love of Equality Than of Liberty." "Men cannot enjoy political liberty unpurchased by some sacrifices," Tocqueville wrote, "and they never obtain it without great exertions." In concluding his discussion of Carroll, Tocqueville ruefully recorded that "[t]he striking talents, the great characters, are rare. Society is less brilliant and more prosperous."<sup>22</sup>

When Charles Carroll of Carrollton passed away in November 1832, two headlines predominated in American papers: "A great man hath fallen in Israel" and "The Last of the Romans" has passed into eternity.

BRADLEY BIRZER

## SELECTED PRIMARY WRITINGS

### First CX Letter (March 26, 1776)<sup>23</sup>

“An established government has an infinite advantage by that very circumstance of its being established; the bulk of mankind being governed by authority, not reason; and never attributing authority to any thing, that has not the recommendation of antiquity.”

—Hume’s *Essays*, *Idea of a Perf. Commonwea[l]th*.

The foregoing observation of the judicious Essayist fully explains the cause of that reluctance, which most nations discover to innovations in their government: oppressions must be grievous and extensive, before the body of the people can be prevailed on to resist the established authority of the state; or the pernicious tendency of unexperienced measures very evident indeed, when opposed by considerable numbers. This proneness of mankind to obey the settled government, is productive of many benefits to society; it restrains the violence of factions, prevents civil wars, and frequent revolutions; more destructive to the Commonwealth, than the grievances real, or pretended, which might otherwise have given birth to them. Changes in the constitution ought not be lightly made; but when corruptions has long infected the legislative, and executive powers: when these pervert the public treasure to the worst of purposes, and fraudently [sic] combine to undermine the liberties of the people; if THEY tamely submit to such misgovernment, we may fairly conclude, the bulk of that people to be ripe for slavery. In this extremity, it is not only lawful, but it becomes the duty of all honest men, to unite in defense of their liberties; to use force, if force should be requisite; to suppress such enormities and to bring back the constitution to the purity of its original principles. If a nation, in the case put, may lawfully resist the established government; resistance solely is equally justifiable in an empire composed of several separate territories; to each of which, for securing liberty and property, legislative powers have been granted by compact, and long enjoyed by common consent; for should these powers be invaded, and attempted to be rendered nugatory and useless by the principal part of the empire, possessing a limited sovereignty over the whole; should this part relying on its superior strength and riches, reject the supplications of the injured, or treat them with contempt; and appeal from reason to the sword: then are the bands burst asunder, which held together, and united under one dominion these separate territories; a dissolution of the empire ensues; all oaths of allegiance cease to be binding, and the parts attacked are at liberty to erect what government they think best suited to the temper of the



people, and exigency of affairs. The British North American Colonies are thus circumstanced:—they have then a right to chuse [sic] a constitution for themselves, and if the choice is delayed (should the contest continue) necessity will enforce that choice.—Whether it be prudent to wait till necessity shall compel these colonies to assume the forms, as well as the powers of government, shall be discussed in this paper.

That the United Colonies have already exercised the real powers of government, will not be denied: Why they should not assume the forms, no good reason can be given; as the controversy must NOW be decided by the sword! it may be said, that forms are unessential; if of so little consequence, why hesitate to give to every colony a COMPLEAT government? it has been suggested, that the inhabitants of this Province are not yet ripe for the alteration, and that they are still strongly attached to the subsisting constitution;—if they are so strongly attached to it, their attachment will continue, as long as the name and appearances of that constitution remain. The argument drawn from the affection of the people for the present constitution against the expediency of the proposed change at this time, will extend to any given period of time; and render the measure as improper THEN, as NOW. While our people consider the King of Great-Britain as THEIR King, while they wish to be connected with, and subordinate to Great Britain; while the notion remains impressed on their minds, that this connection and subordination are beneficial to themselves, we must not expect that unanimity, and those exertions of valour and perseverance, which distinguishes nations fighting in support of their independence. Confidence once betrayed and extinguished friendship can never be regained; the confidence of the colonies in, and their attachment to the Parent State arose from the interchange of benefits, and the conceived opinion of a sameness of interests; but now we plainly perceive that these are distinct; nay, incompatible: Why then should we consider ourselves any longer dependent on Great Britain, unless we mean to prefer slavery to liberty, or unconditional submission to independence? I by no means admit that the people are so much attached, as is alleged, to the present constitution: they are now fully convinced by facts too plain to be flossed over with ministerial arts; that the British government, on which the several provincial administrations immediately depend has for some years past aimed at a tyranny over these colonies. What security have they that some other attempt will not be made, should this be defeated? And before this security is obtained, or even proposed, to suppose an inclination in our people to run the hazard a second time of being enslaved, by the obstinately adhering to the present constitution; which in the end would inevitably lead them to their former dependence, and thus expose them to that hazard; is paying no great compliment to their understandings. For no other purpose are forms of a nominal, useless, and expensive government preserved, but that on a possible though very improbably compromise; the transition may

be early and gentle from the present arrangements into the ordinary and customary course of administration. Is the advantage (and let the sticklers for the measure answer the question) any way equal to the risk? To suffer men to continue at the head of our communities, and in places of profit and trust, who are attached by interest, and conceive themselves to be bound by the ties of oaths to the British government; is keeping up the remembrance of that subordination, which we should strive to obliterate since self-defence [sic], and the preservation of all we hold dear, seem NOW to be necessarily connected with our independence. It has been asserted, but not proved, that the people of this Province would dislike the abolition of the old, and the establishment of a new government, because they conceive the Convention to be already armed with too much power; and that this step would obstruct a reconciliation with Great Britain.—Were a compleat [sic] government to be framed, and the legislative, executive, and judicial functions distributed into different orders in the state; it is most certain, that the Convention so far from being thereby invested with ample powers, would deprive itself of part of those, which it now engrosses. What is it that constitutes despotism, but the assemblage and union of the legislative, executive, and judicial functions in the same person, or persons? When they are united in one person, a monarchy is established; when in many, an aristocracy, or oligarchy, both equally inconsistent with the liberties of the people: the absolute dominion of a single person is indeed preferable to the absolute dominion of many, as one tyrant is better than twenty. When the British ministry and senate are taught wisdom by experience; when they find that force will not effectuate what treaty may, they will offer terms of peace and reconciliation. If the former connection and dependence should be insisted on, and no security given to the colonies against the repetition of similar injuries, and similar attacks; would they act unwisely in rejecting the proposition? however, should a considerable majority entertain a different sentiment; a few placed under the new establishment, if inclined, will not have the power, I presume, to defeat the treaty. The interests of the people rightly understood, calls for the establishment of a regular and constituent government; and good policy should induce the Convention to consult the true interest of the people, by parting with the executive, and judicial powers, and placing them in different hands. By neglecting to do this, the long Parliament grew at last obnoxious to the nation.

There is nothing more natural (Dr. DAVENANT observes) than, for the commonality to love their own representatives, and to respect that authority, which by the constitution was established to protect their civil rights; and yet the Parliament in 1640, is an instance, that when the House of Commons took upon themselves the whole administration of affairs; the people grew as weary of them, as they had formerly been of State Ministers; and while they acted in this executive capacity, many of the multitude began to complain of their proceedings, question their privileges, and arraign their

authority; for when collective bodies take in hand such affairs as were wont to be transacted by private men, mankind is apt to suspect they may be liable to those partialities, errors, or corruptions, of which particular persons may be accused in their management; so that it is possible for assemblies to become unpopular, as well as Ministers of State.

The Provincial Conventions, or Congresses have inadvertently pursued the very conduct they so justly condemn in the British Parliament, which has exceeded the limits prescribed by the constitution to its operations. The House of Commons was not instituted for the sole purpose of concurring with the other branches of the legislature in enacting laws, but to be a check also on bad ministers, to correct abuses, and to punish offenders too great for the ordinary courts of justice; in short the Commons were formerly not improperly [hailed?] the Grand Inquest of the nation:—But what are they now? Why a part of that very administration, they were by the original institution intended to control. The design the ministry in making parliament a partaker of, or indeed a principal in all their undertakings, is as evident, as it is pernicious to the public: for as the above quoted author remarks, “When the lawmakers transact the whole business of the State, for what can the ministers be accountable!” Besides the danger arising from the want of a proper check on the administration wherever the legislative, executive, and judicial branches of government are blended together; these several powers in their nature distinct, and unfit to be trusted to the same persons, to interfere and clash with each other, that business is thereby greatly retarded; and the public of course considerably injured. For the truth of this assertion, I appeal to the last session of Convention the business of which might have been transacted in half the time, had not the attention of the members been distracted by the different capacities, they were constrained to act in, and taken up by matters very foreign from the duty of legislators. To those, who consider the subsisting forms of an useless government, as outward and insignificant signs power while the Convention grasps the solid substance, the above reasoning may appear to have little weight by such it must be objected, that Caesar in Rome, and Cromwell in England, without the name and pageantry of a King, governed as absolutely, as Tarquin the proud, or Henry VIII. If they should thus object, I will venture to pronounce, that they do not, or will not comprehend the force of the foregoing arguments. As perpetual dictator, Caesar was perpetual tyrant; Cromwell chose to rule the English nation, rather as Protector, than King; the prerogatives of the latter being defined, the powers of the former unknown. Having endeavoured to shew [sic] the expediency, if not the necessity of settling without delay a new government: I shall point out in my next paper, what alterations of the old one would render it, in my judgment, more perfect, and better adapted to our present, and probably future situation, and change of circumstances.

## Second CX Letter (April 2, 1776)<sup>24</sup>

“To tamper, therefore, in this affair, or try prospects merely upon the credit of supposed arguments or philosophy can never be the part of a wise magistrate, who will bear a reverence to what carries the marks of age; and though he may attempt some improvement for the public good, yet he will adjust his innovation, as much as possible, to the ancient fabric, and preserve entire the chief pillars and supports of the constitution.”

—Hume’s *Essays*, Idea of a Perf. Commonwealth.

Our present government seems to be approaching fast to its dissolution; necessity during the war will introduce material changes; INDEPENDENCE, the consequence of victory, will perpetuate them. As innovations then must be made, let them be adjusted according to the advice of Mr. HUME, ‘as much as possible, to the ancient fabric.’ Let the spirit of our constitution be preserved; nay, improved by correcting the errors of our old system, and strengthening its soundest and best supports. I shall briefly mention, without the least design of censuring past transactions, or calling blame on any man, what appear to me defects in our present government; and shall attempt with great diffidence to point out the proper remedies.—The following are some of its defects:

The principal offices are too lucrative, and the persons enjoying them are members of the Upper House of Assembly. It is unnecessary, and be thought inordinous [sic], to dwell on the mischiefs, which the Public has experienced in consequence of the misunderstanding between the two branches of the legislature, commonly occasioned by a difference of opinion respecting the fees of those offices. Much time has certainly been consumed in debates, and conferences, and messages on that subject, which could have been usefully employed in other matters. Is it proper that the same person should be both Governor, and Chancellor? The Judges of our Provincial Court hold their commissions during pleasure; the duties of their station are most important and fatiguing; the highest truth is reposed in them, yet how inadequate the recompense! The lessening of lucrative offices, and proportion the reward to the service in all; the exclusion of placemen from both Houses of Assembly; the separating the chancellorship from the chief magistracy; and the granting commissions to the judges of the Provincial Court, QUAM DIU SE BENE GESERRIT, with salaries annexed equal to the importance and fatigue of their functions; it is humbly conceived, would be alterations for the better in every instance.

The constitution of the Upper House seems defective also in this particular, That the members are removeable [sic] at the pleasure of the Lord Proprietary. To give to that branch of the legislature more weight, it should

be composed of gentlemen of the first fortune and abilities in the Province; and they should hold their seats for life. An Upper House thus constituted would form some counterpoise to the democratical part of the legislature. Although it is confessed, that even then the democracy would be the preponderating weight in the scales of this government. The Lower House wants a more equal representation, to make it as perfect as it should be. At present, one third of the electors sends more delegates to the Assembly than the remaining two thirds. It will not be contended, I presume, that what has always been deemed a capital fault in the English Constitution is not one in ours, formed upon that model? Every writer in speaking of the defects of the former, reckons the unequal representation of the commonality among the principal. The Boroughs are proverbially stiled the rotten part of the constitution, on account of their venality, proceeding from the inconsiderable number of electors in most of them. If the people of this Province are not fairly and equally represented; no doubt, in the new modeling of our constitution, great care will be taken to make the representation as equal as possible. Before I proceed to point out a method for facilitating this desirable reform; I shall state some objections which have been used against the measure, and endeavour to give a satisfactory answer to each of them—

A new representation will offend those counties which now send to the Assembly a greater number of Delegates, than their just proportion; hence divisions will ensue, at all times to be dreaded, but most in the present. Is the proposed alteration just or not! If just, then they only should be esteemed sowers of division, who oppose it. But should such a representation take place, more Delegates would be chosen in some counties, than in others, and should the votes be collected individually on all questions as heretofore practiced, they might frequently be carried against the smaller counties. What is that but saying that the majority would determine every question, the only mode of decision that can with any propriety be adopted? The Colonies vote by Colonies in Congress, therefore counties ought to vote by counties in Convention; and therefore it is useless to alter the representation, or to have more delegates from one country than another. The force of this reasoning, if there be any in it, I could never comprehend. The colonies are separately independent, and to preserve this independency, it may perhaps, be necessary to vote by colonies in Congress, but surely it will not be said that the counties of Maryland are thus independent, or that there are as many little independent principalities in the Province as there are counties? All our counties are subject to the same legislature, which within the territory owning its jurisdiction, is supreme. The inconveniences that may arise from the colonies voting by colonies in Congress must be imputed to the jealousy of Independence; or to use a softer term, to the necessity of securing to each colony its own peculiar government. To reconcile the strength, safety, and welfare of all the United Colonies, with the entire privileges, and full independency of each, requires a much great share of political knowledge, than

I am made of. But if this imperfection in the general constitution or confederation of the colonies, can not be remedied, does it follow, that the same imperfection should run through the particular constitutions of every colony, or be retained in that of any one? Different colonies may possibly, in process of time have different interests; and to secure to each Colony its peculiar and local interests; it may be thought most prudent to establish independence of each on a permanent basis. Have the two shores of Maryland, or can they have[,] a difference of interests? Should they be really so distinct, as to warrant the suspicion that the lesser part would be sacrificed to the greater; then are they unfit to be connected under one government; a separation ought to take place, to terminate the competition and rivalry, which this diversity of views and interests would produce; and all the consequent evils of two powerful and opposite factions in the same state. The interests of the two shores are the same; in the imagination of some men a difference may indeed exist, but not in reality. Is the welfare then of the whole Province to be sacrificed to the whims, the caprice, the humours [sic], and the groundless jealousy of individuals, not constituting a twentieth part of the people? Let those, who would oppose an equal representation on a supposed contrariety the IPSE DIXIT of no man, or set of men ought to prevail against a reform of the representative, so consentaneous to the spirit of our constitution.

To come at a fair and equal representation of the whole people, the following method is proposed.

Let the Province be divided into districts, merely for the purpose of elections, containing each one thousand voters, or nearly that number; let every district elect [\_\_\_\_\_] representatives: suppose, for instance, the whole number of electors should amount to 40,000, then if every 1000 should elect two Representatives, there would be 80 Representatives returned to Assembly. For facilitating the divisions of the counties into districts, and for the ease and convenience of the inhabitants in other respects such counties as are too large, may be divided into one or more, according to their respective extent. As our people will in all likelihood greatly increase in the course of fifty or sixty years it may be necessary in order to correct the inequalities which that lapse of time will probably occasion in the representatives to new-model the elections, preserving the same number of Delegates to Assembly, it may be ordained that 1500 return two only. If this precaution be not taken, the representative may in time become too numerous and unweildy [sic]; a medium should be preserved between a too small and a too large Senate; the former is more liable to the influence of a separate interest from that of their constituents and combination against that interest, the latter unfit for deliberation and mature counsels. 'Every numerous assembly (Cardinal de Retz observes) is [a] mob, and swayed in their debates by the least motives; consequently every thing there depends upon instantaneous turns.' When the Province shall contain as many inhabitants as it will be capable of supporting in its most improved state of cultivation, it will not even then be advisable to



suffer the representative to exceed one hundred for the reasons assigned. If the Delegates should ever amount to that number, to preserve a due proportion between the two houses, the members of the Upper House ought to be encreased to eighteen or nineteen. It would add to their importance, and give them more weight in the government, if on all vacancies they were to chuse [sic] their own members. The above alterations of our constitution are no ways inconsistent with a dependence on the crown of Great Britain, and therefore, not justly liable to the censure and opposition of those who wish the colonies to continue dependent.

During the civil war the appointment of a Governor and Privy Council, not to exceed five, must be left to the two Houses of Assembly; and if we should separate from Great Britain, the appointment must remain with them. The Governor and Council are to be entrusted with the whole executive department of government, and accountable for their misconduct to the two houses. A continuance of power in the same hands is dangerous to liberty; let a rotation therefore be settled to obviate that danger yet not so quickly made, as to prove detrimental to the State by frequently throwing men of the greatest abilities out of public employments. Where would be the inconvenience if the Governor and Privy Council were annually elected by the two Houses of Assembly, and a power given by the constitution to those Houses of continuing them in office from year to year, provided that their continuance should never extend[] beyond the term of three successive years?

A variety of other arrangements scarcely less important, must follow the proposed changes; only the outline of the constitution is drawn, the more intricate parts, “their nice conections [sic], just dependencies” remain to be adjusted by abler heads. A long dissertation was not intended, a minute detail would be tiresome; and perhaps the author may be justly accused of having already trespassed on the patience of the Public.

## RECOMMENDED READINGS

- Thomas O’Brien Hanley, S.J., ed., *The Charles Carroll Papers* (Wilmington, DE: Scholarly Resources, 1972).
- Kate Mason Rowland, *The Life of Charles Carroll of Carrollton, 1737–1832: With His Correspondence and Public Papers*, 2 Vols. (New York: G.P. Putnam’s Sons, 1898).
- Bradley J. Birzer, *American Cicero: The Life of Charles Carroll* (Wilmington, DE: ISI Books, 2010).
- Ronald Hoffman, *Princes of Ireland, Planters of Maryland: A Carroll Saga, 1500–1782* (Chapel Hill, NC: University of North Carolina Press, 2000).
- Pauline Maier, *The Old Revolutionaries: Political Lives in the Age of Samuel Adams* (New York: Alfred A. Knopf, 1980).
- Scott McDermott, *Charles Carroll of Carrollton: Faithful Revolutionary* (New York: Scepter, 2002).



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# James Madison

## Life

James Madison was born on March 16, 1751, at Port Conway, King George County, Virginia. He was the son of James Madison Sr. and Nelly Conway Madison. On September 15, 1794, at the age of 43, he married Dolley Payne Todd; they had no children. Madison died on June 28, 1836, at his Virginia home, Montpelier, where he is buried. He was the last surviving delegate of the 1787 Federal Convention.

## Education

Madison studied under private tutors and then attended the College of New Jersey (now Princeton University), graduating in 1771.

## Religion

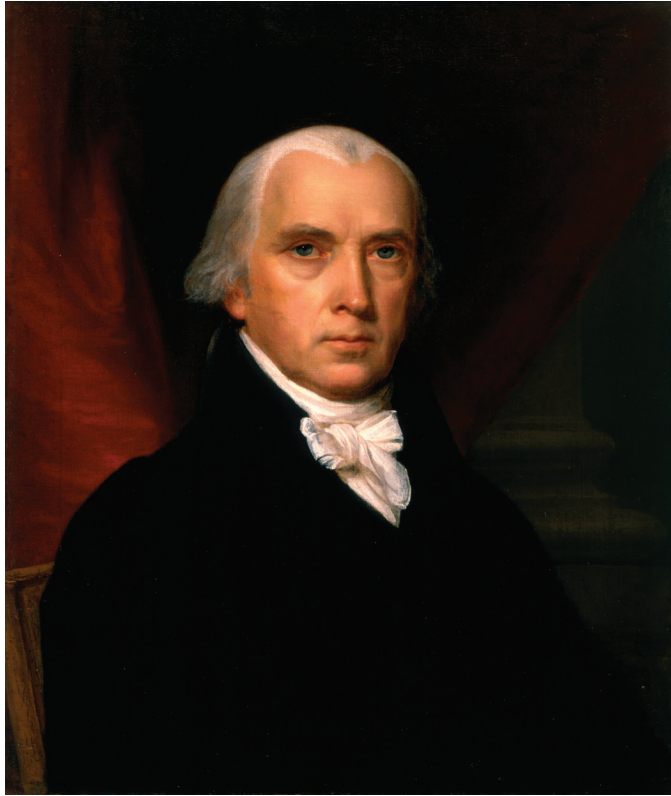
Episcopalian

## Political Affiliation

Republican (with Jefferson, co-founded the Republican Party in 1792)

## Highlights and Accomplishments

1774	Committee of Safety for Orange County, Virginia
1776	General Assembly of Virginia
1778–1779	Virginia Council of State
1780–1783	Continental Congress
1784–1786	Virginia House of Delegates
1786	Annapolis Convention
1787	Constitutional Convention
1787–1788	Co-author, <i>The Federalist</i>
1787–1788	Continental Congress
1789–1797	Member and de facto leader, United States House of Representatives
1789–1791	Prime sponsor, The Bill of Rights (introduced 1789; ratified 1791)
	Author, “Notes on Government” and “Party Press Essays”
1801–1809	Secretary of State
1809–1817	President of the United States
1826–1836	Rector of the University of Virginia



James Madison by John Vanderlyn, 1816, White House Historical Association Collection.

Mr. Maddison is a character who has long been in public life; and what is very remarkable every Person seems to acknowledge his greatness. He blends together the profound politician, with the Scholar.

—*William Pierce, delegate to the Constitutional Convention from Georgia, 1787*<sup>1</sup>

# James Madison: Father of the Constitution

JAMES MADISON IS GENERALLY REGARDED AS THE FATHER of the United States Constitution. No other delegate was better prepared for the Federal Convention of 1787, and no one thought more comprehensively or deeply about how to achieve the ends of republicanism in the new Constitution. In 1787 and 1788, with Alexander Hamilton and John Jay, Madison published newspaper essays in support of the proposed Constitution under the pseudonym “Publius.” Later bound together in *The Federalist*, these essays were a brilliant and penetrating commentary on the principles and processes of republican constitutionalism.

In 1789, as a member and leading voice in the House of Representatives in the new Republic, Madison introduced a series of constitutional amendments that would form the basis of the Bill of Rights. Over the next few years, he and Thomas Jefferson organized opposition to Alexander Hamilton’s administrative policies, ultimately founding the first political party in America.

Winston Churchill once said that a man must choose either a life of words or a life of action. Like Churchill himself, Madison did not make that choice but instead demonstrated that rare individuals can be both scholars and statesmen. His scholarly quest to find a “republican remedy” for the diseases that have plagued popular government from time immemorial was not a mere academic enterprise; he also sought the practical means to make popular government a just government so that it might be recommended “[to the esteem and adoption of mankind](#).” Madison believed that he had discovered the way to rescue popular government from its past failures but that its ultimate success depended on the great experiment in self-government entrusted to the hands of the American people—both the Founding generation and future generations. The destiny of republican government was and would forever remain staked on the vigilance of the American people in tending “the sacred fire of liberty.”

## The Life of James Madison

James Madison Jr. was born in 1751 in Port Conway, Virginia. At the age of 18, he entered the College of New Jersey, now Princeton University, where he studied history, classics, moral philosophy, politics, and law. James—or “Jemmy,” as some of his friends called him—was five foot six, of slight build, with a quiet voice, serious demeanor, and scholarly habits. He was unfortunately plagued by ill health in his youth and intermittently throughout his life. On more than one occasion, he worked his frail constitution to exhaustion despite the protests of friends.

During the Revolutionary War years, Madison served in the General Assembly of Virginia, the Continental Congress, and the Congress under the [Articles of Confederation](#). In the mid-1780s, he served in the Virginia House of Delegates, and in 1786, he attended the Annapolis Convention, the precursor to the Federal Convention. Soon thereafter, he began to prepare for the Federal Convention, slated for the following summer in Philadelphia. Immersing himself in the study of ancient and modern politics, he sought to rethink the problems and prospects of federalism and republicanism in the modern era and to discover a new and more noble course for government by the people.

Madison arrived early in Philadelphia and used the time before the Convention commenced to meet with fellow delegates from Virginia and Pennsylvania to formulate the opening agenda. Though introduced by Madison’s friend and then governor of Virginia, Edmund Randolph, the “[Virginia Plan](#)” was largely the brainchild of James Madison. Calling for a stronger central government and a bicameral legislature, the Virginia Plan became the basis for subsequent discussions and debate at the Convention and laid the groundwork for framing the Constitution of 1787. Throughout the long, hot summer in Philadelphia, Madison took extensive notes on the proceedings, and it is primarily his record that has provided us with a knowledge of the speeches and debates of that propitious gathering. During the [New York ratification](#) debates, he collaborated with Hamilton and Jay on a series of essays in support of the proposed Constitution. Their combined efforts produced *The Federalist* (often referred to as *The Federalist Papers*), which is generally considered the most definitive exposition of the tenets of American republicanism.

In the late 1780s and 1790s, Madison served four terms in the House of Representatives and then as Secretary of State under President Thomas Jefferson. Madison succeeded Jefferson in the office of chief executive, serving two terms as the fourth President of the United States. During the War of 1812, sometimes called “Mr. Madison’s War,” he and his wife Dolley were forced to flee the White House in Washington, D.C., as the British destroyed it and its contents in a devastating fire.

Following his presidency, Madison retired to his family estate at Montpelier, only a partial day’s ride from his closest friend’s residence at Monticello. The road between the homes of Madison and Jefferson is today fittingly named “Constitution Way,” linking the two friends and their greatest achievements in an uninterrupted ribbon leading from the ideas of the Declaration of Independence to the principles of the American Constitution. Jefferson and Madison worked together on founding the University of Virginia, where they hoped the “true doctrines of liberty” might be inculcated in future statesmen.



During his twilight years, as “the last of the Founders” on the American scene, Madison became increasingly disturbed by the secessionist theories of Senator John C. Calhoun of South Carolina. Though Calhoun attempted to defend his states’ rights theory by appealing to the writings of Jefferson and Madison, Madison rebuffed Calhoun’s move. Madison clarified his position that the union of the states was justly founded on the consent of the people of the several states and, as such, can be altered only through the prescribed constitutional processes. There is no constitutional basis, he argued, for the right of state secession in the compact of a free people. Madison’s last public writing—his heartfelt “advice to my country”—was that the American Union be cherished and perpetuated.

Having served his country for more than 40 years and taken part in the founding “epochs of its destiny,” Madison had dedicated himself “to the cause of liberty” throughout. He died “as quietly as the snuff of a candle goes out” on the morning of June 28, 1836, at the age of 85.

## The Extended Republic and Representation

Madison believed along with his contemporaries that the great danger to popular government is faction. A faction, he explained in *Federalist 10*, is a number of citizens “united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.” In a free society based on majority rule, factions consisting of a minority of the citizens are not constitutionally dangerous. However, if a majority composes a faction, might makes right; in other words, power rather than justice becomes the basis of public decisions. Finding a solution to this problem is challenging because the latent causes of faction and injustice are “sown in the nature of man.”<sup>2</sup>

Factions stem from self-interest and prejudice, which in turn tend to influence people’s opinions and views. Since the causes of faction cannot be removed without coercing people’s minds and destroying liberty, Madison advocated a system of government that could control the effects of faction and deter the formation of an unjust majority. His proposed remedy included establishing a popular government over a large territory and instituting the principle of representation. The size of the territory matters, he argued, because in a small republic it is easy for a majority to communicate and unite on the basis of selfish interest or prejudice, thereby oppressing the minority. In an extensive republic, there will be more people, a greater diversity of interests and views, and a greater distance over which views must travel to be communicated. This will make it more difficult for a majority to form based on a narrow interest or harmful passion. In a large society, a coalition of the majority will be necessary to make law, and its demands will have to pass muster with a great variety of economic, geographical, religious, and other groups. In effect, Madison took advantage of the diversity of the modern commercial republic to create an equilibrium in the passions and interests of the society, allowing the “reason of the public” to sit in judgment.

Madison both highlighted the benefits of a modern commercial society composed of diverse interests and religions and called for a “common cause” regardless of “circumstantial and artificial distinctions.”<sup>3</sup> The purpose of the principle of representation, Madison

argued, is to “refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations.”<sup>4</sup> Like the effects of the extended republic, representation is another crucial factor intended to prevent narrow interests and unjust views from determining public decisions. The representative’s job is not to follow daily polls or raise a finger to the wind to decide how to vote; sudden breezes in popular opinion, Madison taught, are too often the result of prejudice and partial interests. Rather, the task of the representative is to promote a consensus grounded in justice and the common good.

The achievement of this consensus requires deliberation within the legislature as well as a two-way process of communication between the representatives and their constituents. When the people are “stimulated by some irregular passion, or some illicit advantage,” the good representative will place duty above personal ambition. Instead of flattering the people’s prejudices in order to curry their immediate favor, he will check their misguided demands, so that “reason, justice, and truth, can regain their authority over the public mind.”<sup>5</sup> The goal, Madison argued, is to achieve public decisions based on the “cool and deliberate sense of the community.” Accordingly, the duty of the representative is both to listen to the concerns of his constituents and to promote among them an enlarged view of the public interest. Within this milieu of public communication and deliberation, civic education takes place. It helps to form and settle public opinion on the basis of right, and it justifies “the respect due from the government to the sentiments of the people.”<sup>6</sup>

The Madisonian process of refinement and enlargement of the public views can be seen throughout the broad workings of the legislative process today, from public hearings on political matters in home districts to the deliberative proceedings on the House or Senate floor; from the contest and compromise of interests in legislative committees to the representatives’ open newsletters to their constituents; from the necessity to defend their public stances and votes during reelection campaigns to the honor felt by those representatives whose “faithful discharge of their trust shall have established their title to a renewal of it.”<sup>7</sup>

## Separation of Powers and Checks and Balances

Madison hoped the representatives of America would be wise and virtuous, but he was not naive about the temptations of power and the charms of ambition that accompany political office. He well knew that “enlightened statesmen will not always be at the helm.”<sup>8</sup> Some representatives will be weak of mind or lacking in backbone. Some may possess the ambition and political skills of a demagogue and be able to work their wiles on weaker and less clever colleagues. Even the most philosophic and patriotic representatives, Madison warned, should not be given a blind trust, for the political scenes in which they must operate often distract their reasoning “and expose it to the influence of the passions.”

In essence, Madison advised his fellow citizens to be wary of the heat generated by politics and the allure of political power. “The accumulation of all powers [of government]... in the same hands...[is] the very definition of tyranny,” Madison wrote in *Federalist* 47.<sup>9</sup> To guard against the danger of governmental tyranny, Madison endorsed a system of prudential

devices, including separation of powers, checks and balances, bicameralism, and federalism, which are intended to divide and channel the self-interest and ambitions of officeholders and enable government to control itself.

Accordingly, the Constitution separates the federal government into three distinct branches: legislative, executive, and judicial. However, Madison argued, it is not sufficient to establish separation of powers on parchment only. Because men are not angels—because they are all too often actuated by private interest and ambition—these very motives themselves must be employed to keep the departments of government within their limited, constitutional boundaries. “Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place,” Madison wrote in [Federalist 51](#). He therefore proposed a system of checks and balances that would incorporate the less-than-sterling side of human nature into the very workings of government. To accomplish this, the powers of the three branches of government are partially blended, enabling each branch to guard against usurpations of power by the others and safeguard its own constitutional province. Examples of constitutional checks and balances include the executive veto of legislative bills, the possible legislative override of executive vetoes, the need for Senate confirmation of presidential appointments to the federal judiciary, and [judicial review](#). In essence, Madison wanted the different levels and branches of government (e.g., national–state and executive–judicial–legislative, respectively, including also the division of the legislature into two houses) to have separate constitutional functions and to check each other, thereby diffusing power and protecting the people’s rights and liberties.

Madison termed these safeguards against governmental tyranny “auxiliary precautions.” The primary control on the government, he emphasized, remains always with the people. In the final analysis, governmental decisions depend on the will of the society. If liberty is to be preserved, the will of the society—that is, the people—must be grounded in the principles of justice and informed by the precepts of moral responsibility. Madison’s overall constitutional design was meant to achieve this via the process of deliberative republicanism, culminating in what he called the “reason of the public.”<sup>10</sup> In arguing for constitutional and institutional safeguards for liberty, he never lost sight of the fact that the primary control on government depends on the vigilance of the people.

## The Bill of Rights

The Constitutional Convention unanimously defeated a motion to draw up a bill of rights for the new Constitution. Why did the Framers reject this added protection?

First, the Constitution already contained numerous guarantees, such as trial by jury and [habeas corpus](#), and prohibitions, such as those against religious tests and the impairment of contracts. Second, a national bill of rights was thought to be unnecessary because a bill of rights was already included in most state constitutions. Third, and most important, the Framers created a government of specific, limited powers. “Why declare that things shall not be done,” Alexander Hamilton asked, “which there is no power to do?” Madison agreed; he especially feared that enumerating specific rights would imply that these were the only

rights that people possessed and the government must protect, thereby narrowing people's rights and liberties rather than effectively protecting them.

Nevertheless, the lack of a formal bill of rights became a rallying cry during the ratification debate, and the "Friends of the Constitution" agreed to add one. When the First Congress convened in March 1789, Representative James Madison took charge and successfully ushered 17 amendments through the legislative process in the House of Representatives. The list was subsequently trimmed to 12 in the Senate, and President Washington sent each of the states a copy of the 12 congressionally proposed amendments. The first two—concerning the number of constituents for each Representative and the compensation of Congressmen—were not ratified. (The second proposed amendment was eventually ratified as the 27th Amendment in 1992.) By December 15, 1791, three-fourths of the states had ratified the 10 amendments now known as the Bill of Rights.

Based largely on George Mason's "[Declaration of Rights](#)" written for the Virginia Constitution of 1776 but framed in its final form by Madison, the clear purpose of the Bill of Rights was to restrict the power of the federal government. The First Amendment guarantees rights protecting the human faculties (religion, speech, press, assembly, and petition), and the next seven deal more with fair procedures, such as protections against unreasonable searches and seizures, as well as against double jeopardy, and guarantees of due process. The Ninth Amendment notes that the listing of rights in the Constitution does not deny or disparage others retained by the people, and the 10th Amendment states that the powers of the national government are limited to those that are delegated to it by the Constitution on behalf of the people.

## Freedom and Responsibility

Madison's contributions to the American Republic are best summarized by his lifelong dedication to the principles of freedom and responsibility. These concomitant principles are the cornerstone of republican self-government. Freedom of the mind is the most basic of all rights, from which all our civil rights and liberties are derived. Because of the inherent freedom of the human mind, the first object of government is to protect the free exercise of its faculties. These include freedom of conscience (the most sacred of all rights); freedom to communicate one's opinions, whether in speech or in print; freedom of assembly; and the right to acquire property.

A staunch supporter of the separation of church and state, Madison argued that the religion of every person must be left to his own conscience and cannot rightly be forced by the dictates of any other person(s). In promoting the doctrine of religious freedom, his intent was not to privilege the secular over the religious, but to protect men's religious convictions against the intrusion of the state. The obligation of every human being to God, Madison argued, is higher than his duty to country. Freedom of conscience is an inalienable right because "what is here a right towards men, is a duty towards the Creator."<sup>11</sup> Before human beings are members of civil society, they are subjects of the "Governour of the Universe," and not even a majority in society has the right to interfere with a man's allegiance to divine authority. Madison's claim for religious freedom is thus an aspect of his understanding of

the hierarchy of obligations and responsibilities of human beings. “A just government,” Madison wrote, will protect “every citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property.”

When government interferes with the freedom to derive the fruits of one’s talents and labors, it violates the principle of human equality by subjecting some to peculiar burdens and others to particular exemptions. When government dictates arbitrary taxation or the taking of property from one class of citizens to benefit another, freedom is assailed. This is because the acquisition of property is the natural extension of the free use of one’s faculties. Madison defined the term “property” broadly, arguing that citizens possess both rights of property and property in rights. Property, then, includes not only land and material goods, but also a person’s “opinions and the free communication of them.”<sup>12</sup> “Government is instituted to protect property of every sort,” Madison asserted, “as well that which lies in the various rights of individuals, as that which the term particularly expresses. This being the end of government, that alone is a *just* government, which *impartially* secures to every man, whatever is his own.”

We are all familiar with the Bill of Rights as a document listing our protected freedoms. Madison hoped that in time, it would become much more than a parchment barrier against oppressive acts. Over time, a bill of rights becomes sanctified and incorporated into public opinion, and its principles exert an influence on the actual views and sentiments of the people. The guardianship of our constitutional rights is immeasurably strengthened when those rights and the responsibilities that flow from them are written not just on paper, but on the minds and hearts of the citizens.

In all free governments, Madison claimed, public opinion is sovereign. Public opinion is the authority that ultimately determines governmental measures: It is the spirit behind the laws. The arena of public opinion is the sphere in which a coalition of the majority forms and unites around a given issue. Majority opinion in a republican polity is constantly in the process of constructing itself within an intellectual, moral, and psychological milieu larger than itself. Consequently, the things that influence public opinion are of critical importance to those who are concerned with the stability, character, and future of the political order. To foster a citizenry who will respect the rights of others and exercise the responsibilities that come with freedom, Madison promoted a national bill of rights, a free press circulating throughout the land, educational establishments to encourage learning and cultivate public manners, and representatives who take seriously their duty to encourage the enlargement of the public views. His aim was to construct a society in which the people are truly capable of governing themselves.

Madison’s advocacy of the formation of a deliberative and just public opinion was his sustained attempt to solve the problem of majority opinion in a manner that is fully consistent with the form and spirit of popular government. Three-quarters of a century later, Abraham Lincoln would echo Madison’s republican convictions. On the brink of civil war, Lincoln reminded the American people that “a majority, held in restraint by constitutional checks and limitations, and always changing easily with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people.”<sup>13</sup>

## Self-Control/Self-Government

In a commencement address at Sarah Lawrence College, Robert Frost talked with his audience about “the American dream.” “I wonder what the dream is, or why.... I wonder who dreamed it,” Frost mused. “Did Tom Paine dream it, did Thomas Jefferson dream it, did George Washington dream it? Gouverneur Morris?” After “knitting” about the question for some time, Frost thought he had finally come to understand “the dream.” He decided that “the best dreamer of it was Madison.” “Now I know—I think I know...what Madison’s dream was,” Frost said. “It was just a dream of a new land to fulfill with people in self-control.... That is all through his thinking.... To fulfill this land—a new land—with people in self-control.”<sup>14</sup>

In his plainspoken way, Frost broke through the complexity of Madison’s political theory and went directly to the heart of the Madisonian vision. Self-control, by the individual citizen and by the majority, is the essence of Madison’s dream of republican self-government. Like Madison, Frost understood that institutional checks and safeguards can do only so much and that the success of the American experiment would be decided by the people’s willingness and ability to cherish their own rights as well as to respect the rights of others. The “new and more noble course” Madison claimed for his country is America’s path only if Americans choose it. Madison’s “dream” for America is not about the things we possess. It is about what possesses us, about what principles we embrace and live by—principles that, taken together, constitute the American way of life. The challenge for Americans at the time of the Founding, just as it remains our challenge today, is to live by the precepts of republican justice, thereby vindicating the great experiment in self-government.

COLLEEN A. SHEEHAN

## SELECTED PRIMARY WRITINGS

### **Federalist No. 39** (1788)<sup>15</sup>

...The first question that offers itself is, whether the general form and aspect of the government be strictly republican? It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the revolution; or with that honorable Determination, which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government.

### **Federalist No. 51** (1788)<sup>16</sup>

TO what expedient then shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be



supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention.

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent, is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels, having no communication whatever with one another. Perhaps such a plan of constructing the several departments would be less difficult in practice than it may in contemplation appear. Some difficulties, however, and some additional expence would attend the execution of it. Some deviations therefore from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them.

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal.

But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defence must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to controul the abuses of government. 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 controuls 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. A dependence on the people is, no doubt, the primary controul on the government; but experience has taught mankind the necessity of auxiliary precautions.

This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power; where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other; that the private interest of every individual, may be a centinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the state.

But it is not possible to give to each department an equal power of self defence. In republican government the legislative authority, necessarily, predominates. The remedy for this inconveniency is, to divide the legislature into different branches; and to render them by different modes of election, and different principles of action, as little connected with each other, as the nature of their common functions and their common dependence on the society, will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative, on the legislature, appears at first view to be the natural defence with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions, it might not be exerted with the requisite firmness; and on extraordinary occasions, it might be perfidiously abused. May not this defect of an absolute negative be supplied, by some qualified connection between this weaker department, and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own departmen[t]?

If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion, to the several state constitutions, and to the federal constitution, it will be found, that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test.

There are moreover two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view.

*First.* In a single republic, all the power surrendered by the people, is submitted to the administration of a single government; and usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered

by the people, is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will controul each other, at the same time that each will be controuled by itself.

*Second.* It is of great importance in a republic not only to guard the society against the oppression of its rulers; but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority, that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens, as will render an unjust combination of a majority of the whole, very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This at best is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests, of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals or of the minority, will be in little danger from interested combinations of the majority. In a free government, the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other, in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government: since it shews that in exact proportion as the territory of the union may be formed into more circumscribed confederacies or states, oppressive combinations of a majority will be facilitated, the best security, under the republican forms, for the rights of every class of citizens, will be diminished; and consequently the stability and independence of some member of the government, the only other security, must be proportionally increased. Justice is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign, as in a state of nature where the weaker individual is not secured against the violence of the stronger: And as in the latter state even the stronger individuals are prompted by the uncertainty of their condition, to submit to a government which may

protect the weak as well as themselves; So in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted, that if the state of Rhode Island was separated from the confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits, would be displayed by such reiterated oppressions of factious majorities, that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext also, to provide for the security of the former, by introducing into the government a will not dependent on the latter; or in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practical sphere, the more duly capable it will be of self government. And happily for the *republican cause*, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the *federal principle*.

### **“Public Opinion” (1791)<sup>17</sup>**

PUBLIC opinion sets bounds to every government, and is the real sovereign in every free one.

As there are cases where the public opinion must be obeyed by the government; so there are cases, where not being fixed, it may be influenced by the government. This distinction, if kept in view, would prevent or decide many debates on the respect due from the government to the sentiments of the people.

In proportion as government is influenced by opinion, it must be so, by whatever influences opinion. This decides the question concerning a *Constitutional Declaration of Rights*, which requires an influence on government, by becoming a part of the public opinion.

The larger a country, the less easy for its real opinion to be ascertained, and the less difficult to be counterfeited; when ascertained or presumed, the more respectable it is in the eyes of individuals. This is favorable to the authority of government. For the same reason, the more extensive a country, the more insignificant is each individual in his own eyes. This may be unfavorable to liberty.

Whatever facilitates a general intercourse of sentiments, as good roads, domestic commerce, a free press, and particularly *a circulation of newspapers*

*through the entire body of the people, and Representatives going from, and returning among every part of them, is equivalent to a contraction of territorial limits, and is favorable to liberty, where these may be too extensive.*

**“Spirit of Governments”** (February 18, 1792)<sup>18</sup>

No Government is perhaps reducible to a sole principle of operation. Where the theory approaches nearest to this character, different and often heterogeneous principles mingle their influence in the administration. It is useful nevertheless to analyze the several kinds of government, and to characterize them by the spirit which predominates in each.

Montesquieu has resolved the great operative principles of government into fear, honor, and virtue, applying the first to pure despotisms, the second to regular monarchies, and the third to republics. The portion of truth blended with the ingenuity of this system sufficiently justifies the admiration bestowed on its author. Its accuracy however can never be defended against the criticisms which it has encountered. Montesquieu was in politics not a Newton or a Locke, who established immortal systems, the one in matter, the other in mind. He was in his particular science what Bacon was in universal science: He lifted the veil from the venerable errors which enslaved opinion and pointed the way to those luminous truths of which he had but a glimpse himself.

May not governments be properly divided, according to their predominant spirit and principles, into three species of which the following are examples?

First. A government operating by a permanent military force, which at once maintains the government, and is maintained by it; which is at once the cause of burdens on the people, and of submission in the people to their burdens. Such have been the governments under which human nature has groaned through every age. Such are the governments which still oppress it in almost every country of Europe, the quarter of the globe which calls itself the pattern of civilization and the pride of humanity.

Secondly. A government operating by corrupt influence; substituting the motive of private interest in place of public duty; converting its pecuniary dispensations into bounties to favorites or bribes to opponents; accommodating its measures to the avidity of a part of the nation instead of the benefit of the whole: in a word, enlisting an army of interested partizans, whose tongues, whose pens, whose intrigues, and whose active combinations, by supplying the terror of the sword, may support a real domination of the few, under an apparent liberty of the many. Such a government, wherever to be found, is an imposter. It is happy for the new world that it is not on the west side of the Atlantic. It will be both happy and honorable for the United States if they never descend to mimic the costly pageantry of its form, nor betray themselves into the venal spirit of its administration.

Thirdly. A government, deriving its energy from the will of the society, and operating by the reason of its measures on the understanding and interest of the society. Such is the government for which philosophy has been searching, and humanity been sighing, from the most remote ages. Such are the republican governments which it is the glory of America to have invented, and her unrivalled happiness to possess. May her glory be completed by every improvement on the theory which experience may teach; and her happiness be perpetuated by a system of administration corresponding with the purity of the theory.

### **“Property” (1792)<sup>19</sup>**

This term in its particular application means “that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual.”

In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and *which leaves to every one else the like advantage.*

In the former sense, a man’s land, or merchandize, or money is called his property.

In the latter sense, a man has property in his opinions and the free communication of them.

He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them.

He has a property very dear to him in the safety and liberty of his person.

He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.

In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.

Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions.

Where there is an excess of liberty, the effect is the same, tho’ from an opposite cause.

Government is instituted to protect property of every sort; as well that which lies in various rights of individuals, as that which the term particularly expresses. This being the end of government, that alone is a *just* government, which *impartially* secures to every man, whatever is his.

According to this standard of merit, the praise of affording a just security to property, should be sparingly bestowed on a government which, however scrupulously guarding the possessions of individuals, does not protect them in the enjoyment and communication of their opinions, in which they have an equal, and in the estimation of some, a more valuable property.

More sparingly should this praise be allowed to a government, where a man’s religious rights are violated by penalties, or fettered by tests, or taxed



by a hierarchy. Conscience is the most sacred of all property; other property depending in part on positive law, the exercise of that, being a natural and unalienable right. To guard a man's house as his castle, to pay public and enforce private debts with the most exact faith, can give no title to invade a man's conscience which is more sacred than his castle, or to withhold from it that debt of protection, for which the public faith is pledged, by the very nature and original conditions of the social pact.

That is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty, is violated by arbitrary seizures of one class of citizens for the service of the rest. A magistrate issuing his warrants to a press gang, would be in his proper functions in Turkey or Indostan, under appellations proverbial of the most compleat despotism.

That is not a just government, nor is property secure under it, where arbitrary restrictions, exemptions, and monopolies deny to part of its citizens that free use of their faculties, and free choice of their occupations, which not only constitute their property in the general sense of the word; but are the means of acquiring property strictly called. What must be the spirit of legislation where a manufacturer of linen cloth is forbidden to bury his own child in a linen shroud, in order to favor his neighbor who manufactures woolen cloth; where the manufacturer and wearer of woolen cloth are again forbidden the economical use of buttons of that material, in favor of the manufacturer of buttons of other materials!

A just security to property is not afforded by that government, under which unequal taxes oppress one species of property and reward another species: where arbitrary taxes invade the domestic sanctuaries of the rich, and excessive taxes grind the faces of the poor; where the keenness and competitions of want are deemed an insufficient spur to labor, and taxes are again applied, by an unfeeling policy, as another spur; in violation of that sacred property, which Heaven, in decreeing man to earn his bread by the sweat of his brow, kindly reserved to him, in the small repose that could be spared from the supply of his necessities.

If there be a government then which prides itself in maintaining the inviolability of property; which provides that none shall be taken *directly* even for public use without indemnification to the owner, and yet *directly* violates the property which individuals have in their opinions, their religion, their persons, and their faculties; nay more, which *indirectly* violates their property, in their actual possessions, in the labor that acquires their daily subsistence, and in the hallowed remnant of time which ought to relieve their fatigues and soothe their cares, the influence will have been anticipated, that such a government is not a pattern for the United States.

If the United States mean to obtain or deserve the full praise due to wise and just governments, they will equally respect the rights of property, and the property in rights: they will rival the government that most sacredly

guards the former; and by repelling its example in violating the latter, will make themselves a pattern to that and all other governments.

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# James Wilson

## Life

James Wilson was born on September 14, 1742, in Carskerdo, Scotland. He was the firstborn son of farmers William Wilson and Alison Landall Wilson. After finishing his studies, Wilson emigrated from Scotland to Philadelphia, Pennsylvania, in 1765. He began as a teacher at the College of Philadelphia and then entered his career in law, first as an apprentice to attorney John Dickinson and later setting up his own law practice. In 1771, he married Rachel Bird, daughter of a wealthy landowner; they had six children together. Rachel died in 1786, and seven years later, Wilson married Hannah Gray. While Wilson spent the last decade of his life as a Supreme Court Justice, he was entangled in financial difficulties caused by the debts he accumulated from his land speculations. He died of malaria on August 21, 1798, at 55 years of age.

## Education

Wilson received an early education at a local grammar school before winning a scholarship to the University of St. Andrews at age 15. He also briefly attended the Universities of Glasgow and Edinburgh. He received an honorary master's degree from the College of Philadelphia (now the University of Pennsylvania) and then studied law with John Dickinson.

## Religion

Episcopalian

## Political Affiliation

Federalist

## Highlights and Accomplishments

1774	Author, "Considerations on the Nature and Extent of the Legislative Authority of the British Parliament"
1775–1777	Delegate to Second Continental Congress
1782–1783	Delegate to Confederation Congress
1785–1787	Delegate to Confederation Congress
1787	Delegate to Constitutional Convention
	Signer, Declaration of Independence and U.S. Constitution
1787	Delegate to Pennsylvania Ratification Convention
1789–1798	Associate Justice, first U.S. Supreme Court
1804	<i>Works and Lectures on Law</i> (published posthumously)



James Wilson by James Barton Longacre, c. 1825, National Portrait Gallery, Smithsonian Institution (CCo).

Wilson, the admirer of Thomas Reid and the Scottish ‘Common Sense’ school, found the essential nature of human beings by consulting his own intuitive knowledge and the shared history of beings of a certain kind.... [In Wilson’s view,] the Constitution was not composed to tell the sovereign person what rights he had but to make clear the lines of transgression governments cross at their peril.

—*Daniel N. Robinson, 2016*<sup>1</sup>

## James Wilson: Sentinel of Nature's Anchoring Truths

JAMES WILSON HAD A CRITICAL HAND IN MAKING the America that the world would come to know, yet he prefigured the coming American story because he was not native born. He was born in Carskerdo, Scotland, in 1742, the son of a farmer, and managed to get a classical education at the Culpar grammar school. From there he would spring to a scholarship at the University of St. Andrews in 1757. He had the good fortune to be in the academy in Scotland during the golden years of what would later be called the Scottish Enlightenment. The intellectual air would be vibrant with the works of Francis Hutcheson, Thomas Reid, and Dugald Stuart, whose works would gain a wide and discerning readership in America. The remarkable essays of Reid, so accessibly clear, penetrating, and witty, would come to thread through Wilson's elegant lectures on law.

With his learning in hand, something in him—some animating ambition and verve—impelled him to America. He landed in America at the time of the Stamp Act crisis when he was 23 years old. His credentials were plausible enough to gain him a position as a tutor in Latin and lecturer in English literature at the College of Philadelphia (later the University of Pennsylvania), but he quickly left those posts to take up the study of law under John Dickinson, who would himself become a leading figure in the cause of independence. Only two years after his arrival in Philadelphia, Wilson was admitted to the bar, and a year later, in 1768, he was already setting himself up in a practice in Reading, Pennsylvania. His industry and ambition at full throttle, he borrowed money and began his first investments in land, an interest that would carry him to his most troubled times.

In 1770, Wilson moved to Carlisle, Pennsylvania, broadening his practice. He soon married Rachel Bird, the daughter of a wealthy landowner in Berks County; as Kermit Hall has observed, the union “joined her family's considerable wealth with the young lawyer's voracious appetite for speculation in land.”<sup>2</sup> Six children would come from that 15-year

marriage, which lasted until Rachel's death in 1786. Several years later, he would marry again to a much younger woman who would survive him.

Everything about Wilson seemed to mark drive and energy, and soon he was plunged into the revolutionary politics exploding so near him. In 1774, he became the chairman of the Committee of Correspondence in Carlisle, and the next year he was elected to the provincial Assembly, which in turn led him to the Continental Congress. In the building arguments moving toward independence in 1776, Wilson was initially restrained by the legislature of Pennsylvania from voting for independence, but when the legislature gave its representatives leave to vote their consciences, Wilson switched his vote and ultimately signed the Declaration of Independence—one of only six people to sign both the Declaration and the Constitution.

The very thrust of the Revolution brought forth the sense of nationhood taking hold, and Wilson was moving toward a stronger government at the national level. That conviction would move him forcefully past the Articles of Confederation. He would be a confirmed and ever more affirming nationalist when he joined the Constitutional Convention in the summer of 1787. On the path to the Convention, he had already begun to put in place the keys to the argument, as shown most notably in the tract he had written in 1774, *Considerations on the Nature and Extent of Legislative Authority of the British Parliament*.

Through the years, the key line “all men are created equal” has been credited to Thomas Jefferson in his writing of the Declaration of Independence—albeit prefigured in the Virginia Declaration of Rights, written by George Mason, declaring that “all men are by nature equally free and independent.” Lincoln took the idea expressed in that line of the Declaration of Independence as the first principle, the defining principle, of the new American regime. It turns out that before Jefferson and Mason put pen to paper, it was Wilson who had written the line containing this idea two years earlier in a passage that filled out quite precisely the meaning that the Declaration sought to convey:

All men are, by nature, equal and free: no one has a right to any authority over another without his consent: all lawful government is founded on the consent of those who are subject to it: such consent was given with a view to ensure and to increase the happiness of the governed above what they could enjoy in an independent and unconnected state of nature.<sup>3</sup>

However, its more precise argument, the case for natural equality, hinged on the *inequalities* in nature. As the argument ran, no man was by nature the ruler of other men in the way that God was by nature the ruler of men and men were by nature the rulers of horses and dogs. In contrast to the claims of kings to the standing of sovereign or superiors, Wilson allowed in his lectures on law that the rule of a superior would be eminently fitting for “Him who is supreme.” But if some men were in the position of ruling over others, that state of affairs could not have arisen from nature. It had to arise, as the saying went, by agreement or consent.

And so flowed the conclusion in the Declaration of Independence that the only legitimate governments over human beings “deriv[e] their just powers from the consent of the governed.” That condition was attached in turn to the very purpose for which that



government was made. It all began in the Declaration with that Creator who endowed us “with certain unalienable Rights,” and “that to secure these rights, Governments are instituted among Men.” Wilson would make the point even more sharply in his lectures on law: We did not bring forth this new government and Constitution in order “to acquire new rights by a human establishment,” but rather “to acquire a new security for the possession or the recovery of those rights” that flowed to us “by the immediate gift, or by the unerring law, of our...Creator.”<sup>4</sup>

The great Sir William Blackstone had famously written that when men leave the “state of nature” and enter civil society, they surrender those unlimited rights that they had in the state of nature, including the “liberty to do mischief.” They exchange those unlimited rights for a more limited set of rights under “civil society”—call them “civil rights”—which are rendered more secure by the advent of a government with the power to enforce them. To which Wilson replied: When did we ever have a “liberty to do mischief to any one”?<sup>5</sup> Or, as Lincoln would later put it, there is no “[right to do wrong](#).”<sup>6</sup> Those laws that restrain people from raping and murdering had never restrained them from anything they had a rightful liberty to do. Thus, when the question was raised, “What rights do we give up when entering under this new Constitution?,” the answer tendered by the Federalists at the time was “None.” As Alexander Hamilton wrote in *Federalist* 84, “Here, in strictness, the people surrender nothing.” We did not enter into this new government for the purpose of giving up our natural rights. Therefore, what sense did it make to speak of a codicil, a set of amendments to the Constitution, marking off the rights we had not given up—as though on entering into this Constitution we had surrendered the bulk of our natural rights?<sup>7</sup>

What needs to be understood about Wilson and Hamilton and the Federalists of that period is that the securing of natural rights was the defining telos or purpose of this new government. Therefore, it was the purpose that attached to every branch of the government—to every member of the executive and legislative branches as well as the judiciary.

## On a Right to Revolution Contained in the Law

In his *Commentaries on the Laws of England*, Blackstone said that it was a solecism to contend that a principle of revolution may be incorporated in the laws. Laws, after all, work to settle things; revolutionary acts of disobedience dramatically unsettle them. In a gesture of striking opposition, Wilson adhered to the teaching in the Declaration and insisted that “a revolution principle certainly is, and certainly should be taught as a principle of the constitution of the United States, and of every State in the Union.”<sup>8</sup> America would contain in its constituting character a principle of revolution because in America, there was the keen sense that there could indeed be an unjust law, a law enacted with the trappings of fine procedure but wanting in the substance of justice. It might be wanting, that is, in a serious moral justification for a measure that would remove personal choice and impose an obligation bearing on everyone within the reach of the law. But that state of affairs could exist only because America would begin with a vivid sense of natural rights and natural law: Statesmen in America had access to a body of moral truths quite independent of the positive law, and by those standards, the positive law may be judged for its rightness or wrongness.

All of this described the principles that would mark a popular government with a constitutional order, a regime under the rule of law. These principles were there *before* Wilson and his colleagues set about the task of deliberating over the structure of a constitution. The task of framing a constitution was to create a *structure of governance* that was faithful to the defining principles of this political order. The first constitution brought forth the Articles of Confederation, a league of states rather than a real government that could act directly on individuals and enforce its own laws. With discriminatory tariffs and taxes marking the borders of the states, this arrangement would not bring together the people of one nation, but instead would spur on the centrifugal tendencies, driving the states and their people further apart. By the time the delegates were settling in Philadelphia in the summer of 1787, there was a sharp sense of what brought them there.

## The Constitutional Convention: Setting to Work

The move to the Constitutional Convention was sparked by the leading figures in Virginia, and no one was more leading than George Washington. Governor Edmund Randolph thought it fitting that at the opening of the meetings on May 29, the Virginians would have something serious to offer as an account of why they were there. What were the defects in the Articles of Confederation that brought forth the urgent need for this gathering—and where would the corrections be found? The crisis was marked by a supposed national government that could not summon the authority or power to protect the country from foreign invasion any more than it could restrain quarrels among the states or put down an insurrection. The federal government had no power to extract from the states the funds needed to sustain its operations, to ward off encroachments from the states, or make its own measures paramount to those of the states. Randolph would put forth a plan (largely the handiwork of Virginian James Madison) for a national legislature of two chambers and an independent judicial branch with judges holding their position “during good behavior.” There would be an executive, elected by and therefore dependent on the legislature and ineligible for a second term of office. This would not be the plan that finally emerged from this Convention, and in one of the leading ironies, Randolph himself held back from signing the document that emerged.

But past the strains and balancing, Randolph had put forth the most decisive plan that would separate this new Constitution from the Articles of Confederation. The basis of the remedy for the current discontents would be found in the “republican principle,” and it would be a real government—one that could act directly on individual persons in enforcing its measures while drawing its authority from the “consent of the governed.” It would not be a congress of states where the “citizens” were the states.<sup>9</sup>

With remarkable celerity, that anchoring pin in the Virginia Plan—that “a national Govern<sup>t</sup>. ought to be established consisting of a supreme Legislative Executive & Judiciary”—was accepted the very next day, May 30.<sup>10</sup> Exactly how those branches would be constituted would offer thorny subjects to be explored in the months to follow.

Wilson would sign on at once to a key feature in the plan: the establishment of a real government that could act directly on individuals in enforcing its measures and command

the revenue to sustain itself. He was a nationalist at every turn: "We must remember the language with [which] we began the Revolution, it was this, Virginia is no more, Massachusetts is no more—we are one in name, let us be one in Truth & Fact..."<sup>11</sup> As recounted in Madison's notes:

He could not persuade himself that the State Govts. & sovereignties were so much the idols of the people, nor a Natl. Govt. so obnoxious to them, as some supposed. Why [should] a Natl. Govt. be unpopular? Has it less dignity? [W]ill each Citizen enjoy under it less liberty or protection? Will a Citizen of *Delaware* be degraded by becoming a Citizen of the *United States*? Where do the people look at present for relief from the evils of which they complain?... It is from the Natl. Councils that relief is expected. For these reasons he did not fear, that the people would not follow us into a national Govt. and it will be a further recommendation of Mr. R[andolph]'s plan that it is to be submitted to *them* and not to the *Legislatures*, for ratification.<sup>12</sup>

The Virginia Plan provided for an executive composed of three persons—Randolph thought that a single executive would become the "fetus of monarchy."<sup>13</sup> However, all of the 13 states had single executives, and Wilson was convinced that concentrating authority in a single figure would sharpen responsibility. For Wilson, that was a step toward a mode of voting through electors, yet whether it was the executive or the legislature, Wilson was for "raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican Government this confidence was peculiarly essential."<sup>14</sup> He favored popular election for both houses of the legislature and the executive. In regard to the executive, he would come to make his peace with the Electoral College, but he was ever more nationalist and ever more of the conviction that it was the views of the people that are to be represented faithfully, *in both chambers* of the legislature. Madison recorded his remarks:

Mr. Wilson...wished for vigor in the Govt. but he wished that vigorous authority to flow immediately from the legitimate source of all authority. The Govt. ought to possess not only 1st. the *force* but 2ndly. the *mind* or *sense* of the people at large. The Legislature ought to be the most exact transcript of the whole Society. Representation is made necessary only because it is impossible for the people to act collectively.<sup>15</sup>

The Virginia Plan engaged the members in conversations for two weeks; then on June 15, William Paterson came forward with a strong alternative, which would be known as the New Jersey Plan or Small State Plan. This plan would offer a dramatic conversion of a Confederation into a real government; it would preserve the main structures of the Articles while trying to strengthen the powers of the federal government. It was a baby step but nonetheless a step.<sup>16</sup>

Central to Paterson's plan was equality of voting in the upper chamber. When the small states dug in on this issue, they pushed certain members of the large states to the point of

exasperation. Randolph of Virginia spoke of adjourning the Convention, but he quickly backed away from the notion that he was willing to adjourn the Convention *sine die*—which is to say bring the Convention and the very prospect of a new Constitution to an end—and he and members of the large states reluctantly accepted the “Great Compromise.”

As political scientist John Londregan observed years later, the small states had “cleaned the clock” of the large states. In preserving an equality of voting by states in the upper chamber and having Senators elected by the legislatures of the states, the Convention had preserved the federal structure of the Articles of Confederation as a lingering power of restraint. Wilson swallowed hard but managed to put a better face on the outcome: “In the Articles of Confederation, the people are unknown, but in this plan they are represented; and in one of the branches of the legislature, they are represented immediately by persons of their own choice.”<sup>17</sup>

### **“The Most Difficult of All on Which We Have Had to Decide”**

On the question of the executive, there were many moves back and forth with nearly as many changes of mind by the delegates. Late in the game, on September 4, Wilson said that “[t]his subject has greatly divided the House, and will also divide people out of doors. It is in truth the most difficult of all on which we have had to decide.”<sup>18</sup>

Wilson declared on June 1 with regard to the executive that “at least...in theory he was for an election by the people; Experience, particularly in N. York & Masss, shewed that an election of the first magistrate by the people at large, was both a convenient & successful mode.” By the next day, he was already moving toward a mediated version of election by the people. He offered a countering motion on the election of the executive: “That the States be divided into districts: that the persons qualified to vote in each district for members of the first branch of the national Legislature elect members for their respective districts to be electors of the Executive magistracy.” The advantage for Wilson was that this was a mode of election “without the intervention of the States.”<sup>19</sup> The motion was voted down decisively, with only two states in favor, but for Wilson, that was a step toward a mode of voting through electors.

On September 4, the Committee of Eleven had brought forth its proposal that “[e]ach State shall appoint in such manner as its Legislature may direct, a number of electors equal to the whole number of Senators and members of the House of Representatives, to which the State may be entitled in the Legislature.”<sup>20</sup> Wilson “thought the plan on the whole a valuable improvement on the former. It gets rid of one great evil, that of cabal & corruption.”<sup>21</sup> If the vote were held in one assembly in a leading city, there would be schemes abounding to control the outcome; with the centers of decision scattered to 13 separate places, the burdens of manipulation were made fittingly harder.

### **The Culminating Touch**

One of Wilson’s most enduring effects on the Constitutional Convention came as a culminating touch, likely to go unnoticed. It came through his work on the Committee of

Detail before the text was put into the hands of Gouverneur Morris, joined by Alexander Hamilton and James Madison, in the Committee of Style. The Preamble initially settled on for the Constitution read:

We the People of the States of New-Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia, do ordain, declare and establish the following Constitution for the Government of ourselves and of our Posterity.<sup>22</sup>

This passage marked a critical divide among the Framers about the nature of the polity coming into being and the sources of its authority. Wilson's argument, as it would be Lincoln's later, was that the Declaration of Independence marked the beginning of a national people.<sup>23</sup> The question, then, as historian Jonathan Gienapp has rephrased it, was whether "the government presiding over that nation was the creation not of the people of the separate states but of the sovereign people of the United States."<sup>24</sup> Wilson's understanding would find a resonating accord with Gouverneur Morris, and when the final draft came from the Committee of Style, the Preamble now read, in the words that have become so familiar today:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

And so, when foreign governments would extend diplomatic recognition to this new Republic, they would not send emissaries to Boston, Hartford, or other major cities within the states. They would send ambassadors accredited to the seat of the one national government.

Years later, in a famous January 1833 Senate speech, Daniel Webster would appeal to the Preamble during the crisis over nullification when states were claiming their rights to declare certain acts of Congress unconstitutional. Webster rejected the notion that the Constitution had come about through a "social compact" among the states. He also rejected the view that the people of the United States made a contract with the government over the rights they would keep or waive; the government of the United States does not stand as an equal contracting party in relation to the people. Rather, the government is an agent in relation to its principal or sovereign. The government began not with a contract, but with the sovereign people "ordaining" and establishing this Constitution for its governance.<sup>25</sup> According to Webster, just as the states had not "acceded" to the Constitution, by the same logic the states could claim no right to *secede* from the Constitution. This logic accords with Wilson's conviction that the fundamental and only source of constitutional authority resides in the sovereign people.

## Tracing the Deep Premises of the Constitutional Order

Wilson's enduring legacy can be found in the writing he would bring forth when he was appointed to the first Supreme Court and in the elegant lectures he would compose and deliver at the College of Philadelphia when he was honored with a chair there. Much has been made of the attendance for that first lecture on December 15, 1790. President Washington and Vice President Adams were in attendance, as were many members of the Senate and the House. It may be hard to find the proper metric of things, but that singular audience brought out for this inaugural lecture surely provides a telling measure of the place in which that figure on the podium stood in the circle of the American Founding.

Wilson would compose 58 lectures, about half of which he managed to deliver. In these lectures, Wilson accomplished far more than any of his successors in setting forth a body of jurisprudence that would bear the imprint of his name. It was said that Wilson wished to produce a body of work that would displace in America the importance of Blackstone's *Commentaries*. At the level of sales, that dream was not realized, but in executing the work, he more than fulfilled his intention. For what he accomplished, more than any other justice or commentator on the law, was to put in place a distinctly American jurisprudence, rooted in the moral grounds of natural law and natural right.

This teaching began right away in one of the earliest cases to be printed in the Supreme Court's U.S. Reports, *Chisholm v. Georgia* (1793).<sup>26</sup> *Chisholm* involved the question of whether a state could rightly be sued by a vendor when the state did not fulfill its contract. In resisting the suit, the state asserted a claim of "sovereign immunity," a right not to be brought into court by a private party.

The term "sovereignty" had been widely used in regard to the supreme ruling power of a state, but Wilson insisted that "[t]o the Constitution of the United States the term SOVEREIGN, is totally unknown." Wilson explained that:

[S]overeignty is derived from a feudal source; and like many other parts of that system so degrading to man, still retains its influence over our sentiments and conduct, though the cause, by which that influence was produced, never extended to the American States.... In process of time the feudal system was extended over France, and almost all the other nations of Europe: And every Kingdom became, in fact, a large fief.<sup>27</sup>

That new appellation was planted with a "double operation." The king, or sovereign, would become the "fountain of justice." Sovereignty invested "him with jurisdiction over others, [while] it excluded all others from jurisdiction over him."<sup>28</sup> Hence the notion of sovereign immunity. But it marked at once that the law in America would be based on a foundation entirely different from the foundation of the law in England. The law in England proceeded from the "principle...that all human law must be prescribed by a superior." That superior could not be challenged in court, for he was the source of all law. In America, wrote Wilson, "another principle, very different in its nature and operations, forms, in my judgment, the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they



require. The sovereign, when traced to his source, must be found in the man.”<sup>29</sup> He would be found, that is, in the human person tendering his consent to the terms on which he is to be governed.

When seen through this lens, there is a dramatic difference between the old world and the new in the understanding of “that terrain or political order, that is ruled.” In America, the polity is not the possession of a king or sovereign as such. Rather, what is meant by a “state” or polity is “a complete body of free persons united together for their common benefit, to enjoy peaceably what is their own, and to do justice to others.”<sup>30</sup> It is a collective of natural persons and yet in its “body politic” is also “an artificial person” that endures through the ages with interests, rights, and obligations:

[I]t has its rights: And it has its obligations. It may acquire property distinct from that of its members: It may incur debts to be discharged out of the public stock, not out of the private fortunes of individuals. It may be bound by contracts; and for damages arising from the breach of those contracts. In all our contemplations, however, concerning this feigned and artificial person, we should never forget, that, in truth and nature, those, who think and speak, and act, are men.<sup>31</sup>

And because they are men, they may be tasked in their associational form with the same responsibilities that arise for other men. If the question were raised, then, as to whether Georgia as a state, as an association of persons, may be held responsible for its debts, the answer is that it is bound on the same ground as any of its members—real persons—may be bound. “The only reason,” said Wilson, “why a free man is bound by human laws, is, that he binds himself. Upon the same principles, upon which he becomes bound by the laws, he becomes amenable to the Courts of Justice, which are formed and authorised by those laws. If one free man, an original sovereign, may do all this; why may not an aggregate of free men, a collection of original sovereigns, do this likewise?”<sup>32</sup>

It was critical to Wilson that the American people had not surrendered the bulk of their natural rights upon entering into this new Constitution. That was the key to their aversion to a bill of rights with the lingering implication that the people had indeed waived their fuller, natural rights in exchange for a guarantee of that select list of rights set down in the first eight amendments. The core of the matter came back to that critical mistake made by Blackstone about the source of those rights. Blackstone had mentioned in his *Commentaries* that “the right[s] of personal security” and “personal liberty” were not “natural rights,” but the “civil liberties” of *Englishmen*. Blackstone admitted, said Wilson, that these rights “are founded on nature and reason,” but he also insisted that “their establishment, as excellent as it is, is still human.” Blackstone traced these liberties, as other conservatives in our own day have, to the Magna Carta and subsequent laws of England. Natural rights were considered merely as “civil privileges provided by society, in lieu of the natural liberties given up by individuals.” However:

If this view be a just view of things, then the consequence, undeniable and unavoidable, is, that, under civil government, the right of individuals

to their private property, to their personal liberty, to their health, to their reputation, and to their life, flow from a human establishment [i.e., the positive law], and can be traced to no higher source. The connexion between man and his natural rights is intercepted by the institution of civil society.<sup>33</sup>

The point not to be missed here is that Blackstone's position—finding the ground of our rights traceable back to the Magna Carta and the following expansion of English liberties—is precisely the understanding favored by many conservatives today. In Wilson's judgment, *that was a mark of heresy*: It marked a curious failure to take seriously the notion of truths grounded in nature or of a government that found its telos—its governing purpose—in securing those rights that were there before the positive law.

The state, said Wilson, was “made for man.” More than that, it was the finest work of man. But man, “fearfully and wonderfully made, is the workmanship of his all perfect Creator...”<sup>34</sup> In the circles of the educated today it is far easier to assume that our civil institutions are the sources of our rights rather than that Creator whom the Founders credited with endowing us with rights. Years later, this connection was made in another, precise way by Pope Leo XIII in his 1881 encyclical on liberty. The pope said that it made no sense to impute property rights to animals, for cows and horses cannot impart a moral purpose to inanimate matter or property. It makes sense to speak of rights only for *creatures of reason*—beings who can reason about the ground of their own well-being and the well-being of others, moral agents who understand that they may not claim a “right to do wrong” even in the name of their freedom. Only creatures of this kind understand *that for every liberty there is a version of license*, that any liberty can be used for rightful or wrongful ends.

All of this came, as Thomas Reid and Leo XIII understood, from the Creator who gave us these *creatures of reason* who alone could understand the laws of reason. Those creatures and the “laws of reason” were part of the same Creation that gave us “the Laws of Nature,” the laws of physics and mathematics. For Wilson and other Founders such as John Adams, all of this made sense. It was atheism that seemed to make no sense or to offer any scheme of moral coherence.

Americans were, of course, divided on contending revelations over the Creator who endowed us with rights, brought the Hebrews out of Egypt, and begot a Son who died on the cross, but there were many things they generally shared in reasoning about God in the manner of natural theology. They reasoned their way to an Uncaused Cause of the Universe, and they knew that God was not material in nature, for matter was ever subject to decomposition.

On the connection between natural law and natural theology, James Wilson leaned on the teachings of Jean-Jacques Burlamaqui, especially his treatise on *The Principles of Natural Law and Politic Law* (1742). In that engaging work, Burlamaqui managed to settle in the most delicate way that enduring question about the source of the law or the grounds of obedience: Even if the law commands what is right and forbids what is wrong, what commands our obligation to respect that judgment? The most familiar answer was that the law emanates from a Lawgiver; we are obliged to obey the One who commands. The other answer was that the law is grounded in the laws of reason, in propositions that we

are obliged to respect *because they have the sovereign attribute of being true*. As Burlamaqui put it, the authority of the Lawgiver may provide the *external incentive* to obey the law, but that external incentive is given a further, *internal* support when the law is in accord with the laws of reason. The compelling force of the reason behind the law may augment our confidence that the law must indeed be in accord with the intentions of the Lawgiver.<sup>35</sup>

## Taking Things to the Root

Whether it is natural theology or political philosophy, everything runs back to the anchoring axioms of our reasoning. As Wilson understood, everything begins with the things that we must be able to grasp in the first instance as a matter of common sense, as a self-evident truth, just as we grasp that “every effect has a cause.” René Descartes famously said, “I think, therefore I am,” but Wilson wondered how he could know that thoughts were his if he really wasn’t sure that he himself was there. On the anchoring truth of one’s existence, Wilson said, “I can find no previous truth more certain or more luminous, from which this can derive either evidence or illustration.” This is one of those things that just must be taken as certain, for “some such antecedent truth is necessarily the first link in a chain of proof. For proof is nothing else than the deduction of truths less known or less believed, from others that are more known or better believed.”<sup>36</sup>

That was the prime lesson he sought to teach in the very opening of his first decision in *Chisholm v. Georgia*. He noted that we were at the very beginning of the law under this new Constitution, so there were no real precedents upon which to draw. He thought it would be necessary, in approaching these first cases in our law, to return to the “general principles of jurisprudence.” Even before that, he thought it was necessary to remind ourselves of the principles of mind, or the grounds on which we can claim reliably to *know* anything. He appealed to that “original and profound writer” on “the philosophy of mind,” the great Scot philosopher Thomas Reid, and his “excellent enquiry into...the principles of common sense,” standing against that “sceptical and illiberal philosophy, which under bold, but false, pretensions is liberality, prevailed in many parts of Europe before he wrote...”<sup>37</sup> For Wilson, the first step of jurisprudence in America was to detach itself from moral relativism in any of its forms.

What drew Wilson to Reid were his teachings on the precepts of “common sense” that precede all “theories.” They are the things so naturally evident that the ordinary person not only knows them; he takes them as things necessary to know just in getting on with the ordinary business of life: Before the average man would banter, say, with the philosopher David Hume over the meaning of “causation,” he knows his own *active powers to cause his own acts to happen*.

Wilson pressed persistently to those anchoring grounds of the law, for the various “theories” on offer could not be judged until they were taken back to the root axioms that give them any plausible claim to truth. As he claimed, “first principles are in themselves apparent; that to make nothing self[-]evident, is to take away all possibility of knowing any thing; that without first principles [supplying the ground of our reason], there can be neither reason nor reasoning....”<sup>38</sup>

This is to say that Wilson would stand against any of the theories of our own day, claiming our credence about the terms of principle on which we should live. Put another way, Wilson stands for moral realism all the way down, set against the novelties or theories of our own time. He would set himself against any theory that detaches itself from the anchoring ground on which we could judge its truth, for such anchoring truths mark the beginning of everything we would ever claim to know.

HADLEY ARKES

## SELECTED PRIMARY WRITINGS

### “Of the Natural Rights of Individuals”<sup>39</sup>

What was the primary and the principal object in the institution of government? Was it—I speak of the primary and principal object—was it to acquire new rights by a human establishment? Or was it, by a human establishment, to acquire a new security for the possession or the recovery of those rights, to the enjoyment or acquisition of which we were previously entitled by the immediate gift, or by the unerring law, of our all-wise and all-beneficent Creator?

The latter, I presume, was the case: and yet we are told, that, in order to acquire the latter, we must surrender the former; in other words, in order to acquire the security, we must surrender the great objects to be secured....

But all the other rights of men are in question here. For liberty is frequently used to denote all the absolute rights of men. “The absolute rights of every Englishman,” says Sir William Blackstone, “are, in a political and extensive sense, usually called their liberties.”

And must we surrender to government the *whole* of those absolute rights? But we are to surrender them only—in *trust*:—another brat of dishonest parentage is now attempted to be imposed upon us: but for what purpose? Has government provided for us a superintending court of equity to compel a faithful performance of the trust? If it had; why should we part with the legal title to our rights?

After all; what is the mighty boon, which is to allure us into this surrender? We are to surrender all that we may secure “some:” and this “some,” both as to its quantity and its certainty, is to depend on the pleasure of that power, to which the surrender is made. Is this a bargain to be proposed to those, who are both intelligent and free? No. Freemen, who know and love their rights, will not exchange their armour of pure and massy gold, for one of a baser and lighter metal, however finely it may be blazoned with tinsel: but they will not refuse to make an exchange upon terms, which are honest and honourable—terms, which may be advantageous to all, and injurious to none.

The opinion has been very general, that, in order to obtain the blessings of a good government, a sacrifice must be made of a part of our natural

liberty. I am much inclined to believe, that, upon examination, this opinion will prove to be fallacious. It will, I think, be found, that wise and good government—I speak, at present, of no other—instead of contracting, enlarges as well as secures the exercise of the natural liberty of man: and what I say of his natural liberty, I mean to extend, and wish to be understood, through all this argument, as extended, to all his other natural rights.

This investigation will open to our prospect, from a new and striking point of view, the very close and interesting connexion, which subsists between the law of nature and municipal law....

“The law,” says Sir William Blackstone, “which restrains a man from doing mischief to his fellow citizens, though it diminishes the natural, increases the civil liberty of mankind.” Is it a part of natural liberty to do mischief to any one?...

In a state of natural liberty, every one is allowed to act according to his own inclination, provided he transgress not those limits, which are assigned to him by the law of nature: in a state of civil liberty, he is allowed to act according to his inclination, provided he transgress not those limits, which are assigned to him by the municipal law. True it is, that, by the municipal law, some things may be prohibited, which are not prohibited by the law of nature: but equally true it is, that, under a government which is wise and good, every citizen will gain more liberty than he can lose by these prohibitions. He will gain more by the limitation of other men’s freedom, than he can lose by the diminution of his own. He will gain more by the enlarged and undisturbed exercise of his natural liberty in innumerable instances, than he can lose by the restriction of it in a few.

Upon the whole, therefore, man’s natural liberty, instead of being abridged, may be increased and secured in a government, which is good and wise. As it is with regard to his natural liberty, so it is with regard to his other natural rights....

Government, in my humble opinion, should be formed to secure and to enlarge the exercise of the natural rights of its members; and every government, which has not this in view, as its principal object, is not a government of the legitimate kind.

### **“Of Man, as an Individual”<sup>40</sup>**

“Know thou thyself,” is an inscription peculiarly proper for the porch of the temple of science. The knowledge of human nature is of all human knowledge the most curious and the most important. To it all the other sciences have a relation; and though from it they may seem to diverge and ramify very widely, yet by one passage or another they still return....

...The statesman and the judge, in pursuit of the noblest ends, have the same dignified object before them. An accurate and distinct knowledge of his nature and powers, will undoubtedly diffuse much light and splendour

over the science of law. In truth, law can never attain either the extent or the elevation of science, unless it be raised upon the science of man....

...Frequent and laborious have been the attempts of philosophers to investigate the manner, in which things external are perceived by the mind. Let us imitate them, neither in their fruitless searches to discover what cannot be known; nor in framing hypotheses which will not bear the test of reason, or of intuition; nor in rejecting self[-]evident truths, which, though they cannot be proved by reasoning, are known by a species of evidence superiour to any that reasoning can produce.

Many philosophers allege that our mind does not perceive external objects themselves; that it perceives only *ideas* of them; and that those ideas are actually in the mind. When it has been intimated to them, that, if this be the case; if we perceive not external objects themselves, but only ideas; the necessary consequence must be, that we cannot be certain that any thing, except those ideas, exists; the consequence has been admitted in its fullest force. Nay, it has been made the foundation of another theory, in which it has been asserted, that men and other animals, the sun, moon, and stars, every thing which we think we see, and hear, and feel around us, have no real existence; that what we dignify with such appellations, and what we suppose to be so permanent and substantial, are nothing more than “the baseless fabrick of a vision”—are nothing more than ideas perceived in the mind. The theory has been carried to a degree still more extravagant than this; and the existence of mind has been denied, as well as the existence of body. We shall have occasion to examine these castles, which have not even air to support them. Suffice it, at present, to observe, that the existence of the objects of our external senses, in the way and manner in which we perceive that existence, is a branch of intuitive knowledge, and a matter of absolute certainty; that the constitution of our nature determines us to believe in our senses; and that a contrary determination would finally lead to the total subversion of all human knowledge....

Our external senses are not indeed the most exalted of our powers; but they are powers of real use and importance; and, to powers of a more dignified nature, they are most serviceable and necessary instruments. It has been the endeavour of some philosophers to degrade them below that rank, in which they ought to be placed. They have been represented as powers, by which we receive sensations only of external objects.... The perception of external objects is a principal link of that mysterious chain, which connects the material with the intellectual world. But this ... is not the whole of the functions discharged by the senses: they judge, as well as inform: they are not confined to the task of conveying impressions; they are exalted to the office of deciding concerning the nature and the evidence of the impressions, which they convey....

...Our senses ought to be deemed, as they really are, and as they are intended to be, the useful and pleasing ministers of our higher powers. Let



it be remembered, however, that, of the pleasures of sense, temperance and prudence are the necessary and inseparable guides and guardians; detached from whom, those pleasures lose themselves in another nature and in other names: they become vices and pains.

As the external senses convey to us information of what passes without us; we have an internal sense, which gives us information of what passes within us. To this we appropriate the name of consciousness. It is an immediate conception of the operations of our own minds, joined with the belief of the existence of those operations. In exerting consciousness, the mind, so far as we know, makes no use of any bodily organ. This operation seems to be purely intellectual. Consciousness takes knowledge of every thing that passes within the mind. What we perceive, what we remember, what we imagine, what we reason, what we judge, what we believe, what we approve, what we hope, all our other operations, while they are present, are objects of this.

This, like many other operations of the mind, is simple, peculiar, inaccessible equally to definition and analysis. For its existence every one must make his appeal to himself. Are you conscious that you remember, or that you think? We have already seen, that the existence of the objects of sense is one great branch of intuitive knowledge: of the same kind of knowledge, the existence of the objects of consciousness is another branch, more extensive and important still. When a man feels pain, he is certain of the existence of pain; when he is conscious that he thinks, he is certain of the existence of thought. If I am asked to prove that consciousness is a faithful and not a fallacious sense; all the answer which I can give is—I feel, but I cannot prove; I can find no previous truth more certain or more luminous, from which this can derive either evidence or illustration. But some such antecedent truth is necessarily the first link in a chain of proof. For proof is nothing else than the deduction of truths less known or less believed, from others that are more known or better believed. “What can we reason, but from what we know?” The immediate and irresistible conviction, which I have of the real existence of those things, of whose existence I am conscious, is a conviction produced by intuition, not by reason. He who doubted, or pretended to doubt, concerning every other information, deemed himself justified in taking for granted the veracity of that information, which was given to him by his consciousness. He was conscious that he thought; and therefore he was satisfied that he really thought.—“*Cogito*” was a first principle, which he who pronounced it dangerous and unphilosophical to assume any thing else, judged it safe and wise to assume. And when he had once assumed that he thought, he gravely set to work to prove, that because he thought he existed. His existence was true, but he could not prove it; and all his attempts to prove it have been shown, by a succeeding philosopher, to be inconsistent with the rules of sound and accurate logick. But even this succeeding philosopher, who showed that Des Cartes had not proved his existence, and who, from the principles of his own philosophy could not assume this existence

without proof—even this philosopher has assumed the truth of the information given by consciousness. “Mr. Hume, after annihilating body and mind, time and space, action and causation, and even his own mind, acknowledges the reality of the thoughts, sensations, and passions, of which he is conscious.” He has left them—how philosophically I will not pretend to say—to “stand upon their own bottom, stript of a subject, rather than call in question the reality of their existence.” Let us felicitate ourselves, that there is, at least, one principle of common sense, which has never been called in question. It is a first principle, which we are required and determined, by the very constitution of our nature and faculties, to believe. Perhaps we shall find other first principles, which, by the same constitution of our nature and faculties, we are equally required and determined to believe. Such principles are parts of our constitution, no less than the power of thinking: reason can neither make nor destroy them: like a telescope, it may assist, it may extend, but it cannot supply natural vision....

Every free action has two causes, which cooperate in its production. One is moral; the other is physical: the former is the will, which determines the action; the latter is the power, which carries it into execution. A paralytick may will to run: a person able to run, may be unwilling: from the want of will in one, and the want of power in the other, each remains in his place.

Our actions and the determinations of our will are generally accompanied with liberty. The name of liberty we give to that power of the mind, by which it modifies, regulates, suspends, continues, or alters its deliberations and actions. By this faculty, we have some degree of command over ourselves: by this faculty we become capable of conforming to a rule: possessed of this faculty, we are accountable for our conduct....

Reason is a noble faculty, and when kept within its proper sphere, and applied to its proper uses, exalts human creatures almost to the rank of superior beings. But she has been much perverted, sometimes to vile, sometimes to insignificant purposes. By some, she has been chained like a slave or a malefactor; by others, she has been launched into depths unknown or forbidden.

Are the dictates of our reason more plain, than the dictates of our common sense? Is there allotted to the former a portion of infallibility, which has been denied to the latter? If reason may mistake; how shall the mistake be rectified? shall it be done by a second process of reasoning, as likely to be mistaken as the first? Are we thus involved, by the constitution of our nature, in a labyrinth, intricate and endless, in which there is no clue to guide, no ray to enlighten us? Is this true philosophy? is this the daughter of light? is this the parent of wisdom and knowledge? No. This is not she. This is a fallen kind, whose rays are merely sufficient to shed a “darkness visible” upon the human powers; and to disturb the security and ease enjoyed by those, who have not become apostates to the pride of science. Such degenerate philosophy let us abandon: let us renounce its instruction: let us embrace the philosophy which dwells with common sense.

This philosophy will teach us, that first principles are in themselves apparent; that to make nothing self-evident, is to take away all possibility of knowing any thing; that without first principles, there can be neither reason nor reasoning; that discursive knowledge requires intuitive maxims as its basis; that if every truth would admit of proof, proof would extend to infinity; that, consequently, all sound reasoning must rest ultimately on the principles of common sense—principles supported by original and intuitive evidence.

In the investigation of this subject, we shall have the pleasure to find, that those philosophers, who have attempted to fan the flames of war between common sense and reason, have acted the part of incendiaries in the commonwealth of science; that the interests of both are the same; that, between them, there never can be ground for real opposition: that, as they are commonly joined together in speech and in writing, they are inseparable also, in their nature....

...Des Cartes, at the head of modern reformers in philosophy, anxious to avoid the snare, in which Aristotle and the peripateticks had been caught—that of admitting things too rashly as first principles—resolved to doubt of every thing, till it was clearly proved. He would not assume, as a first principle, even his own existence. In what manner he supposed nonexistence could institute, or desire to institute a series of proof to prove existence or any thing else, we are not informed.

He thought he could prove his existence by his famous enthymem—*Cogito, ergo sum*. I think, therefore, I exist. Though he would not assume the existence of himself as a first principle, he was obliged to assume the existence of his thoughts as a first principle. But is this entitled to any degree of preference? Can one, who doubts whether he exists, be certain that he thinks? And may not one, who, without proof, takes it for granted that he thinks—may not such an one, without the imputation of unphilosophick credulity, take it for granted, likewise without proof, that he exists?

In every just proof, a proposition less evident is inferred from one, which is more evident. How is it more evident that we think, than that we exist? Both are equally evident: one, therefore, ought not to be first assumed, and then used as a proof of the other.

But further; if we attend to the strict rules of proof; the existence of Des Cartes was not legitimately inferred from the existence of his thoughts. If the inference is legitimate; it must become legitimate by establishing this proposition—that thought cannot exist without a thinking being. But did Des Cartes, or has any of his followers proved this proposition? They have not proved it: they cannot prove it. Mr. Hume has denied it; and has triumphantly challenged the world to establish it by proof. The basis of his philosophy is, as we have already seen—“that a train of successive perceptions constitute the mind.”

Let me not here be misunderstood. When I say, that the existence of a thinking principle, called the mind, has not been and cannot be proved; I

am far from saying, that it is not true, that such a thinking principle exists. I know—I feel—it to be true; but I know it not from proof: I know it from what is greatly superiour to proof: I *see* it by the shining light of intuition.

## RECOMMENDED READINGS

William Ewald, “James Wilson and the American Founding,” in “Symposium: The Life and Career of Justice James Wilson,” *Georgetown Journal of Law and Public Policy*, Vol. 17, No. 1 (Winter 2019), pp. 1–21, [www.law.georgetown.edu/public-policy-journal/wp-content/uploads/sites/23/2019/06/17-1-Ewald.pdf](http://www.law.georgetown.edu/public-policy-journal/wp-content/uploads/sites/23/2019/06/17-1-Ewald.pdf).

William Ewald and Lorianne Updike Toler, “Early Drafts of the U.S. Constitution,” *Pennsylvania Magazine of History and Biography*, Vol. 135, No. 3 (July 2011), <https://doi.org/10.5215/pennmaghistbio.135.3.0227>.

John Mikhail, “The Necessary and Proper Clauses,” *Georgetown Law Journal*, Vol. 102, No. 4 (April 2014), pp. 1045–1132, <https://repository.library.georgetown.edu/handle/10822/1083437>.

Kermit L. Hall, Introduction, in *The Collected Works of James Wilson*, 2 Vols., ed. Hall and Mark David Hall (Indianapolis, IN: Liberty Fund, 2007), <https://oll.libertyfund.org/titles/garrison-collected-works-of-james-wilson-2-vols>.

Daniel N. Robinson, “Moral Science at the Founding: Ruling Passions,” lecture, Amherst College, October 31, 2003, <https://www.amherst.edu/media/view/42591/original/Robinson-Moral.htm>.

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## Gouverneur Morris

### Life

Gouverneur Morris was born January 31, 1752, at Morrisania, the family manor in what is now the Bronx, New York. He was the son of Lewis Morris and Sarah Gouverneur Morris. At age 57, he married Anne Cary (Nancy) Randolph on December 25, 1809; they had one son. Morris died on November 6, 1816, at home in Morrisania.

### Education

Rev. Têtard's academy, New Rochelle; the Academy of Philadelphia; King's College, BA 1768, MA 1771

### Religion

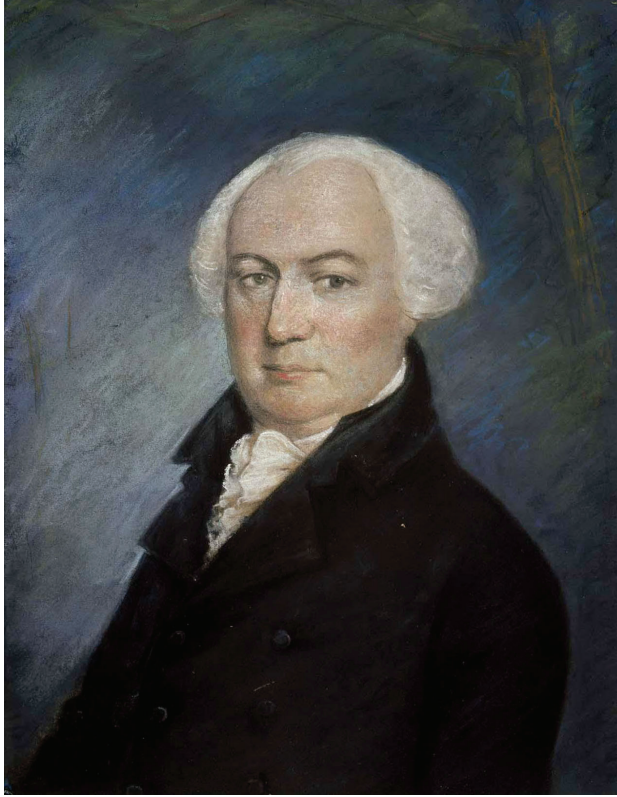
Episcopalian

### Political Affiliation

Federalist

### Highlights and Accomplishments

1775	First New York Provincial Congress
1776	Third New York Provincial Congress
1777	Continental Congress
1781–1784	Assistant Superintendent of Finance
1787	Constitutional Convention
1792–1794	Minister to France
1801–1803	Senator from New York
1807–1811	Commissioner, New York City Street Commission
1810–1816	President, Erie Canal Commission



Gouverneur Morris by James Sharples, 1810, National Portrait Gallery, public domain.

Mr. Gouverneur [sic] Morris is one of those Genius's in whom every species of talents combine to render him conspicuous and flourishing in public debate.... But with all these powers he is fickle and inconstant, — never pursuing one train of thinking, — nor ever regular.... No Man has more wit, — nor can any one engage the attention more than Mr. Morris.

—*William Pierce, delegate to the Constitutional Convention from Georgia, 1787*<sup>1</sup>



## Gouverneur Morris: Penman of the Constitution

**G**OUVERNEUR MORRIS IS NOT THE BEST-KNOWN OF THE Founding generation, thanks in part to his own indifference to how he would be remembered. He was convinced that posterity would come to its own conclusions regardless of his generation's efforts to shape the historical record. Rather than worry about his reputation with later Americans, he set about creating a legacy in public affairs extending from pre-Revolutionary committees of correspondence to the opening of the upper Midwest through the Erie Canal. He was a delegate to the Continental Congress, a member of the U.S. Senate, and U.S. Minister to France through the French Revolution. He was a staunch opponent of slavery, was an equally firm proponent of a vigorous executive, and never doubted that the United States would grow into a world power. He was also witty, sarcastic, and not always aware when his humor had gone too far. He was known or believed to be indiscreet, haughty, and entirely too "fickle and inconstant" to be entirely reliable.<sup>2</sup>

Morris's writings reveal a well-educated, shrewd, and consistent perspective on American and world affairs. He began writing for the public as early as 1769 and through his essays and speeches gave voice to a grounded liberalism that emphasized the promise and limits of the human desire for freedom. Believing that too much freedom was as destructive as too little, Morris spent his adult life working to find the happy medium that would permit the full development of the human capacity to live, create, and thrive. Popular government, to be sure, was one way to ensure that balance, but it was not the only way, and Morris thought that Americans who insisted on popular government at the expense of civil rights confused means and ends. Posterity's neglect of Morris may stem as much from his sober view of the prospects for liberalism—humans can have free government, but they need to overcome their human frailties to be successful—as from his indifference to their judgment.

## The Life of Gouverneur Morris

Gouverneur Morris was born January 31, 1752, in what is now the Bronx, New York. His family had been prominent in colonial affairs; his grandfather had been governor of New Jersey, and his father was an Admiralty judge and speaker of the New York Assembly. Gouverneur was the only son from his father's second marriage to Sarah Gouverneur; he had three older half-brothers: Lewis Morris, a signer of the Declaration of Independence; Staats Long, who became a general in the British Army; and Richard, who became a New York judge. The three older brothers attended Yale College, but their father was unhappy with the education they received and sent Gouverneur to King's College (now Columbia University) instead. He received his bachelor's degree in 1768, and a master's degree in 1771 when he was 19. The orations he gave at both commencements have been preserved.

After college, Morris read law in the office of William Smith, a prominent New York attorney, along with two other aspiring lawyers, John Jay and Robert Livingston. The three became lifelong friends. By this time, the movement toward American independence was well in motion. Morris was on the Westchester County Committee of Safety and was elected a delegate to the First and Third Provincial Congresses. He, Jay, and Livingston were the primary authors of the New York Constitution of 1777, and in early 1778, he went to the Continental Congress, then meeting in York, Pennsylvania.

Appointed to a committee charged with seeing to the condition of the Continental Army, he went to Valley Forge almost immediately to carry out his duty. There he met George Washington again, an encounter that deepened his sincere admiration for the general. Returning to York, Morris threw himself into the work of Congress and for the rest of that year authored many reports and public letters supporting the American cause. Because he favored continental interests over New York's interests, he was not reappointed in 1779. He chose to stay in Philadelphia to work as an attorney and businessman because his home in New York was occupied by the British.

For the next several years, he lived and worked in Philadelphia and became increasingly involved with the far-flung business interests of Robert Morris (who was not related to him). When Robert Morris was appointed Superintendent of Finance in 1781, he asked Gouverneur to serve as his assistant, to which Gouverneur agreed. Later, when Robert Morris was selected as a Pennsylvania delegate to the Constitutional Convention in 1787, he urged the legislature to add Gouverneur to the list of delegates, which (somewhat to Gouverneur's surprise) they did.

Although he missed more than a month of the Convention's deliberations, he eventually spoke more than any other delegate and provided the final wording of the Constitution. He also completely rewrote the Preamble, giving it its majestic opening phrase, "We the People of the United States." The clear and elegant way Morris laid out the separated powers under the Constitution was unusual for the day. At that time, most state constitutions, like the draft of the [Committee of Style](#), mixed provisions with little attention to strict separation. Morris's clear delineation of the separation of powers in the Constitution's first three articles has affected American thinking about the issue ever since then.

Persistent rumors have circulated that Morris was in some way dishonest as the Constitution's penman and subtly worked to transform selected clauses in a more nationalist

direction. James Madison, although by then a political adversary, later defended Morris against those charges.

In 1789, Morris went to Europe to help restore his and Robert Morris's business interests. He also carried out some confidential missions for President Washington in Britain. He was accused (probably by Alexander Hamilton who, despite this, remained a good friend) of having revealed his mission to the French. Washington overlooked the charge and appointed him to succeed Thomas Jefferson as Minister to France. In his letter informing Gouverneur Morris of his appointment, Washington offered a frank assessment of his character:

I will place the ideas of your political adversaries in the light which their arguments have brought them to my view, viz. that tho' your imagination is brilliant the promptitude with which it is displayed allows too little time for deliberation or correction, and is the primary cause of those sallies which too often offend, and of that indiscreet treatment of characters... which might be avoided if they were under the guidance of more caution and prudence....<sup>3</sup>

From 1792 to 1794, he carried out this challenging assignment, at times as the only foreign representative in Paris, through the political twists and turns of the French Revolution.

When he arrived in France, Morris started a diary, which remains one of our best sources for the day-to-day progress of the French Revolution. It recounts quite intimate details of such things as his advice to the king, his assistance (financial and otherwise) to French aristocrats, and his loans and gifts of money to those who were caught up in the Revolutionary turmoil—as well as his active love life. He also helped to look after the interests of American citizens, or those such as Thomas Paine who had (or made) claims to American protection. By 1794, the newest French government was controlled by his enemies, and Morris was recalled, partly as a tit-for-tat response to the recall of Citizen Genêt. In October, he left France but stayed in Europe for the next four years, visiting exiled French friends, meeting with royalty, passing on and receiving intelligence on the political and military situation in Europe, and seeing the sights like any other tourist.

Morris finally left Hamburg in October 1798 after a European sojourn of more than a decade. Once home, he set about putting his Morrisania estate in order after a decade of British occupation and neglect and settled into the life of a local magnate. His business activities flourished, and his land speculations led him to travel extensively. Meanwhile, his political interests led to an extensive correspondence and frequent essays for the New York press. In April 1800, the New York legislature appointed him to fill the U.S. Senate seat vacated by James Watson. He was present through the multi-ballot election of Jefferson as President and later for Jeffersonian attempts to reverse the effects of the Adams Administration.

We have a number of Senate speeches from Morris, including his opposition to repeal of the [Judiciary Act of 1801](#). Although Morris and Jefferson were cordial to one another, they were aware that as political adversaries they would not see eye to eye. The exception to this was the [Louisiana Purchase](#), which other Federalists opposed but Morris thought was a welcome development. In his view, opening the West would provide a counterweight to the southern slaveholding states in American politics. By 1806, when Jefferson introduced

the Non-Importation Act, and 1807, when it escalated into an [embargo](#), popular sentiment supported the Administration in its attempts to assert American power. Morris disagreed with those assessments and saw the Jeffersonian hostility to England and, more important, to a commercial economy as a destructive force.

When he was in the Senate, Morris had viewed repeal of the Judiciary Act of 1801 and passage of the 11th Amendment as harbingers of the Constitution's demise. Eliminating good behavior—tenured judges made Congress practically omnipotent, for it meant no part of the Constitution could be exempt from the majority's will. Likewise, the increase of state power—the stubborn insistence on the separate and inviolable sovereignty of state governments—meant that the United States remained short of being a nation.

Morris's forebodings about the future of the American government ultimately led to his cautious support of the [Hartford Convention](#). Morris did not share his biographer Theodore Roosevelt's consternation at this movement, for it was his settled belief that the Constitution was not a work of genius, but rather the labor of "plain, honest men." He did not believe it would or should be permanent because he did not believe it was the best that could be devised. As the Constitution's penman, Morris had given the document its distinctive language and unmistakable logic, but he believed that better proposals would be available at some future date. If the Hartford Convention forced some issues to the table or—worse—should lead to a breakup of the current Union, Morris thought that either might be better than the existing hegemony of the Republican party.

In 1808, Morris became reacquainted with Anne Cary Randolph, known as Nancy, whom he had met 20 years earlier when she was about 14. Nancy was a member of Virginia's prominent Randolph family but had been driven away following a [lurid scandal](#) in 1792. By 1808, she was in New York and penniless. Morris proposed that she should become his housekeeper, and she accepted in April 1809. They were married on Christmas Day 1809, as Gouverneur noted in his diary: "I marry this day Anne Cary Randolph—No small surprise to my guests."<sup>4</sup> The match proved to be a good one. Their son, also named Gouverneur, was born in 1813, and Nancy devoted the rest of her life to raising and educating him.

In his retirement, Morris took on two more public activities. In 1807, he joined with Simeon DeWitt, a surveyor, and John Rutherford to plan the growth of New York City. In 1811, the Commissioners produced the regular street design of rectangular blocks we know today. In 1810, Morris accepted a seat on the Erie Canal Commission and was elected president, although the real driver of the Commission was DeWitt Clinton, soon to become governor of New York. With the federal government having declined to fund the project, New York decided to fund the canal itself, and it was duly completed in 1825, nine years after Morris died. Morris's last years were troubled by illness and his nephew's debts, but by all accounts, he seems to have had a serene retirement, confident that he had done his best.

## Public Finance

It is difficult for modern readers to appreciate how different "political economy" appeared in the last quarter of the 18th century. The first book on the subject, Sir James

Steuart's *An Inquiry into the Principles of Political Economy*, was published in 1767, and we know that Gouverneur Morris read it at Robert Morris's suggestion. Steuart was a moderate mercantilist, and British policy until the repeal of the Corn Laws in 1846 generally reflected mercantilist thinking. When Adam Smith's 1776 *An Inquiry into the Nature and Causes of the Wealth of Nations* questioned mercantilist principles, it was not immediately accepted, as it defied conventional thinking about free trade. His experience with government finance in the 1780s led Morris to agree with Smith on free trade. Trade, credit, paper money, and property rights dominated Morris's activity and writing at this low point in American public finance.

The prevailing mode of business organization at the time was the partnership; the business corporation, with its perpetual life, limited liability, and freedom to acquire unlimited amounts of capital, simply did not exist then. A New York statute passed in 1811 allowed incorporation for manufacturing only. It was not until 1837 that Connecticut law allowed incorporation for any corporation engaged in lawful business. In other words, business in Morris's day was much more personal and depended far more on the reputation and connections of the business owners. Loans and bankruptcy were personal, not organizational. In an atmosphere that depended on reputation and trust, business depended on the character of those who were engaged in it. For these reasons, Morris thought, rights and property had to be strictly respected because that meant respecting people's rights to create, produce, and retain the fruits of their efforts.

In early 1780, Morris wrote a series of essays for the *Pennsylvania Packet* that explored a number of financial themes, including paper money. In these essays, he changed his earlier position and argued that paper money could be made solid and reliable provided it "were emitted in such a form that it could not be well counterfeited, under such circumstances that it would not depreciate, and for sums not expressed by any particular coin."<sup>5</sup> Even though wartime depreciation of United States currency had been severe, Morris had come to believe that new issues of paper could be sufficiently well managed to serve the purpose.

The point, which had been key since 1776 and would remain so until 1790, was that the federal government needed revenue to back its currency as well as to pay its debts. Whether immediate needs were met through foreign or domestic loans, no one would be willing to extend credit to a government that had no ability to repay them. It was as simple as that. Congress eventually agreed to an impost and sent it to the states for approval, but it failed. In the meantime, Robert Morris used his personal credit to support that of the United States. In 1781, he began to issue "Morris Notes"—bills drawn on his own account that effectively became a national currency.<sup>6</sup>

Among the papers Gouverneur Morris produced while Assistant Superintendent of Finance were letters and a draft of a paper to the French Minister to the U.S., the Chevalier de la Luzerne, in 1783 on trade with the French islands in the Caribbean. Morris discussed trade between the U.S. and the islands within the larger context of trade between the U.S. and France. He made the case for light regulation and advocated something very much like free trade. Morris's point was that French mercantilist policies were simply ineffective in producing the results they were intended to deliver. French ships would be employed in the trade whether or not American ships were also used, and the increase of trade would increase the number of French vessels and seamen. "The Benefits," he concluded, "in a Commercial

Point of View will be reciprocal.”<sup>7</sup> These writings on trade became the basis of French policy in an [Arrêt of August 1784](#) and convinced French policymakers and intellectuals that they reflected Enlightenment ideas. They were the foundation of Morris’s reputation in France as a statesman who could write constitutions and also understand finance and trade.

## The Executive Power

Americans’ knowledge of executive power was derived from the British king and their former colonial governors. As a result, Americans commonly thought of severe checks on executive power as the one necessary ingredient of popular government. Morris argued very early on that an effective government needs a strong executive. He knew that liberty needed to be checked so that property rights and other civil liberties could be protected. This meant restricting everyone’s natural freedom for the sake of protecting civil freedom. All of these things demanded an executive power that was able to make and enforce decisions. Morris said that if he were to choose a master, he would prefer “a single Tyrant, because I had infinitely rather be torn by a Lion than eaten by Vermin.”<sup>8</sup> If such a strong executive risked tyranny, then so be it.

In his view, the key to controlling executive power was not to divide it but to make it transparent. Thus, the [New York Constitution of 1777](#) provided for the strongest executive with the longest term—three years—in the new American states. Although Morris would have secured a qualified veto and an independent appointing power for the governor, the New York convention would not go that far and instead adopted alternative proposals for a council of revision and a council of appointment.<sup>9</sup>

Morris thought that the executive should be a figure closely identified with the people. As he said during the Constitutional Convention, the people needed to be able to judge the executive’s actions and to have enough time to evaluate the effects of a series of measures. A single-year term, the norm in most states, was simply not enough time for the people to weigh a governor’s impact. In balancing the powers within the government, it was necessary first to equalize them. An executive needed to be as powerful as the legislature, for there could be no other check on bad laws. The press could be helpful, but the press alone would not be sufficient to check an overbearing legislature.<sup>10</sup>

It is important to note that by “strong” he did not mean a monarch as his friend Alexander Hamilton had advocated. Morris thought a monarchy was too independent of the people to provide good government. He also thought that an executive elected by the legislature would be too dependent on the legislative branch. His solution was a popularly elected executive with a term that was long enough for people to see and feel the effects of his policies. Against the idea that the country was simply too large for the people to have relevant information, Morris countered that this had not been the case in New York. While it was true that in certain spots “designing men” had misled the people into voting in particular ways, “the general voice of the State is never influenced by such artifices.”<sup>11</sup> Moreover, the legislature could conceal its machinations more easily than the people could. The people might be misled or seduced in favor of a candidate—a danger inherent in any democratic system—but they would not be the authors of a conspiracy.



For Morris, a strong executive was imperative to control the likely effort of the rich to establish an aristocracy on the ruins of American democracy. He pointed out that the “Rich will strive to establish their dominion & enslave the rest. They always did. They always will.”<sup>12</sup> He was concerned in particular that the wealthy classes would use their influence to control the legislature: “[Mr. Govr. Morris] fears the influence of the rich. They will have the same effect here as elsewhere if we do not by such a Govt. keep them within their proper sphere.” He further warned that “the people never act from reason alone. The rich will take advantage of their passions and make these the instruments for oppressing them.”<sup>13</sup>

Tying the executive to the people through popular election and providing powerful tools such as the veto power would enable the executive to control the pernicious tendencies of the wealthy.

## Liberty and the Rule of Law

Unlike his friend Alexander Hamilton, who admired the form of the British Constitution, Morris appreciated its results. In his estimation, Britain had achieved free government—whether because of or in spite of its form—by adhering to the rule of law and strictly respecting property rights. The end of securing liberty was more important to Morris than the form of government by which it was secured. In the early days of the Revolution, he spent some time thinking through the practical meaning of liberty in its various forms—natural, political, and civil.<sup>14</sup> His conclusion was that civil liberty is the essential goal of a free society. This right to property and personal freedom, however, can be preserved only by restricting political liberty—the right to choose the laws under which one lives. When society is organized, political liberty is progressively checked as rules are chosen. Once made, for the sake of protecting the property and civil rights of the people, those choices should not be easily changed.

Morris agreed with Locke that the security of property is the reason people choose to have government in the first place, but recognizing rights to property requires curtailing the liberty of people to change the rules of ownership or enjoyment. Civil liberty and political liberty together form a simple scale: The more of one, the less of the other. “If we consider political in Connection with civil Liberty we place the former as the Guard and Security to the latter. But if the latter is given up for the former we sacrifice the End to the Means.”<sup>15</sup> Morris believed that Britain had found the right balance between political and civil liberty, and he worked to provide the same balance for Americans.

Any balance between them, however, was upset by slavery. In Morris’s understanding, slavery destroyed the possibility of balance: Slaveholders had the political liberty to deny basic human rights to others and the civil liberty to treat other human beings as property. All the rights were on one side, and no neutral judgment of a magistrate could intervene. It was a clear contradiction of American principles, as Morris said at the Constitutional Convention:

Mr Govr. Morris...never would concur in upholding domestic slavery. It was a nefarious institution—It was the curse of heaven on the States where

it prevailed.... [A]dmission of slaves into the Representation...comes to this: that the inhabitant of Georgia and S.C. who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections & damns them to the most cruel bondages, shall have more votes in a Govt. instituted for protection of the rights of mankind, than a Citizen of Pa or N. Jersey who views with a laudable horror, so nefarious a practice.<sup>16</sup>

Morris saw free government in the United States as threatened by slavery, which furnished a telling example of how self-interest could blind men to the reality of their own institutions and principles. This was as clear an illustration as one might find of the danger of maximizing political freedom. A government resting on popular choice risked legitimizing choices made when the people were not thinking clearly, perhaps in a fearful or selfish mood. Finding the right way to minimize these irrational choices would be key to establishing a stable and free government.

Morris had no great faith in forms and believed that any form of government would be strongest if it grew naturally out of the materials society furnished. He thought that in the United States, the strongest materials would be found from the “Spirit of Commerce.” This spirit would lead American society to respect civil liberty, property rights, and the rule of law. Commerce was an outlet for people’s sense of self-interest, but it was also more. It produced “the most rapid Advances in the State of Society” because “once begun [it] is from its own Nature progressive.”<sup>17</sup> It also helped to keep a check on political liberty: “Now as Society is in itself Progressive as Commerce gives a mighty Spring to that progressive force as the effects both joint and Separate are to diminish political Liberty. And as Commerce cannot be stationary the society without it may.”<sup>18</sup> Finally, “If a Medium be sought it will occasion a Contest between the spirit of Commerce and that of the Government till Commerce is ruined or Liberty destroyed. Perhaps both.”<sup>19</sup>

Many years later, Morris saw this dynamic in play as the Jefferson and Madison Administrations worked to hobble American commerce. He considered American civil liberty in jeopardy from the hostility to commerce that arose from Jefferson’s favoring of the people’s political liberty. Thus, Jefferson’s Administration marked the decline of the most secure check on the enemies of property rights and civil liberties.

Morris drew a link between the goal of politics—securing property rights—and civil liberty, which allows property to be freely enjoyed. Commerce, he thought, is the thread that commits society both to respect property rights and to moderate the extremes of popular passions. As long as the United States remained a commercial society, there would be powerful social forces that favored the rule of law and protection of property rights.

## The Skeptical Democrat

Morris took a detached and amused view of human nature and human beings. It was easy for humans to be misled or confused, especially when personal self-interest encouraged that confusion. People could not always see their best interests, and this blindness

was multiplied as the number of actors increased. Democracy, Morris believed, was just as likely to multiply human blindness as it was to enhance human enlightenment.

For this reason, any human institution has a limited life, because every generation brings new and different experiences into play and will make new and different mistakes. This, again, is a constraint imposed by human understanding. We expect tomorrow to be like yesterday, and change upsets and confuses this expectation. The problem is that change, both in the world and in ourselves, is continuous, and our understanding is therefore always struggling to catch up with it. Morris looked upon this human shortcoming with amused tolerance:

Philosophy...may...deduce fair-seeming conclusions from an assumed principle that man is a rational creature. But is that assumption just? Or, rather, does not History show, and experience prove, that he is swayed from the course which reason indicates, by passion, by indolence, and even by caprice?... Such [philosophic] writings, therefore...instead of showing man a just image of what he is, will frequently exhibit the delusive semblance of what he is not.<sup>20</sup>

In other words, the hardest thing for man to see objectively is man.

Although a reluctant democrat—"In adopting a republican form of government, I not only took it as a man does his wife, for better, for worse, but, what few men do with their wives, I took it knowing all its bad qualities"<sup>21</sup>—Morris continued to believe (with qualifications) that democracy was the best form for the United States. He understood that people would think what they think regardless of moral or logical restraints and therefore never tried to edit his papers or create institutions that would preserve his legacy. The future would take care of itself without regard to what we might think of ourselves:

He, who looks far forward into probabilities, possessing tolerable knowledge of that motley composition, man, may form a few just expectations of events. If wise, he will confine his conjectures to his own bosom, or entrust them only to the bosom of confidential friendship. The vulgar, great and small, cannot bear truth. It shocks some, frightens many, and pleases few or none. Believe this, however[;] nations acquire the form of government most fit for them....

History had long since told us the tale of Democracy.... I consider it a vain task to preach to unbelievers. They are to be converted only by suffering. They must be schooled with adversity, where their false friends are their teachers. After some smart correction, they may be more manageable, and then, but not before, it may be prudent to attempt such changes in our social organization, as may save us from despotism....<sup>22</sup>

Deeds rather than words would convince the people. In simpler terms, "the good we hope is seldom obtained, and the evil we fear is rarely realized."<sup>23</sup> To err, as Pope had said, is the human lot, and a government that maximizes human liberty will maximize the other human qualities—good and bad—as well.

One might characterize Gouverneur Morris as a rich dilettante, pursuing his own interests without regard to any steady pursuit of a definable career, but the riches came late. Morris had to make his own fortune and therefore held many positions during his life, but he never held one position for long and consistently retreated into his private enterprises. He was a bachelor (and rather a swinging one) until he was 57, but then he was a serious and faithful husband. He composed light verse—doggerel—for the ladies but was also a serious wordsmith to whom people turned when they needed the best penman. He declined only one public assignment—Hamilton’s invitation to contribute to *The Federalist*—but to the end advised the public through the press. In the words of Theodore Roosevelt, his 19th century biographer:

Perhaps his greatest interest for us lies in the fact that he was a shrewder, more far-seeing observer and recorder of contemporary men and events, both at home and abroad, than any other American or foreign statesman of his time.... He made the final draft of the United States Constitution; he first outlined our present system of national coinage; he originated and got under way the plan for the Erie Canal; as minister to France he successfully performed the most difficult task ever allotted to an American representative at a foreign capital. With all his faults, there are few men of his generation to whom the country owes more than to Gouverneur Morris.<sup>24</sup>

J. JACKSON BARLOW

## SELECTED PRIMARY WRITING

### “Political Enquiries” (1776)<sup>25</sup>

#### Of the Object of Government

Is it the legitimate Object of Government to accumulate royal Magnificence, to maintain aristocratic Pre-Eminence, or extend national Dominion? The answer presents itself: Is it then the public Good? Let us reflect before we reply. Men may differ in their Ideas of public Good. Rulers therefore may be mistaken. In the sincere Desire to promote it just Men may be proscribed, unjust Wars declared, Property be invaded & violence patronized. Alas! How often has public Good been made the Pretext to Atrocity! How often has the Maxim *Salus populi suprema Lex esto*,<sup>26</sup> been written in Blood!

Suppose a man about to become the Citizen of another State and bargaining for the Terms. What would be his Motive? Surely the Encrease of his own felicity. Hence he would reject every Condition incompatible with that Object, and exact for its Security every Stipulation. Propose to him that

when Government might think proper he should be immolated for the public Good: would he agree? To ascertain that Compact which in all Societies is implied, we must discover that which each Individual would express. The Object of Government then is to provide the Happiness of the People.

But are Governments ordained of God? I dare not answer. If they are, they must have been intended for the Happiness of Mankind. Hence an important Lesson to those who are charged with the Rule of Men.

### Of Human Happiness

We need not enquire whether mortal Beings are capable of absolute felicity; but it is important to know by what means they may obtain the greatest Portion which is compatible with their State of Existence. Three questions arise: What constitutes the Happiness of a Man, of a State, of the World? The same Answer applies to each. Virtue. Obedience to the moral Law. Of avoidable Evil, there would be less in the World if the Conduct of States towards each other was regulated by Justice; there would be less in Society if each Individual did to others what he would wish from them; and less would fall to every Man's Lott if he were calm temperate and humane. To inculcate Obedience to the moral Law is therefore the best means of promoting human Happiness. Hence a maxim. No Government can lawfully command what is wrong. Hence also an important Reflection. If Government dispenses with the Rules of Justice, it impairs the Object for which it was ordained.

But how shall Obedience to the moral Law be inculcated? By Education Manners Example & Laws. Hence it follows that Government should watch over the Education of Youth. That Honor and Authority should not be conferred on vicious Men. That those entrusted with office should not only be virtuous but appear so. And that the Laws should compel the Performance of Contracts, give Redress for Injuries, and punish Crimes.

### Of Public Virtue

Which should be most encouraged by a wise Government public or private Virtue? Another question immediately arises. Can there be any Difference between them? In other Words, can the same thing be right and wrong? If an Action be in its own Nature wrong, we can never justify it from a Relation to the public Interest but by the Motive of the Actor. & who can know his Motive? From what Principle of the human Heart is public Virtue derived? Benevolence knows not any Distinctions of Nation or Country. Perhaps if the most brilliant Instances of roman Virtue were brought to the ordeal of Reason, they would fly off in the light Vapor of Vanity.

A Man expends his fortune in political Pursuits. Was he influenced by the Desire of personal Consideration, or by that of doing Good? If the latter,

has Good been effected which would not have been otherwise produced? If it has, was he justifiable in sacrificing to it the Subsistence of his Family? These are important questions; but there remains one more. Would not as much Good have followed from an industrious attention to his own Affairs? A Nation of Politicians, neglecting their own Business for that of the State, would be the most weak miserable and contemptible Nation on Earth. But that Nation in which every Man does his own Duty, must enjoy the greatest possible Degree of public and private Felicity.

### Of Political Liberty

Political Liberty is defined, the right of assenting to or dissenting from every Public Act by which a Man is to be bound. Hence, the perfect enjoyment of it presupposes a Society in which unanimous Consent is required to every public Act. It is less perfect where the Majority govern. Still less where the Power is in a representative Body. Still less where either the executive or judicial is not elected. Still less where only the legislative is elected. Still less where a Part of the Representatives can decide. Still less where such Part is not a Majority of the whole. Still less where the Decisions of such Majority may be delayed or overruled. Thus the Shades grow weaker and weaker, till no Trace remains. But is it not destroyed by the first Restriction?

In England, a Majority of Citizens does not elect the Majority of Representatives. A certain Part of those Representatives being met, the Majority of them can bind the Electors. The Decisions of these Representatives are confined to the legislative Department. And the Dissent of the Lords or of the King sets aside what the Commons had determined. The Englishman therefore does not, in any degree, possess the Right of dissenting from Acts by which he is affected, so far as those Acts relate to the Executive or judicial Department. And in respect to the legislature, his political Liberty consists in the Chance that certain Persons will not consent to Acts which he would not have approved. And is that a Right which, depending on a Complication of Chances, gives one thousand against him for one in his favor? Right is not only independent of, but excludes the Idea of Chance.

### Of Society

Of these three things Life Liberty Property the first can be enjoyed as well without the Aid of society as with it. The second better. We must therefore seek in the third for the Cause of Society. Without Society Property in Goods is extremely precarious. There is not even the Idea of Property in Lands. Conventions to defend each others Goods naturally apply to the Defence of those Places where the Goods are deposited. The Object of such Conventions must be to preserve for each his own share. It follows therefore that Property is the principal Cause & Object of Society.



## Of the Progress of Society

Property in goods is the first step in Progression from a State of Nature to that of Society. Till property in lands be admitted Society continues rude and barbarous. After the lands are divided a long space intervenes before perfect Civilization is effected. The Progress will be accelerated or retarded in Proportion as the administration of justice is more or less exact. Here then are three distinct kinds of Society: 1. rude and which must continue so. 2. progressive towards Civilization. 3. Civilized. For Instances of each take:

1. The Tartar Hords & American Savages. 2. The History of any European Kingdom before the sixteenth century and the present State of Poland. 3ly. the actual Circumstances of France and England.

If the forgoing reflections be just this Conclusion results that the State of Society is perfected in Proportion as the Rights of Property are secured.

## Of Natural Liberty

Natural Liberty absolutely excludes the Idea of political Liberty since it implies in every Man the Right to do what he pleases. So long, therefore, as it exists Society cannot be established and when Society is established natural Liberty must cease. It must be restricted. But Liberty restricted is no longer the same. He who wishes to enjoy natural Rights must establish himself where natural Rights are admitted. He must live alone.

If he prefers Society the utmost Liberty he can enjoy is political. Is there a Society in which this political Liberty is perfect? Shall it be said that Poland is that Society? It must first be admitted that nine tenths of the Nation (the Serfs) are not Men. But dignify the Nobles with an exclusive title to the Rank of Humanity and then examine their *Liberum Veto*.<sup>27</sup> By this it is in the Power of a single Dissent to prevent a Resolution. Unanimity therefore being required no Man is bound but by his own Consent at least no noble man. If it be the Question to enact a law this is well. But suppose the Reverse. Or suppose the public Defence at Stake. In both Cases the Majority are bound by the minority or even by one. This then is not political Liberty.

## Progress of Society. The Effect on Political Liberty

We find then that perfect political liberty is a Contradiction in Terms. The Limitation is essential to its existence. Like natural Liberty it is a Theory. A has the natural Right to do as he pleases. So has B. A in consequence of his natural Right binds B to an oak. If it be said that Each is to use his right so as not to injure that of another we come at once within the Pale of civil or social Right.

That Degree of political Liberty essential to one State of Society is incompatible with another. The Mohawks or Oneidas may assemble together & decide by the Majority of Votes. The six Nations must decide by a

Majority of the Sachems.<sup>28</sup> In a numerous Society Representation must be substituted for a general assemblage. But arts produce a Change as essential as Population. In order that government decide properly it must understand the Subject. The objects of legislation are in a rude Society simple in a more advanced State complex. Of two things therefore one. Either Society must stop in its Progression for the Purpose of preserving political Liberty or the latter must be checked that the former may proceed.

Where political Liberty is in excess Property must always be insecure and where Property is not secure Society cannot advance. Suppose a state governed by Representatives equally & annually chosen of which the Majority to govern. Either the Laws would be so arbitrary & fluctuating as to destroy Property or Property would so influence the Legislature as to destroy Liberty. Between these two Extremes Anarchy.

### Of Commerce

The most rapid Advances in the State of Society are produced by Commerce. Is it a Blessing or a Curse? Before this Question be decided let the present and former State of commercial Countries be compared. Commerce once begun is from its own Nature progressive. It may be impeded or destroyed not fixed. It requires not only the perfect Security of Property but perfect good faith. Hence its Effects are to encrease civil and diminish political Liberty. If the public be in Debt to an Individual political Liberty enables a Majority to cancel the Obligation but the spirit of Commerce exacts punctual Payment. In a Despotism everything must bend to the Prince. He can seize the Property of his Subject but the Spirit of Commerce requires that Property be secured. It requires also that every Citizen have the Right freely to use his Property.

Now as Society is in itself Progressive as Commerce gives a mighty Spring to that progressive force as the effects both joint and Separate are to diminish political Liberty. And as Commerce cannot be stationary the society without it may. It follows that political Liberty must be restrained or Commerce prohibited. If a Medium be sought it will occasion a Contest between the spirit of Commerce and that of the Government till Commerce is ruined or Liberty destroyed. Perhaps both. These Reflections are justified by the different Italian Republics.

### Civil Liberty in Connection with Political

Political Liberty considered separately from civil Liberty can have no other Effect than to gratify Pride. That society governs itself is a pleasing reflection to Members at their Ease but will it console him whose Property is confiscated by an unjust Law? A Majority influenced by the Heat of party spirit banishes a virtuous Man and takes his Effects. Is Poverty or is

Exile less bitter decreed by a thousand than inflicted by one? Examine that Majority. In the Madness of Victory are they free from apprehension? What happens this day to the Victim of their Rage may it not happen tomorrow to his Persecutors?

If we consider political in Connection with civil Liberty we place the former as the Guard and Security to the latter. But if the latter is given up for the former we sacrifice the End to the Means. We have seen that the Progress of Society tends to Encrease civil and diminish political Liberty. We shall find on Reflection that civil Liberty itself restricts political. Every Right of the Subject with Respect to the Government must derogate from its Authority or be thereby destroyed. The Authority of Magistrates is taken from that mass of Power which in rude Societies and unbalanced Democracies is wielded by the Majority. Every Separation of the Executive and judicial Authority from the Legislative is a Diminution of political and Encrease of civil Liberty. Every Check and Ballance of that Legislature has a like Effect and yet by these Means alone can political Liberty itself be secured. Its Excess becomes its Destruction.

In looking back we shall be struck with the following Progression Happiness the Object of Government. Virtue the Source of Happiness. Civil Liberty the Guardian of Virtue political liberty the Defence of civil. Restrictions on political Liberty the only Means of preserving it.

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Donald L. Robinson, “Gouverneur Morris and the Design of the American Presidency,” *Presidential Studies Quarterly*, Vol. 17, No. 2 (Spring 1987), pp. 319–328, <https://www.jstor.org/stable/140024718>.

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# Alexander Hamilton

## Life

Alexander Hamilton was born January 11, 1757, on the island of Nevis in the British West Indies and later moved to St. Croix. He was the son of Scottish merchant James Alexander Hamilton and Rachel Fawcett Lavien. After working as a clerk for a St. Croix trading post, he immigrated to America in 1772. At the age of 25, Hamilton married Elizabeth Schuyler on December 14, 1780. They had eight children: Philip Hamilton (1782); Angelica Hamilton (1784); Alexander Hamilton Jr. (1786); James Alexander Hamilton (1788); John Church Hamilton (1792); William Stephen Hamilton (1797); Eliza Hamilton (1799); and Phillip Hamilton (1802). Hamilton died on July 12, 1804, in New York City after being fatally wounded in a duel with Aaron Burr and is buried in Trinity Churchyard in Manhattan.

## Education

Hamilton attended grammar school in Elizabethtown, New Jersey, and graduated from King's College (now Columbia University) in 1775.

## Religion

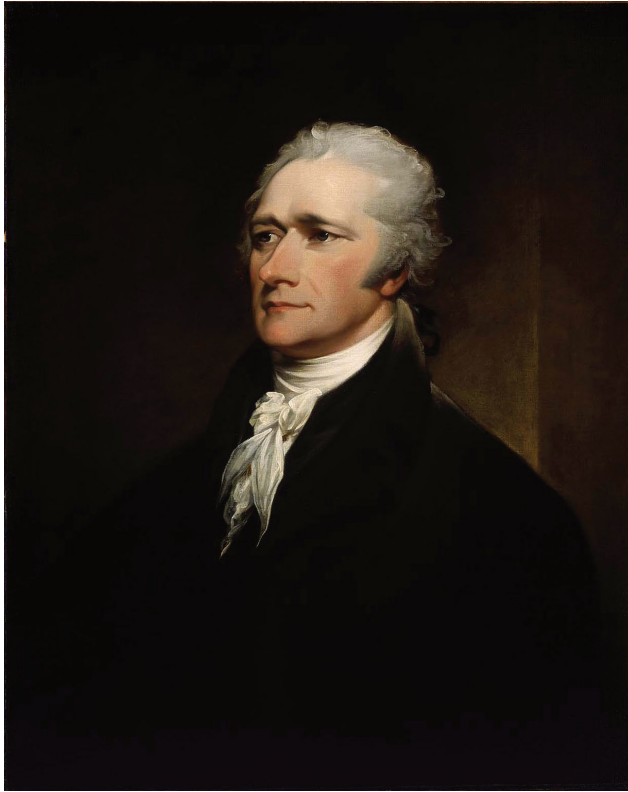
Presbyterian

## Political Affiliation

Federalist

## Highlights and Accomplishments

1776	Captain, New York Artillery Company
1777–1781	Lieutenant Colonel and Aide de Camp to George Washington
1781	Commander of Infantry Brigade at the Battle of Yorktown
1783–1804	Practicing Attorney in New York
1782–1783, 1788	Delegate to the Continental Congress
1784	Founder and Director, Bank of New York
1786	Delegate to the Annapolis Convention
1775	Delegate to the Second Continental Congress
1787	Member, New York State Assembly
1787	Delegate to the Constitutional Convention
1787–1788	Co-author, <i>The Federalist Papers</i>
1789–1795	Secretary of the Treasury
1798	Inspector General of the Army
1801	Founder, <i>New York Evening Post</i>



Alexander Hamilton by John Trumbull, c. 1806,  
public domain.

He smote the rock of the national resources, and  
abundant streams of revenue gushed forth. He  
touched the dead corpse of Public Credit and it  
sprung upon its feet.

—*Daniel Webster, March 10, 1831*<sup>1</sup>



# Alexander Hamilton: Champion of American Enterprise

**O**F ALL THE FOUNDERS OF THE AMERICAN REPUBLIC, Alexander Hamilton is the one whose reputation has fluctuated the most. During his lifetime, Hamilton had committed defenders as well as passionate detractors. During the antebellum period, his reputation declined, but after the Civil War, with the triumph of neo-Federalism, he became one of the most honored in the national pantheon.

Today, Hamilton's reputation depends largely on one's political orientation. Liberals consider him (despite his humble origins) too elitist, a mouthpiece for the rich and well-born, and a militarist. Conservatives often dismiss him as an anti-free trade protectionist and the forefather of national industrial policy (the idea that government can do a better job of picking eventual winners and losers in the economy than markets can do). Both sides are wrong. Hamilton deserves to be honored for the critical role he played in three important areas: constitutional government, political economy and public finance, and national defense.

## The Life of Alexander Hamilton

Hamilton probably was born in 1757—the record is not clear—on the British West Indian island of Nevis and later moved with his family to St. Croix. As a teenager, the precocious Hamilton favorably impressed his employer Nicholas Cruger and the Reverend Hugh Knox, a Presbyterian minister, who in 1772 conspired to send the 15-year-old to North America for an education. Hamilton matriculated at King's College (now Columbia University) in New York.

Hamilton became involved in the pre-Revolutionary politics of King's College in particular and New York in general. In the winter of 1774–1775, he anonymously wrote two pamphlets, *[A Full Vindication of the Measures of Congress from the Calumnies of Their](#)*

*Enemies* and *The Farmer Refuted*, in response to popular Loyalist writings. As the Patriot cause spread, Hamilton joined a Patriot drill company, and in March 1776, he was made captain of a New York artillery battery. He served in this capacity through the summer and fall as the British maneuvered George Washington's Continental Army out of New York and pursued it south across New Jersey. His artillery saw action at both Trenton and Princeton. Two months after the Battle of Princeton, Hamilton was promoted to lieutenant colonel and became an aide to George Washington. He served in this role for four years, forging a relationship with Washington that would have immense consequences for the new nation.

In the summer of 1781, Washington gave Hamilton command of an infantry brigade. He saw action at Yorktown, which included leading his brigade in a nighttime attack on a key British trench line. Washington praised Hamilton and his men for their "intrepidity, coolness and firmness" during the action.

The British surrendered at Yorktown on October 19, 1781. Although the war would not officially end for another two years, Hamilton was able to return to his family in New York and take up the study of law in Albany. In November 1782, the New York Assembly chose Hamilton to be a delegate to Congress where he first met James Madison, who would be both ally and adversary over the next two decades. A series of events that culminated with Congress fleeing to New Jersey when a group of disaffected soldiers marched on Philadelphia convinced Hamilton that the national legislature was a weak and debilitated body. Hamilton resigned from Congress and returned to his family and the law.

In September 1786, the New York Assembly chose Hamilton to be a delegate to the Annapolis Convention, and in March 1787, he was selected to attend the Constitutional Convention in Philadelphia. His contributions to the actual drafting of the Constitution were fairly limited and far less important than his truly Herculean efforts to gain New York's ratification of the final document.

Hamilton turned first to the press, collaborating with John Jay and James Madison to write *The Federalist* (commonly referred to today as *The Federalist Papers*), a series of newspaper essays under the Plutarchian pseudonym of Publius. Of the 85 essays comprising *The Federalist*, Hamilton wrote more than two-thirds, mostly on war and foreign policy, the law, executive power, and the administration of government. During the New York Ratifying Convention, Hamilton was virtually a one-man show, making numerous powerful speeches over the course of the convention that successfully swayed many Anti-Federalist opponents to support the new government. By a close vote, New York agreed to ratification in July 1788, making it the 11th state to adopt the new Constitution.

When the new government met in New York City during the spring of 1789, President Washington chose Hamilton as the first Secretary of the Treasury. The Senate confirmed his nomination in September 1789, and he immediately set to work to establish America's credit by resolving the problem of the country's outstanding debt. As Secretary of the Treasury, Hamilton presented three important reports to the new Congress on behalf of the Washington Administration. His *Report on the Public Credit* provided for funding the national and foreign debts of the United States as well as for federal assumption of the states' Revolutionary War debts. Hamilton's next major project was to establish a national bank, a means for fulfilling the government's powers in the event of an emergency such as war.

His [\*Report on a National Bank\*](#) was delivered in December 1790, and a bill chartering such a bank was passed by Congress fairly quickly. Madison questioned the constitutionality of a national bank, but Hamilton made a powerful argument for its constitutionality—based on the “implied powers” of the Constitution—and Washington signed the bank bill into law early in 1791. Hamilton then immediately set to work on his third great project, a [\*Report on the Subject of Manufactures\*](#), which he delivered to Congress at the end of that year.

Hamilton’s financial program was a cause of great concern for Thomas Jefferson and his allies. In the tradition of the Radical Whigs, they saw its measures as an instrument of monarchy and corruption, at odds with the yeoman virtues necessary for the young Republic. Disputes between Hamilton and Jefferson exploded into public view in the “newspaper war” of 1792. Their quarrel over finances was exacerbated by a difference of opinion regarding the French Revolution. Jefferson thought the United States should assist France against Britain out of “gratitude” for its assistance to America during its own revolution, while Hamilton favored closer ties with Great Britain and believed America should remain neutral. Washington concurred with Hamilton and issued his [\*Neutrality Proclamation\*](#).

Jefferson left the Cabinet at the end of 1793, frustrated by Hamilton’s influence. Following the crisis of the Whiskey Rebellion of 1794, Hamilton also left to return to private life, but the furor over the Jay Treaty led him to enter the fray once more in a series of newspaper essays titled “[\*The Defence\*](#)” under the pen name of Camillus. Hamilton’s final service to Washington was his assistance in drafting his [\*Farewell Address\*](#), the outgoing President’s call for America to preserve the Union.

In the election of 1796, Hamilton worked assiduously to prevent Jefferson from becoming President by attempting to ensure that federal electors in New England cast their votes for Thomas Pinckney as well as John Adams. Adams interpreted this strategy as an attempt to influence the election in favor of Pinckney rather than him. This episode, along with Hamilton’s influence over Adams’s Cabinet, led to a falling out between the two that would severely weaken the Federalist Party and contribute to its defeat in the election of 1800.

Although Hamilton would never hold public office again, he remained politically active. He returned to New York to practice law and to found the *New York Evening Post*.

## Constitutional Order

Hamilton, like Jefferson and most of the Founding generation, saw the American Revolution as an act of deliberation designed to secure the natural rights enumerated in the Declaration of Independence: “life, liberty, and the pursuit of happiness.” However, a revolution can unleash a lawless spirit in a people. Men must “dissolve [existing] political bands” before they can establish a new form of government that is more congenial to rights and liberty, and revolutionary fervor is not conducive to a stable political society—even one that is intended to protect individual rights.

Hamilton understood that a passion for liberty was necessary if the cause of American independence was to succeed, but he also understood that this passion ultimately had to be tempered by the rule of law. As he said during the New York Ratifying Convention in 1788,

In the commencement of a revolution...nothing was more natural, than that the public mind should be influenced by an extreme spirit of jealousy... and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one.... But, Sir, there is another object, equally important, and which our enthusiasm rendered us little capable of regarding. I mean the principle of strength and stability in the organization of our government, and vigor in its operations.<sup>2</sup>

The problem is that the passions released in the fight for one's rights can destroy those rights. Ultimately, individual rights can be preserved only when a strong sense of "law-abidingness exists in society." Hamilton was appalled at the call for "permanent revolution" that characterized Jefferson's rhetoric. He believed that Jefferson's complacent and bookish reaction to Shays' Rebellion ("I hold it that a little rebellion now and then is a good thing") and the French Revolution ("The Tree of Liberty must be watered from time to time with the blood of tyrants") was a recipe for disaster that would ensure "frequent tumults" instead of good government. The answer was to make Americans law-abiding by attaching them to their Constitution, which, although their own creation, binds them by its constraints while it is in force.

Attaching the people to the Constitution's rule of law would preserve the new government as if it were an ancient establishment, promoting the stable administration of justice without which the protection of our rights—the object of the Revolution—could not be assured. Hamilton sought by speech and deed to moderate the passions of the people and attach them first to their state constitutions and then to the federal Constitution. Examples of how Hamilton sought to build this attachment included his legal defense of New York Loyalists after the Revolution (along with his Phocion letters on the same topic);<sup>3</sup> his defense of the new Constitution during the ratification debates of 1787–1788; his activities as Secretary of the Treasury to teach Americans the necessity of paying their debts and keeping contracts; and his efforts as a member of Washington's Cabinet to subordinate American gratitude to France and the passion of Americans for the French Revolution to the dictates of international law.

Nothing indicates Hamilton's purpose in moderating revolutionary passions better than a letter he wrote to John Jay at nearly the same time that he was writing his own revolutionary pamphlets:

The same state of passions which fits the multitude...for opposition to tyranny and oppression, very naturally leads them to contempt and disregard of all authority... When the minds of those are loosened from their attachment to ancient establishments and courses, they seem to grow giddy and are apt more or less to run into anarchy.<sup>4</sup>

Hamilton's concern about the need for lawfulness in a republic also helps to explain his views on immigration. Although Hamilton was himself an immigrant, he was adamantly

opposed to the open immigration policies that President Thomas Jefferson proposed in his first annual message to Congress in 1801. The incoming President had once opposed unlimited immigration but now saw it as a way to secure the future political dominance of his own party over Hamilton's Federalists.

Like most Federalists, Hamilton was concerned about French influence on American politics. The French Revolution had descended into terror and led to the rise of Napoleon, yet Jefferson and his Republican Party persisted in their attachment to the French. Hamilton feared that Jefferson's proposal for unlimited immigration would lead to the triumph of the radical principles of the French Revolution over those of the more moderate American Revolution. Writing as Lucius Crassus, Hamilton argued that:

The safety of a republic depends essentially on the energy of a common national sentiment; on a uniformity of principles and habits; on the exemption of the citizens from foreign bias, and prejudice; and on that love of country which will almost invariably be found to be closely connected with birth, education, and family.<sup>5</sup>

Invoking Jefferson's own *Notes on the State of Virginia*, Hamilton expressed concern that immigrants would import illiberal views. He continued: "[I]t is unlikely that they will bring with them that temperate love of liberty, so essential to real republicanism." Hamilton concluded that "[t]o admit foreigners indiscriminately to the rights of citizens, the moment they put foot in our country, as recommended in [Jefferson's] message, would be nothing less than to admit the Grecian horse into the citadel of our liberty and sovereignty." In other words, a large number of immigrants attached to the principles of the French rather than the American Revolution would undermine that "temperate love of liberty" essential to republican government.

## Political Economy

Alexander Hamilton played an important role in laying the foundation for America's young market economy and encouraging the entrepreneurship that would be at the forefront of America's economic growth. As the first Secretary of the Treasury, he set the conditions for the United States' future prosperity and economic success by establishing the nation's credit, which provided an incentive for individuals and nations alike to invest in America.

In 1790, the United States faced what seemed to be insuperable barriers to financial stability. The new nation owed vast sums to its citizens and to foreign creditors. It was behind in both principal and interest payments and lacked the means to raise the necessary revenues. As a result, the credit of the United States was held in low esteem, which meant that no one would be willing to lend money to America unless a substantial "risk premium" was added. The American economy was weak, and its financial future was unclear, making large-scale investment and long-term prosperity unlikely.

Some called for repudiation of the domestic portion of the debt; others called for a scaled-down version of repudiation—"discrimination" between original holders and present holders of debt, which would punish "speculators." Still others demanded that the government pay its debt precisely according to the terms set down. Hamilton proposed that the federal government "assume" the debts of the Confederation (as well as the war debts of the

individual states) and pay them over time. Such a course would lead to eventual retirement of the debt in an orderly manner and in a way that would “monetize” it, making significant additional capital available for new investment. “The proper funding of the present debt [would] render it a national blessing,” said Hamilton.<sup>6</sup> Allowing for the regular payment of interest while keeping the principal more or less intact would serve as the basis for a uniform and elastic currency. This would make future credit available as quickly as possible, facilitating economic growth and stability.

Hamilton knew that a creditworthy America would generate vast quantities of capital from both domestic and foreign investors. Credit, as the word itself indicates, depends on trust and faith, which must be earned in the marketplace. To earn credit, a country must show that it will honor long-term commitments and keep its financial obligations—both of which are necessary for stable economic transactions.

His financial plan also reinforced his goal of making Americans law-abiding: By emphasizing that the country must pay its debt, he reminded citizens of the moral importance of paying their debts. The assumption of the states’ debts by the national government had the additional benefit of strengthening ties to the new government, thereby further cementing the Union. Hamilton believed that the establishment of justice and creation of a law-abiding and virtuous people required habituation to virtue and that paying one’s debts, both private and public, played an important role in achieving such habituation. As he wrote in *Federalist* No. 72, “the best security for the fidelity of mankind is to make their *interests* coincide with their *duty*.”<sup>7</sup>

The second element of Hamilton’s grand plan was to stimulate the growth of domestic manufactures. Rejecting the common assumption that America could prosper with just an agricultural base, he argued that the new nation should concentrate on developing its small-business entrepreneurs. However, his strategy was not to assist domestic industry through state control of the market. Hamilton was neither a mercantilist nor a protectionist. He envisioned the role of government as using limited bounties or subsidies (contingent on a surplus of revenue) to help infant American industries overcome barriers to entry erected by the existing terms of trade. His advocacy of limited tariffs was not to advantage particular manufactures, but to yield customs revenues, then the leading source of government funds. In general, Hamilton maintained that trade was directed by its own natural rules and for the most part best left alone. He considered it the role of government to create a stable framework that would allow the free market to operate and prosper.

Hamilton wanted to affect the very nature of the American economy and arouse a dynamic liberty of industriousness, enterprise, and innovation. He envisioned a nation in which freedom to engage in all manner of enterprises would give citizens of differing aptitudes the chance to achieve happiness, and he saw commerce as a positive good that would make citizens more fully human by stimulating the intellect, the most characteristic possession of man. Manufactures would give “greater scope for the diversity of talents and dispositions, which discriminate men from each other.”

In his *Report on the Subject of Manufactures*, Hamilton argued that a diverse economy develops society:



The spirit of enterprise...must be less in a nation of mere cultivators, than in a nation of cultivators and merchants; less in a nation of cultivators and merchants, than in a nation of cultivators, artificers, and merchants.... Every new scene, which is opened to the busy nature of man to rouse and exert itself, is the addition of a new energy to the general stock of effort.<sup>8</sup>

Rather than distributing its rewards based on conventional distinctions such as birth or wealth, the United States would distribute them in accordance with ability and republican virtue. To do this, it was necessary to create a free, commercial republic that rewarded merit and ambition.

Hamilton understood that commerce and a market economy provide prosperity and growth without which, as history has shown, no free government can exist. Prosperity is necessary to create the military and naval power needed to sustain a regime capable of protecting the natural rights of its citizens. He also knew that liberty and the economic diversity and human excellence that flow from it depend on a government that is strong enough to protect it and confident enough to allow each individual to flourish. As Hamilton wrote in the *Report on Manufactures*:

It is a just observation, that minds of the strongest and most active powers... fall below mediocrity and labour without effect, if confined to uncongenial pursuits. And it is thence to be inferred, that the results of human exertion may be immensely increased by diversifying its objects. When all the different kinds of industry obtain in a community, each individual can find his proper element, and can call into activity the whole vigour of his nature.<sup>9</sup>

Such an environment is hospitable to great men, to captains of industry, to seekers after honor and fame. A great nation based on equal political rights in which merit, as opposed to status, is the basis for reward provides the greatest opportunities for those who are motivated by the "love of fame, the ruling passion of the noblest minds...."<sup>10</sup>

## National Defense

Throughout history, war has been the great destroyer of free government: The necessities, accidents, and passions of war tend to undermine liberty. The unprecedented ability of the United States to wage war while still preserving liberty is a legacy of Alexander Hamilton, who deserves much credit for the institutions that have enabled the United States to minimize the inevitable tension between the necessities of war and the requirements of free government. This, of course, is not the conventional view of Hamilton. Contemporaries such as Thomas Jefferson, James Madison, and John Adams saw Hamilton as a Caesar or a Bonaparte, bent on tyranny at home and conquest abroad. Unfortunately, many recent historians also accept this false view.

Hamilton was a soldier-statesman who demonstrated that he could be trusted with the sword of his country. Rejecting the utopian vision of Jefferson and many of his allies,

Hamilton was what today is called a *realist*, one who understands that war is a fact of international life. Accordingly, he believed that the survival of the infant Republic depended on developing and maintaining the potential to make war. Far from being a militaristic state-builder along the lines of Frederick the Great or Otto von Bismarck, Hamilton was an advocate of limited government and understood the necessity of remaining within the legal bounds established by the Constitution. “Let us not establish a tyranny,” he wrote to Oliver Wolcott in 1798. “Energy is a very different thing from violence.” He was a strategist before the word was coined, and his strategic objectives were to enable the American Republic to avoid war when possible and wage it effectively when necessary, all the while preserving both political and civil liberty.

Hamilton had to contend with several popular views that denigrated foreign affairs and national security—views that have their counterparts today. The first was the uncritical belief that economic progress and commerce would not only improve the material conditions of life, but also change human nature sufficiently to make war a thing of the past. The second was a corollary of the first: that a focus on domestic affairs alone was the key to peace and prosperity. As a realist, Hamilton understood that force ruled relations among nations and that this was as true in the New World as it had been in the Old. He hoped that if America could survive its infancy as an independent nation, consent might replace force in the New World, but he also understood that for the foreseeable future, the volatile and uncertain geopolitical situation required that America take steps to defend itself, its rights, and its national honor.

The first step in making the United States secure was to create a powerful and indissoluble Union that could effectively discourage war on the North American continent, thus avoiding the militarization that led to the downfall of earlier free governments. Hamilton’s support for the Constitution was based largely on his belief that only such a Union could ensure American security at home and project unity abroad.

The second step was to ensure that the nation had the means to defend itself in a hostile world. These included not only the establishment of credit, creation of a national bank, and encouragement of manufactures, but also the development of a strong standing army and an ocean-going navy. Hamilton emphasized the ability to defend the constitutional order itself, which was the necessary instrument for protecting the liberty, happiness, and prosperity of its citizens. When it came to national defense, as he wrote in *Federalist* No. 23:

[The powers necessary to defend the Constitution] ought to exist without limitation, *because it is impossible to foresee or define the extent and variety... of the means which may be necessary to satisfy them.* The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed.<sup>11</sup>

This was essentially the view that Lincoln would adopt during the Civil War.

Hamilton’s concern for national defense and desire to provide for the national strength that would make its use of American military power less necessary (he was an early advocate

of peace through strength) do much to explain why he supported a broad rather than a narrow construction of the Constitution, a strong rather than a weak executive, a standing army rather than a militia, and commerce and manufactures over an agricultural economy. In most of these controversies, Hamilton's strategic sobriety prevailed, which accounts in large measure for the unprecedented ability of the United States to combine great power and a wide degree of liberty.

## Hamilton's Character

Two events in particular capture the essence of Hamilton's character. The first is especially instructive for our day, and the second allows us a glimpse into Hamilton's soul and unwavering dedication to the cause of his adopted country.

While serving as Secretary of the Treasury, Hamilton had an affair with Maria Reynolds, a married woman whose husband proceeded to blackmail him. When his political enemies accused him of serious financial improprieties, Hamilton wrote a pamphlet in which he publicly admitted to the extramarital affair, for which he expressed remorse, in order to refute the far more dangerous charge that he was accepting bribes. Hamilton understood the extent to which his political reputation was tied to the success of his financial plan, and thus to the early success of the new nation, and was willing to sacrifice his private reputation for the public good.

In 1800, an electoral tie between two Republican candidates, Thomas Jefferson and Aaron Burr, threw the election to the House of Representatives. John Adams had placed a distant third in the voting, and several Federalists made clear their intention to vote for Burr to deny Jefferson the presidency. Hamilton, despite his deep antipathy toward Jefferson, wrote a series of letters to several Federalists urging them to support Jefferson because he considered Burr to be a dangerously unprincipled adventurer. "In a word," Hamilton wrote, "if we have an embryo-Caesar in the United States, 'tis Burr."<sup>12</sup> The Representatives in the House voted 35 times, and after each ballot, the votes were equally split between Jefferson and Burr. On the 36th ballot, one of the recipients of Hamilton's letter-writing blizzard abstained, handing the election to Jefferson.

In 1804, disaffected New England Federalists hatched a plan to secede from the Union and convinced Burr to run for governor of New York and persuade his state to support their cause. Hamilton again did his best to thwart Burr's ambitions. After this defeat, Burr challenged Hamilton to a duel, which Hamilton—like Cato, willing to die for the republic to prevent the triumph of a Caesar—felt obliged to accept. Although Hamilton was opposed to dueling—his eldest son Phillip had died in a duel—he met Burr at Weehawken, New Jersey, on the morning of July 11, 1804. Hamilton was mortally wounded and died the next day.

## SELECTED PRIMARY WRITINGS

### **The Farmer Refuted** (February 23, 1775)<sup>13</sup>

...I shall, for the present, pass over to that part of your pamphlet, in which you endeavour to establish the supremacy of the British Parliament over America. After a proper [enlightenment] of this point, I shall draw such inferences, as will sap the foundation of every thing you have offered.

The first thing that presents itself is a wish, that "I had, explicitly, declared to the public my ideas of the *natural rights* of mankind. Man, in a state of nature (you say) may be considered, as perfectly free from all restraints of *law* and *government*, and, then, the weak must submit to the strong."

I shall, henceforth, begin to make some allowance for that enmity, you have discovered to the *natural rights* of mankind. For, though ignorance of them in this enlightened age cannot be admitted, as a sufficient excuse for you; yet, it ought, in some measure, to extenuate your guilt. If you will follow my advice, there still may be hopes of your reformation. Apply yourself, without delay, to the study of the law of nature. I would recommend to your perusal Grotius, Pufendorf, Locke, Montesquieu, and Burlamaqui.<sup>[14]</sup> I might mention other excellent writers on this subject; but if you attend, diligently, to these, you will not require any others.

There is so strong a similitude between your political principles and those maintained by Mr. [Thomas] Hobbes, that, in judging from them, a person might very easily *mistake* you for a disciple of his. His opinion was, exactly, coincident with yours, relative to man in a state of nature. He held, as you do, that he was, then, perfectly free from all restraint of *law* and *government*. Moral obligation, according to him, is derived from the introduction of civil society; and there is no virtue, but what is purely artificial, the mere contrivance of politicians, for the maintenance of social intercourse. But the reason he run [sic] into this absurd and impious doctrine, was, that he disbelieved the existence of an intelligent superintending principle, who is the governor, and will be the final judge of the universe.

As you, sometimes, swear *by him that made you*, I conclude, your sentiment does not correspond with his, in that which is the basis of the doctrine, you both agree in; and this makes it impossible to imagine whence this congruity between you arises. To grant, that there is a supreme intelligence, who rules the world, and has established laws to regulate the actions of his creatures, and, still, to assert, that man, in a state of nature, may be considered as perfectly free from all restraints of *laws* and *government*, appear to a common understanding, altogether irreconcilable.

Good and wise men, in all ages, have embraced a very dissimilar theory. They have supposed, that the deity, from the relations, we stand in, to himself and to each other, has constituted an eternal and immutable law, which

is, indispensably, obligatory upon all mankind, prior to any human institution whatever.

This is what is called the law of nature, “which, being [coeval](#) with mankind, and dictated by God himself, is, of course, superior in obligation to any other. It is binding over all the globe, in all countries, and at all times. No human laws are of any validity, if contrary to this; and such of them as are valid, derive all their authority, mediately or immediately, from this original.” BLACKSTONE.<sup>[15]</sup>

Upon this law, depend the natural rights of mankind, the supreme being gave existence to man, together with the means of preserving and beatifying that existence. He endowed him with rational faculties, by the help of which, to discern and pursue such things, as were consistent with his duty and interest, and invested him with an inviolable right to personal liberty, and personal safety.

Hence, in a state of nature, no man had any *moral* power to deprive another of his life, limbs, property or liberty; nor the least authority to command, or exact obedience from him; except that which arose from the ties of consanguinity.

Hence also, the origin of all civil government, justly established, must be a voluntary compact, between the rulers and the ruled; and must be liable to such limitations, as are necessary for the security of the *absolute rights* of the latter; for what original title can any man or set of men have, to govern others, except their own consent? To usurp dominion over a people, in their own despite, or to grasp at a more extensive power than they are willing to entrust, is to violate that law of nature, which gives every man a right to his personal liberty; and can, therefore, confer no obligation to obedience.

“The principal aim of society is to protect individuals, in the enjoyment of those absolute rights, which were vested in them by the immutable laws of nature; but which could not be preserved, in peace, without that mutual assistance, and intercourse, which is gained by the institution of friendly and social communities. Hence it follows, that the first and primary end of human laws, is to maintain and regulate these *absolute rights* of individuals.” BLACKSTONE.<sup>[16]</sup>

If we examine the pretensions of Parliament, by this criterion, which is evidently a good one, we shall presently detect their injustice. First, they are subversive of our natural liberty, because an authority is assumed over us, which we by no means assent to. And secondly, they divest us of that moral security, for our lives and properties, which we are entitled to, and which it is the primary end of society to bestow. For such security can never exist, while we have no part in making the laws that are to bind us and while it may be the interest of our uncontrolled legislators to oppress us as much as possible.

To deny these principles will be not less absurd, than to deny the plainest axioms: I shall not, therefore, attempt any further illustration of them....

...I have taken a pretty general survey of the American Charters, and proved to the satisfaction of every unbiassed person, that they are entirely discordant with that sovereignty of parliament, for which you are an advocate. The disingenuity of your extracts (to give it no harsher name) merits the severest censure, and will no doubt serve to discredit all your former, as well as future, labors in your favourite cause of despotism....

Boston was the first victim to the meditated vengeance. An act was passed to block up her ports and destroy her commerce with every aggravating circumstance that can be imagined. It was not left at her option to elude the stroke by paying for the tea, but she was also to make such satisfaction to the officers of his majesty's revenue and others who might have suffered as should be judged *reasonable by the governor*. Nor is this all, before her commerce could be restored, she must have submitted to the authority claimed and exercised by the parliament.

Had the rest of America passively looked on, while a sister colony was subjugated, the same fate would gradually have overtaken all. The safety of the whole depends upon the mutual protection of every part. If the sword of oppression be permitted to lop off one limb without opposition, reiterated strokes will soon dismember the whole body. Hence it was the duty and interest of all the colonies to succour and support the one which was suffering. It is sometimes sagaciously urged, that we ought to commiserate the distresses of the people of Massachusetts, but not intermeddle in their affairs, so far as perhaps to bring ourselves into like circumstances with them. This might be good reasoning, if our neutrality would not be more dangerous, than our participation. But I am unable to conceive how the colonies in general would have any security against oppression if they were once to content themselves with barely *pitying* each other, while parliament was prosecuting and enforcing its demands. Unless they continually protect and assist each other, they must all inevitably fall a prey to their enemies.

Extraordinary emergencies require extraordinary expedients. The best mode of opposition was that in which there might be an union of councils. This was necessary to ascertain the boundaries of our rights; and to give weight and dignity to our measures, both in Britain and America. A Congress was accordingly proposed, and universally agreed to.

You, Sir, triumph in the supposed *illegality* of this body; but, granting your supposition were true, it would be a matter of no real importance. When the first principles of civil society are violated, and the rights of a whole people are invaded, the common forms of municipal law are not to be regarded. Men may then betake themselves to the law of nature; and, if they but conform to their actions, to that standard, all cavils against them, betray either ignorance or dishonesty. There are some events in society, to which human laws cannot extend; but when applied to them lose all their force and efficacy. In short, when human laws contradict or discountenance the



means...necessary to preserve the essential rights of any society, they defeat the proper end of all laws, and so become null and void....

### **First Report on Public Credit (January 9, 1790)<sup>17</sup>**

...While the observance of that good faith, which is the basis of public credit, is recommended by the strongest inducements of political expediency, it is enforced by considerations of still greater authority. There are arguments for it, which rest on the immutable principles of moral obligation. And in proportion as the mind is disposed to contemplate, in the order of Providence, an intimate connection between public virtue and public happiness, will be its repugnancy to a violation of those principles.

This reflection derives additional strength from the nature of the debt of the United States. It was the price of liberty. The faith of America has been repeatedly pledged for it, and with solemnities, that give peculiar force to the obligation. There is indeed reason to regret that it has not hitherto been kept; that the necessities of the war, conspiring with inexperience in the subjects of finance, produced direct infractions; and that the subsequent period has been a continued scene of negative violation, or non-compliance. But a diminution of this regret arises from the reflection, that the last seven years have exhibited an earnest and uniform effort, on the part of the government of the union, to retrieve the national credit, by doing justice to the creditors of the nation; and that the embarrassments of a defective constitution, which defeated this laudable effort, have ceased....

It cannot but merit particular attention, that among ourselves the most enlightened friends of good government are those, whose expectations are the highest.

To justify and preserve their confidence; to promote the encreasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources both to agriculture and commerce; to cement more closely the union of the states; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy. These are the great and invaluable ends to be secured, by a proper and adequate provision, at the present period, for the support of public credit.

To this provision we are invited, not only by the general considerations, which have been noticed, but by others of a more particular nature. It will procure to every class of the community some important advantages, and remove some no less important disadvantages.

The advantage to the public creditors from the increased value of that part of their property which constitutes the public debt, needs no explanation.

But there is a consequence of this, less obvious, though not less true, in which every other citizen is interested. It is a well known fact, that in countries in which the national debt is properly funded, and an object of

established confidence, it answers most of the purposes of money. Transfers of stock or public debt are there equivalent to payments in specie; or in other words, stock, in the principal transactions of business, passes current as specie. The same thing would, in all probability happen here, under the like circumstances.

The benefits of this are various and obvious.

First. Trade is extended by it; because there is a larger capital to carry it on, and the merchant can at the same time, afford to trade for smaller profits; as his stock, which, when unemployed, brings him in an interest from the government, serves him also as money, when he has a call for it in his commercial operations.

Secondly. Agriculture and manufactures are also promoted by it: For the like reason, that more capital can be commanded to be employed in both; and because the merchant, whose enterprize in foreign trade, gives to them activity and extension, has greater means for enterprize.

Thirdly. The interest of money will be lowered by it; for this is always in a ratio, to the quantity of money, and to the quickness of circulation. This circumstance will enable both the public and individuals to borrow on easier and cheaper terms....

It is agreed on all hands, that that part of the debt which has been contracted abroad, and is denominated the foreign debt, ought to be provided for, according to the precise terms of the contracts relating to it. The discussions, which can arise, therefore, will have reference essentially to the domestic part of it, or to that which has been contracted at home. It is to be regretted, that there is not the same unanimity of sentiment on this part, as on the other.

The Secretary has too much deference for the opinions of every part of the community, not to have observed one, which has, more than once, made its appearance in the public prints, and which is occasionally to be met with in conversation. It involves this question, whether a discrimination ought not to be made between original holders of the public securities, and present possessors, by purchase. Those who advocate a discrimination are for making a full provision for the securities of the former, at their nominal value; but contend, that the latter ought to receive no more than the cost to them, and the interest: And the idea is sometimes suggested of making good the difference to the primitive possessor....

The impolicy of a discrimination results from two considerations; one, that it proceeds upon a principle destructive of that *quality* of the public debt, or the stock of the nation, which is essential to its capacity for answering the purposes of money—that is the *security of transfer*; the other, that as well on this account, as because it includes a breach of faith, it renders property in the funds less valuable; consequently induces lenders to demand a higher premium for what they lend, and produces every other inconvenience of a bad state of public credit.

It will be perceived at first sight, that the transferable quality of stock is essential to its operation as money, and that this depends on the idea of complete security to the transferee, and a firm persuasion, that no distinction can in any circumstances be made between him and the original proprietor....

The Secretary concluding, that a discrimination, between the different classes of creditors of the United States, cannot with propriety be *made*, proceeds to examine whether a difference ought to be permitted to *remain* between them, and another description of public creditors—Those of the states individually.

The Secretary, after mature reflection on this point, entertains a full conviction, that an assumption of the debts of the particular states by the union, and a like provision for them, as for those of the union, will be a measure of sound policy and substantial justice.

It would, in the opinion of the Secretary, contribute, in an eminent degree, to an orderly, stable and satisfactory arrangement of the national finances....

The principal question then must be, whether such a provision cannot be more conveniently and effectually made, by one general plan issuing from one authority, than by different plans originating in different authorities....

Persuaded as the Secretary is, that the proper funding of the present debt, will render it a national blessing: Yet he is so far from acceding to the position, in the latitude in which it is sometimes laid down, that “public debts are public benefits,” a position inviting to prodigality, and liable to dangerous abuse,—that he ardently wishes to see it incorporated, as a fundamental maxim, in the system of public credit of the United States, that the creation of debt should always be accompanied with the means of extinguishment. This he regards as the true secret for rendering public credit immortal. And he presumes, that it is difficult to conceive a situation, in which there may not be an adherence to the maxim. At least he feels an unfeigned solicitude, that this may be attempted by the United States, and that they may commence their measures for the establishment of credit, with the observance of it....

## Letters from Tully

### Tully No. I (August 23, 1794)<sup>18</sup>

It has from the first establishment of your present constitution been predicted, that every occasion of serious embarrassment which should occur in the affairs of the government—every misfortune which it should experience, whether produced from its own faults or mistakes, or from other causes, would be the signal of an attempt to overthrow it, or to lay the foundation of its overthrow, by defeating the exercise of constitutional and necessary authorities. The disturbances which have recently broken out in the western counties of Pennsylvania furnish an occasion of this sort. It remains

to see whether the prediction which has been quoted, proceeded from an unfounded jealousy excited by partial differences of opinion, or was a just inference from causes inherent in the structure of our political institutions....

**Tully No. II (August 26, 1794)<sup>19</sup>**

...The Constitution *you* have ordained for yourselves and your posterity contains this express clause, "The Congress *shall have power* to lay and collect taxes, duties, imposts, and *Excises*, to pay the debts, and provide for the common defence and general welfare of the United States." You have then, by a solemn and deliberate act, the most important and sacred that a nation can perform, pronounced and decreed, that your Representatives in Congress shall have power to lay Excises. You have done nothing since to reverse or impair that decree....

But the four western counties of Pennsylvania, undertake to rejudge and reverse your decrees[. Y]ou have said, "The Congress *shall have power* to lay *Excises*." They say, "The Congress *shall not have* this power." Or what is equivalent—they shall not exercise it:—for a *power* that may not be exercised is a nullity. Your Representatives have said, and four times repeated it, "an excise on distilled spirits *shall* be collected." They say it *shall not* be collected. We will punish, expel, and banish the officers who shall attempt the collection. We will do the same by every other person who shall dare to comply with your decree expressed in the Constitutional character; and with that of your Representative expressed in the Laws. The sovereignty shall not reside with you, but with us. If you presume to dispute the point by force—we are ready to measure swords with you....

If there is a man among us who shall...inculcate directly, or indirectly, that force ought not to be employed to compel the Insurgents to a submission to the laws, if the pending experiment to bring them to reason (an experiment which will immortalize the moderation of the government) shall fail; such a man is not a good Citizen; such a man however he may prate and babble republicanism, is not a republican; he attempts to set up the *will* of a part against the *will* of the whole, the *will* of a *faction*, against the *will* of *nation*, the pleasure of a *few* against *your* pleasure; the violence of a lawless combination against the sacred authority of laws pronounced under your indisputable commission.

Mark such a man, if such there be. The occasion may enable you to discriminate the *true* from *pretended Republicans*; *your* friends from the friends of *faction*. 'Tis in vain that the latter shall attempt to conceal their pernicious principles under a crowd of odious invectives against the laws. *Your* answer is this: "*We* have already in the Constitutional act decided the point against you, and against those for whom you apologize. *We* have pronounced that *excises* may be laid and consequently that they are not as you say inconsistent with Liberty. Let our will be first obeyed and then we shall be ready to consider the reason which can be afforded to prove our judgement has been

erroneous.... We have not neglected the means of amending in a regular course the Constitutional act.... In a full respect for the laws we discern the reality of our power and the means of providing for our welfare as occasion may require; in the contempt of the laws we see the annihilation of our power; the possibility, and the danger of its being usurped by others & of the despotism of individuals succeeding to the regular authority of the nation."

That a fate like this may never await *you*, let it be deeply imprinted in your minds and handed down to your latest posterity, that there is no road to *despotism* more sure or more to be dreaded than that which begins at *anarchy*.

### Tully No. III (August 28, 1794)<sup>20</sup>

If it were to be asked, What is the most sacred duty and the greatest source of security in a Republic? the answer would be, An inviolable respect for the Constitution and Laws—the first growing out of the last. It is by this, in a great degree, that the rich and powerful are to be restrained from enterprises against the common liberty—operated upon by the influence of a general sentiment, by their interest in the principle, and by the obstacles which the habit it produces erects against innovation and encroachment. It is by this, in a still greater degree, that caballers, intriguers, and demagogues are prevented from climbing on the shoulders of faction to the tempting seats of usurpation and tyranny....

Government is frequently and aptly classed under two descriptions, a government of FORCE and a government of LAWS; the first is the definition of despotism—the last, of liberty. But how can a government of laws exist where the laws are disrespected and disobeyed? Government supposes controul. It is the POWER by which individuals in society are kept from doing injury to each other and are bro't to co-operate to a common end. The instruments by which it must act are either the AUTHORITY of the Laws or FORCE. If the first be destroyed, the last must be substituted; and where this becomes the ordinary instrument of government there is an end to liberty.

Those, therefore, who preach doctrines, or set examples, which undermine or subvert the authority of the laws, lead us from freedom to slavery; they incapacitate us for a GOVERNMENT OF LAWS, and consequently prepare the way for one of FORCE, for mankind MUST HAVE GOVERNMENT OF ONE SORT OR ANOTHER.

There are indeed great and urgent cases where the bounds of the constitution are manifestly transgressed, or its constitutional authorities so exercised as to produce unequivocal oppression on the community, and to render resistance justifiable. But such cases can give no color to the resistance by a comparatively inconsiderable part of a community, of constitutional laws distinguished by no extraordinary features of rigour or oppression, and acquiesced in by the BODY OF THE COMMUNITY.

Such a resistance is treason against society, against liberty, against everything that ought to be dear to a free, enlightened, and prudent people. To tolerate were to abandon your most precious interests. Not to subdue it, were to tolerate it....

**Tully No. IV (September 2, 1794)<sup>21</sup>**

...Fellow Citizens—You are told, that it will be intemperate to urge the execution of the laws which are resisted—what? will it be indeed intemperate in your Chief Magistrate, sworn to maintain the Constitution, charged faithfully to execute the Laws, and authorized to employ for that purpose force when the ordinary means fail—will it be intemperate in him to exert that force, when the constitution and the laws are opposed by force? Can he answer it to his conscience, to you not to exert it?

Yes, it is said; because the execution of it will produce civil war, the consummation of human evil.

Fellow-Citizens—Civil War is undoubtedly a great evil. It is one that every good man would wish to avoid, and will deplore if inevitable. But it is incomparably a less evil than the destruction of Government. The first brings with it serious but temporary and partial ills—the last undermines the foundations of our security and happiness—where should we be if it were once to grow into a maxim, that force is not to be used against the seditious combinations of parts of the community to resist the laws?... The Hydra Anarchy would rear its head in every quarter. The goodly fabric you have established would be rent assunder, and precipitated into the dust.... You know that the POWER of the majority and LIBERTY are inseparable—destroy that, and this perishes....

## RECOMMENDED READINGS

- Forrest McDonald, *Alexander Hamilton: A Biography* (New York: W.W. Norton, 1982).  
 Richard Brookhiser, *Alexander Hamilton, American* (New York: Simon & Schuster, 1999).  
 Gerald Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Redwood City, CA: Stanford University Press, 1970).  
 Karl-Friedrich Walling, *Republican Empire: Alexander Hamilton on War and Free Government* (Lawrence, KS: University Press of Kansas, 1999).  
 Stephen F. Knott, *Alexander Hamilton and the Persistence of Myth* (Lawrence, KS: University Press of Kansas, 2002).  
 Ron Chernow, *Alexander Hamilton* (New York: Penguin Books, 2005).



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# John Jay

## Life

John Jay was born on December 12, 1745, in New Rochelle, New York, to French Huguenot refugees. In 1774, he married Sarah Van Brugh Livingston, with whom he had five children. Jay entered politics shortly before the Revolutionary War and held a variety of offices during his career, from President of the Continental Congress to first U.S. Supreme Court Chief Justice. He retired in 1801 and moved to a farmhouse in Westchester. Jay's wife Sarah died the next year, and he never remarried. He died on May 17, 1829, with the following instructions for his funeral: "I would have my funeral decent, but not ostentatious, no scarfs, no ring. Instead thereof, I give \$200 to any one poor deserving widow or orphan of this town whom my children shall select."

## Education

Jay received an early education at the French Huguenot Church School. He entered King's College (now Columbia University) at age 14 and graduated in 1764. Jay later returned to King's College to earn his master of arts degree and was admitted to the bar in 1768.

## Religion

Anglican/Episcopalian

## Political Affiliation

Federalist

## Highlights and Accomplishments

1774–1776	Delegate to the Continental Congress
1774	Drafted The Address to the People of Great Britain
1777–1778	Chief Justice, New York Supreme Court of Judicature
1778–1779	Delegate to the Continental Congress
1778–1779	President, Continental Congress
1779	U.S. Minister to Spain
1784–1789	Secretary of Foreign Affairs
	Co-author (with Alexander Hamilton and James Madison), <i>The Federalist Papers</i>
1789–1795	First Chief Justice, Supreme Court of the United States
1794	Negotiated "Jay Treaty" with Britain
1795–1801	Governor of New York



John Jay by Gilbert Stuart, 1794, public domain.

[M]ore talent, more zeal, more patriotism, and greater purity had never been exhibited by a public functionary than by John Jay.

—*New York State Bar*, 1829<sup>1</sup>

# John Jay: Father of American Jurisprudence and Diplomacy

## The Life of John Jay

Despite being one of the lesser-known Founders, John Jay was instrumental in shaping the legal and diplomatic institutions that were vital to the development of the United States as an independent sovereign. Jay's involvement in the founding of the United States spans decades, beginning with his work as a delegate in both the First and Second Continental Congresses to secure American independence from Great Britain. As a co-author of *The Federalist Papers*, he helped to lay the intellectual groundwork for ratification of the U.S. Constitution, emphasizing the need for a strong, unified federal government.

Jay also served as the first Chief Justice of the U.S. Supreme Court, where he established important precedents that helped to ensure the judiciary's authority and independence. His diplomatic contributions were equally significant; as a negotiator of the [Treaty of Paris](#) (1783), he helped to secure American independence, and through the [Jay Treaty](#) (1794), he averted war with Britain and stabilized foreign relations during a fragile period. John Jay's commitment to the rule of law and national unity had an enduring impact on the new nation's governance.

## Self-Government and National Character

In his remarkable "[Charge to the Grand Juries](#)," Jay pondered the penultimate question of the American Founding: Are men capable of self-government? During the Constitutional Convention, this had remained largely unanswered. In [Federalist 1](#), Alexander Hamilton stated that it "seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable

or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.”<sup>2</sup> By 1790, Jay’s response to this quandary was based on his understanding of the necessary link between self-government and liberty: “Whether any people can long govern themselves in an equal, uniform and orderly manner, is a question which advocates for free government justly consider as being exceedingly important to the cause of liberty.”<sup>3</sup>

The link between self-government and liberty can endure as long as the people’s desires are restrained by a common morality. How would this new nation foster an environment to preserve these foundational principles? What elements would define this common morality that would surpass the selfish desires of individuals and unite independent states under the banner of one government?

To understand Jay’s political thought, we must examine both his public and his private correspondence. He believed that the origins of the United States were a testament to divine guidance and that its future was a trust to be preserved through righteousness and wisdom. Several recurring themes become evident in his view of the young Republic and the maintenance of principled liberty: the establishment of a strong national government, the need for unity among the people and the states, and the Providential guidance that ultimately created a moral mandate to secure its preservation.

According to Jay, America benefited from a unique, divinely inspired national character that required its people to maintain a unified identity to secure the new nation’s safety and prosperity. For Jay and many of his contemporaries, a strong centralized government was essential to the creation and perpetuation of this unified American identity. The lack of national government jurisdiction, the states’ tendency to usurp authority, the ongoing conflicts between the states, and the failure of the states to protect property rights provided the necessary justification for a stronger national government to ensure the survival and success of the new nation.

In a letter to George Washington on January 7, 1787, Jay wrote that “What powers should be granted to the [national] government” was “a question which deserves much thought.” His answer: “I think the more the better, the States retaining only so much as may be necessary for domestic purposes, and all their principal officers, civil and military, being commissioned and removable by the national government.”<sup>4</sup> He believed the loose framework of the [Articles of Confederation](#) had proven inadequate in addressing the growing concerns of proper governance, national security, and interstate relations. “It is not to be wondered at, that a government instituted in times so inauspicious, should on experiment be found greatly deficient and inadequate to the purpose it was intended to answer.”<sup>5</sup>

Of particular concern to Jay were the divisions the Articles created in international relations. If the new country could not preserve itself from internal disunity, it would inevitably become vulnerable to external threats. Under the Articles of Confederation, the states had maintained their own currencies, trade policies, and tariffs, which created barriers to interstate commerce and ultimately harmed the individual states. Jay asserted that the strength of the new nation depended on both political unity and economic integration. A central government with the power to regulate trade, impose tariffs on foreign states, and create a common currency would enhance economic stability and growth both for the individual state economies and for the nation’s financial system in international engagement.

Jay also recognized that political unity was necessary to create a stable environment for governance across state lines. Under the Articles, the lack of a strong central authority made it nearly impossible to enforce national laws on the states and Americans individually. States often acted in their own self-interest, undermining efforts to create a coherent national policy and establishing a standard of interstate chaos. A strong union with a central authority capable of making and enforcing laws would bring order and consistency to governance, making it possible to address the country's challenges more effectively.

For Jay and his Federalist compatriots, the creation and ratification of the Constitution laid the groundwork for the American people as a whole to be subject to the national government, effectively transferring the individual sovereignty of the states to the national government to ensure uniform governance and protection of liberty.<sup>6</sup> While the states shared a common heritage and a strong sense of American identity, their individual differences—political, economic, and geographic—could easily lead to conflict and ongoing disarray. Without a cohesive national government to mediate these differences, the states would be prone to continued division that would weaken any national character that bound them together. This was a particular concern of Jay's jurisprudence as the first Chief Justice of the United States.

## Crafting a National Judiciary

In his writing to George Washington before the Constitutional Convention, Jay argued that the new government must be created with three distinct branches to legislate, execute, and adjudicate the law to achieve the greatest good.<sup>7</sup> With the ratification of the Constitution and passage of the Judiciary Act of 1789, President George Washington was placed in the unique position of selecting the members of the first Supreme Court of the United States. This was not a task he took lightly; Washington saw the judicial system as “the chief pillar upon which our national government must rest.”<sup>8</sup> Because of Jay's previous experience and excellent character, Washington nominated him to serve as the first Chief Justice, a position he accepted on October 6, 1789.

Jay was faced with a distinct set of challenges in this role as he was tasked with establishing the independence and authority of the Supreme Court in American jurisprudence. While the Court heard relatively few cases under his leadership, perhaps the most consequential was *Chisholm v. Georgia*. In 1777, the State of Georgia had purchased goods from a businessman in South Carolina; however, because of the businessman's loyalist sympathies, the state had never paid him. Upon his death, Alexander Chisholm, the executor of his estate, claimed that Georgia had unlawfully seized his property and that he had the right to collect the outstanding debt from Georgia. Georgia refused the claim, asserting that it was a sovereign state and therefore not subject to federal jurisdiction in the interstate dispute.

The Court ruled in favor of Chisholm, with Jay using the opportunity to expand upon the supremacy of the federal government. Tracing the history of the American people back to the Revolutionary era, Jay articulated a philosophical understanding of the power of individual citizens in determining the authority of government. Because the colonists had all been equal citizens under the British Crown and unified as one people in signing

the Declaration of Independence, the power of government derived from the whole of the American citizenry, not the citizens of individual states. With ratification of the Constitution, the American people granted supreme authority to it, thus making them subject to the Constitution's jurisdiction over the individual states' jurisdiction.

Further, a national government with an effective national judiciary would secure "individual citizens as well as States, in their respective rights, perform[ing] the promise which every free Government makes to every free citizen, of equal justice and protection. It is *useful*, because it is honest; because it leaves not even the most obscure and friendless citizen without means of obtaining justice...."<sup>9</sup> Creating a strong national government would ensure the equal protection of individual rights and preserve an essential equality to bind the states to one another.

## Unity as a Foundation for Sovereignty

For Jay, unity based on national governance and common heritage was crucial to the future success of the new country on the international stage. During the Revolution, Jay was sent to Spain to establish diplomatic recognition for the colonists' cause. He then served as a member of the American delegation to secure the Treaty of Paris in 1783, effectively ending the war with Great Britain. Upon his return from Europe following the war, he was appointed Secretary of Foreign Affairs under the Articles of Confederation. In these posts, it became apparent to Jay that the ability of the new nation to command international recognition would be one of the most consequential factors in securing American sovereignty.

The potential for dissension among the states under the Articles of Confederation was not a mere theoretical problem; it presented a pressing geopolitical risk, as the United States would be unable to protect itself from foreign threats or maintain its independence if it were divided into smaller competing factions of states. To ensure the preservation of American sovereignty and security, the United States needed a strong national government capable of projecting the requisite power on the international stage and defending itself from the encroachment of foreign powers, particularly Great Britain and Spain, which still held territorial interests on the North American continent. The only way the states could manage these external threats effectively was by combining their resources and military capabilities and acting as one unified nation.<sup>10</sup>

Jay feared that if the states remained separate entities, they would be unable to coordinate defensive efforts and instead would become the targets of manipulation by foreign powers. A divided America would be a weak America, vulnerable to invasion, coercion, and diplomatic isolation. This lesson was especially important at a time when the world consisted of competing empires and the United States had yet to demonstrate the political might that it would need to defend itself against the imperial interests of the world's great powers.

In *Federalist* No. 5, Jay emphasized that creating a strong national government would help to prevent internal divisions and conflicts, thereby fostering a greater sense of national identity and unity, which is essential to protecting the nation from external threats. Inviting the reader to examine England, Scotland, and Wales, he argued that when united, they created a formidable international force; however, when they fell victim to disarray, they



were formidable enemies pitted against each other. Jay saw the same fate for the United States if there was no centralized government to ensure the preservation of a unified citizenry: "Instead of their being 'joined in affection' and free from all apprehension of different 'interests,' envy and jealousy would soon extinguish confidence and affection, and the partial interests of each confederacy, instead of the general interests of all America, would be the only objects of their policy and pursuits."<sup>11</sup> The result of disunion is a rise of suspicion and, ultimately, distrust:

Much time would not be necessary to enable her to discern these unfriendly dispositions. She would soon begin, not only to lose confidence in her neighbors, but also to feel a disposition equally unfavorable to them. Distrust naturally creates distrust, and by nothing is good will and kind conduct more speedily changed than by invidious jealousies and uncandid imputations, whether expressed or implied.<sup>12</sup>

Not only did Jay advocate for the creation of a unified citizenry to mitigate the threat of internal and external discord, but he saw it as essential to the preservation of the broader American identity that had emerged during the Revolutionary War. He believed that the American people had forged a unique national character through their struggle for independence. The shared experience of revolution had created a sense of solidarity, committing them to the republican principles and ideals that had seen them through the war.

Jay further believed that "this country and this people seem to have been made for each other" and that their common ancestry, language, and ideals should serve as the foundation for a unified government and national identity.<sup>13</sup> Regardless of interstate differences, the people of the United States were bound together by a shared sense of purpose and destiny. Americans could not afford to have their national identity undermined by local allegiances and sectionalism. A strong union preserved through practical national governance and promotion of a common national identity would both ensure that the country would not fall victim to internal factions and empower it to pursue its common interests on the global stage.

## **Belief in Divine Providence**

For Jay, the success of the American Revolution, the establishment of a unified government, and the unique moral character of the new nation were manifestations of God's guiding hand and Providence in the founding of the United States. Jay believed that Providence was not an abstract concept: It was a tangible force that actively shaped events and inspired leaders throughout history. His writings reveal a deep conviction that Divine Providence played a critical role in the establishment and survival of the nation. This conviction shaped his understanding of the American Founding and highlighted the immense responsibilities that the leaders of the young nation had in living up to these high ideals.

Jay viewed the American Revolution as more than just a political struggle; it was a moral endeavor aligned with divine justice. Despite the overwhelming odds against a loose alliance of fledgling states achieving independence from the powerful British Empire, the states

emerged victorious—a triumph that Jay and many of his contemporaries attributed to Providential intervention in support of a just cause. In a letter to the General Committee of Tryon County in 1777, Jay responded to the divisiveness and fear taking root among the people of Tryon County upon news of the British advance by encouraging the men to stand strong in defense of the country and “with firm confidence[,] trust the event with that Almighty and benevolent Being who hath commanded you to hold fast the liberty with which he has made you free; and who is able as well as willing to support you in performing his orders.”<sup>14</sup>

The improbable victories and alliances forged during the war, including the crucial support received from France, were seen by Jay as the ultimate evidence of divine favor. This belief was not only a source of inspiration, but also a higher calling to leaders to act with integrity and wisdom in creating this new nation.

Jay believed that Divine Providence extended past the remarkable success of the American Revolution to the drafting and ratification of the U.S. Constitution. The challenge of uniting 13 diverse and individualistic states under a single, unified national government posed numerous, potentially insurmountable challenges. Yet, despite all odds, the Constitution that emerged from the Convention balanced state and national authority, protected individual rights, and established a unique framework for governance. In *Federalist* No. 2, Jay explicitly attributed the unity of the American people and the opportunity to form a new government to the Divine: “It has often given me pleasure to observe that Providence has been pleased to give this one connected country to one united people—a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government.”<sup>15</sup>

Given the Providential circumstances of the Constitution’s drafting, Jay saw its swift ratification as a moral necessity. The establishment of a strong national government to foster national unity was of paramount importance in upholding God’s design for the American people. As Jay saw it, Americans were obligated to honor the blessings of independence and self-governance by adhering to moral and religious principles. Moreover, he contended, Providence has made the continued success of the Republic dependent on the moral character of its leaders and citizens. In a letter written in 1816, Jay asserted that “Providence has given to our people the choice of their rulers, and it is the duty, as well as the privilege and interest of our Christian nation, to select and prefer Christians for their rulers.”<sup>16</sup>

Jay believed that the United States was also tasked with exemplifying the compatibility among liberty, morality, and faith on the global stage. It was the nation’s role to serve as a beacon of self-governance and justice to the rest of the world—an example of a republic grounded in moral and religious principles to inspire and uplift the whole of humanity toward the fulfillment of a higher mission entrusted to them by God.

## Jay’s Legacy

Jay’s political philosophy served a vital purpose in the development of the new nation. He was on the ideological frontlines of the American Founding, from the Continental Congresses through the early years of the young Republic, actively promoting belief in a divinely inspired national identity that would serve as an example to governments around

the globe. His writings supported ratification of the U.S. Constitution and outlined the interdependence of the centralization, unification, and civic morality that the United States would need to ensure its preservation both at home and abroad. He would go on to develop the nationalist framework for the jurisprudence of the U.S. Supreme Court, asserting the judiciary's independence and national jurisdiction.

The impact of John Jay's political thought has reverberated across the decades. His belief in the need for a strong national government and preservation of a unified citizenry reflect his pragmatic recognition of the types of challenges that faced the fledging United States and continue to face us today. However, it is the moral and spiritual underpinnings of the American Founding that create the enduring responsibility of the American people to uphold the ideals that define the nation's character.

Jay understood that without a strong, centralized government, the country would be vulnerable to internal discord, external threats, and economic stagnation. His vision of a united America was not merely an abstract political ideal; it was a practical perspective on the survival and prosperity of the nation. Ultimately, however, that vision can be realized only when guided by Providence. The success of the United States, Jay believed, was contingent on the nation's acceptance of the interdependent principles of national sovereignty, unity, and Providential favor. Times of conflict and times of prosperity have been marked by America's rejection or acceptance of these three principles. In many ways, Jay's philosophy established the foundation for understanding what truly constitutes American prosperity.

Jay's wisdom transcends time and provides important lessons for us in dealing with our current state of affairs. At the time of the American Founding, political division abounded. Individual identity was tied to religious, ethnic, and state-based characteristics. The labels of identity and disunity may change over time, but the struggle with dissension remains. It is the fulfillment of moral obligations and cultivation of civic virtue that advance national identity and temper the selfish desires of individuals and governments alike.

John Jay lived to see the United States through its struggle for independence, the establishment of the Constitution, and several presidential Administrations before he passed away in 1829. The *New York Evening Post's* obituary equated Jay's life with the fuller history of the United States: "To enumerate the civil and diplomatic stations he has filled, and the most important measures he promoted, would be to record the events of some of the most interesting periods in our national history."<sup>17</sup> And the New York State Bar avowed that "more talent, more zeal, more patriotism, and greater purity had never been exhibited by a public functionary than by John Jay."<sup>18</sup>

To study Jay's life and legacy is to study the evolution of United States' politics, jurisprudence, and international affairs. It is also an inquiry into the great American experiment in governance. For Jay, the security and prosperity of the United States would depend on the American people's ability to understand the divine gift of liberty and what steps must be taken to ensure its preservation. His writings serve as an enduring reminder of the principles that guided the American Founding and a call for Americans to uphold the Providential mandate for unity and self-government in order to "secure the Blessings of liberty to Ourselves and our Posterity."<sup>19</sup>

## SELECTED PRIMARY WRITINGS

### Federalist No. 5 (November 10, 1787)<sup>20</sup>

QUEEN Ann, in her letter of the 1st July, 1706, to the Scotch Parliament, makes some observations on the importance of the *Union* then forming between England and Scotland, which merit our attention. I shall present the public with one or two extracts from it: "An entire and perfect union will be the solid foundation of lasting peace: It will secure your religion, liberty, and property; remove the animosities amongst yourselves, and the jealousies and differences betwixt our two kingdoms. It must increase your strength, riches, and trade; and by this union the whole island, being joined in affection and free from all apprehensions of different interest, will be *enabled to resist all its enemies*." "We most earnestly recommend to you calmness and unanimity in this great and weighty affair, that the union may be brought to a happy conclusion, being the only *effectual* way to secure our present and future happiness, and disappoint the designs of our and your enemies, who will doubtless, on this occasion, *use their utmost endeavors to prevent or delay this union*."

It was remarked in the preceding paper, that weakness and divisions at home would invite dangers from abroad; and that nothing would tend more to secure us from them than union, strength, and good government within ourselves. This subject is copious and cannot easily be exhausted.

The history of Great Britain is the one with which we are in general the best acquainted, and it gives us many useful lessons. We may profit by their experience without paying the price which it cost them. Although it seems obvious to common sense that the people of such an island should be but one nation, yet we find that they were for ages divided into three, and that those three were almost constantly embroiled in quarrels and wars with one another. Notwithstanding their true interest with respect to the continental nations was really the same, yet by the arts and policy and practices of those nations, their mutual jealousies were perpetually kept inflamed, and for a long series of years they were far more inconvenient and troublesome than they were useful and assisting to each other.

Should the people of America divide themselves into three or four nations, would not the same thing happen? Would not similar jealousies arise, and be in like manner cherished? Instead of their being "joined in affection" and free from all apprehension of different "interests," envy and jealousy would soon extinguish confidence and affection, and the partial interests of each confederacy, instead of the general interests of all America, would be the only objects of their policy and pursuits. Hence, like most other *bordering* nations, they would always be either involved in disputes and war, or live in the constant apprehension of them.

The most sanguine advocates for three or four confederacies cannot reasonably suppose that they would long remain exactly on an equal footing

in point of strength, even if it was possible to form them so at first; but, admitting that to be practicable, yet what human contrivance can secure the continuance of such equality? Independent of those local circumstances which tend to beget and increase power in one part and to impede its progress in another, we must advert to the effects of that superior policy and good management which would probably distinguish the government of one above the rest, and by which their relative equality in strength and consideration would be destroyed. For it cannot be presumed that the same degree of sound policy, prudence, and foresight would uniformly be observed by each of these confederacies for a long succession of years.

Whenever, and from whatever causes, it might happen, and happen it would, that any one of these nations or confederacies should rise on the scale of political importance much above the degree of her neighbors, that moment would those neighbors behold her with envy and with fear. Both those passions would lead them to countenance, if not to promote, whatever might promise to diminish her importance; and would also restrain them from measures calculated to advance or even to secure her prosperity. Much time would not be necessary to enable her to discern these unfriendly dispositions. She would soon begin, not only to lose confidence in her neighbors, but also to feel a disposition equally unfavorable to them. Distrust naturally creates distrust, and by nothing is good will and kind conduct more speedily changed than by invidious jealousies and uncandid imputations, whether expressed or implied.

The North is generally the region of strength, and many local circumstances render it probable that the most Northern of the proposed confederacies would, at a period not very distant, be unquestionably more formidable than any of the others. No sooner would this become evident than the *Northern Hive* would excite the same ideas and sensations in the more southern parts of America which it formerly did in the southern parts of Europe. Nor does it appear to be a rash conjecture that its young swarms might often be tempted to gather honey in the more blooming fields and milder air of their luxurious and more delicate neighbors.

They who well consider the history of similar divisions and confederacies will find abundant reason to apprehend that those in contemplation would in no other sense be neighbors than as they would be borderers; that they would neither love nor trust one another, but on the contrary would be a prey to discord, jealousy, and mutual injuries; in short, that they would place us exactly in the situations in which some nations doubtless wish to see us, viz., *formidable only to each other*.

From these considerations it appears that those gentlemen are greatly mistaken who suppose that alliances offensive and defensive might be formed between these confederacies, and would produce that combination and union of wills of arms and of resources, which would be necessary to put and keep them in a formidable state of defense against foreign enemies.

When did the independent states, into which Britain and Spain were formerly divided, combine in such alliance, or unite their forces against a foreign enemy? The proposed confederacies will be *distinct nations*. Each of them would have its commerce with foreigners to regulate by distinct treaties; and as their productions and commodities are different and proper for different markets, so would those treaties be essentially different. Different commercial concerns must create different interests, and of course different degrees of political attachment to and connection with different foreign nations. Hence it might and probably would happen that the foreign nation with whom the *Southern* confederacy might be at war would be the one with whom the *Northern* confederacy would be the most desirous of preserving peace and friendship. An alliance so contrary to their immediate interest would not therefore be easy to form, nor, if formed, would it be observed and fulfilled with perfect good faith.

Nay, it is far more probable that in America, as in Europe, neighboring nations, acting under the impulse of opposite interests and unfriendly passions, would frequently be found taking different sides. Considering our distance from Europe, it would be more natural for these confederacies to apprehend danger from one another than from distant nations, and therefore that each of them should be more desirous to guard against the others by the aid of foreign alliances, than to guard against foreign dangers by alliances between themselves. And here let us not forget how much more easy it is to receive foreign fleets into our ports, and foreign armies into our country, than it is to persuade or compel them to depart. How many conquests did the Romans and others make in the characters of allies, and what innovations did they under the same character introduce into the governments of those whom they pretended to protect.

Let candid men judge, then, whether the division of America into any given number of independent sovereignties would tend to secure us against the hostilities and improper interference of foreign nations.

### *Chisholm v. Georgia* (1793)<sup>21</sup>

In determining the sense in which *Georgia* is a sovereign State, it may be useful to turn our attention to the political situation we were in, prior to the Revolution, and to the political Rights which emerged from the Revolution. All the country now possessed by the *United States* was then a part of the dominions appertaining to the crown of *Great Britain*. Every acre of land in this country was then held mediately or immediately by grants from that crown. All the people of this country were then, subjects of the *King of Great Britain*, and owed allegiance to him; and all the civil authority then existing or exercised here, flowed from the head of the *British Empire*. They were in strict sense *fellow* subjects, and in a variety of respects one people. When the Revolution commenced, the patriots did not assert that only the same



affinity and social connection subsisted between the people, of the colonies, which subsisted between the people of *Gaul*, *Britain*, and *Spain*, while *Roman Provinces*, viz. only that affinity and social connection which result from the mere circumstance of being governed by the same *Prince*; different ideas prevailed, and gave occasion to the *Congress* of 1774 and 1775.

The Revolution, or rather the Declaration of Independence, found the people *already* united for general purposes, and at the same time providing for their more domestic concerns by State conventions, and other temporary arrangements. From the crown of *Great Britain*, the sovereignty of their country passed to the people of it; and it was then not an uncommon opinion, that the unappropriated lands which belonged to that crown, passed not to the people of the Colony or States within whose limits they were situated, but to the whole people; on whatever principles this opinion rested, it did give way to the other, and thirteen sovereignties were considered as emerging from the principles of the Revolution, combined with local convenience and considerations; the people nevertheless continued to consider themselves, in a national point of view, as one people; and they continued without interruption to manage their national concerns accordingly; afterwards, in the hurry of the war, and in the warmth of mutual confidence, they made a confederation of the States, the basis of a general Government. Experience disappointed the expectations they had formed from it; and then the people, in their collective and national capacity, established the present Constitution.

It is remarkable that in establishing it, the people exercised their own rights, and their own proper sovereignty, and conscious of the plenitude of it, they declared with becoming dignity, "We the *people* of the *United States*, do ordain and establish this Constitution." Here we see the people acting as sovereigns of the whole country; and in the language of sovereignty, establishing a Constitution by which it was their will, that the State Governments should be bound, and to which the State Constitutions should be made to conform. Every State Constitution is a compact made by and between the citizens of a State to govern themselves in a certain manner; and the Constitution of the *United States* is likewise a compact made by the people of the *United States* to govern themselves as to general objects, in a certain manner. By this great compact however, many prerogatives were transferred to the national Government, such as those of making war and peace, contracting alliances, coining money, &c. &c.

If then it be true, that the sovereignty of the nation is in the people of the nation, and the residuary sovereignty of each State in the people of each State, it may be useful to compare these sovereignties with those in Europe, that we may thence be enabled to judge, whether all the prerogatives which are allowed to the latter, are so essential to the former. There is reason to suspect that some of the difficulties which embarrass the present question arise from inattention to differences which subsist between them.

It will be sufficient to observe briefly, that the sovereignties in *Europe*, and particularly in *England*, exist on *feudal* principles. That system considers the *Prince* as the *sovereign*, and the *people* as his *subjects*; it regards his *person* as the object of allegiance, and excludes the idea of his being on an equal footing with a subject, either in a Court of Justice or elsewhere. That system contemplates him as being the foundation of honor and authority; and from his grace and grant derives all franchises, immunities and privileges; it is easy to perceive that such a sovereign could not be amenable to a Court of Justice, or subjected to judicial controul and actual constraint. It was of necessity, therefore, that suability became incompatible with such sovereignty. Besides, the *Prince* having all the Executive powers, the judgment of the courts would, in fact, be only monitory, not mandatory to him, and a capacity to be advised, is a distinct thing from a capacity to be sued. The same feudal ideas run through all their jurisprudence, and constantly remind us of the distinction between the *Prince* and the subject. No such ideas obtain here; At the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are *sovereigns without subjects* (unless the *African* slaves among us may be so called) and have none to govern but *themselves*; the citizens of *America* are equal as fellow citizens, and as joint tenants in the sovereignty.

From the differences existing between feudal sovereignties and Governments founded on compacts, it necessarily follows that their respective prerogatives must differ. Sovereignty is the right to govern; a nation or State-sovereign is the person or persons in whom that resides. In *Europe* the sovereignty is generally ascribed to the *Prince*; here it rests with the people; there, the sovereign actually administers the Government; here, never in a single instance; our Governors are the agents of the people, and at most stand in the same relation to their sovereign, in which regents in *Europe* stand to their sovereigns. Their *Princes* have *personal* powers, dignities and pre-eminences; our rulers have none but *official*; nor do they partake in the sovereignty otherwise, or in any other capacity, than as private citizens.

## RECOMMENDED READINGS

Walter Stahr, *John Jay: Founding Father* (New York: Diversion Books, 2012).

Elizabeth M. Nuxoll, ed., *The Selected Papers of John Jay*, 7 vols. (Charlottesville: University of Virginia Press, 2010–2021).

William Jay, *The Life of John Jay: With Selections from His Correspondence and Miscellaneous Papers*, 2 vols. (New York: J. & J. Harper, 1833).

Richard B. Morris, ed., *John Jay: The Winning of the Peace: Unpublished Papers, 1780–1784* (New York: HarperCollins, 1980).

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# John Marshall

## Life

John Marshall was born on September 24, 1755, in Germantown, Virginia, the eldest of 15 children born to Thomas Marshall and Mary Randolph Keith. He married Mary Willis “Polly” Ambler on January 3, 1783, at the age of 27. They had 10 children, six of whom lived to adulthood. He died in Philadelphia on July 6, 1835, and is buried next to his wife in the Shockoe Hill Cemetery in Richmond, Virginia. Marshall, often referred to as the Great Chief Justice, remains the longest-serving Chief Justice of the United States in American history. During that time, he participated in more than 1,000 decisions and wrote more than 500 majority opinions. After his passing, Justice Joseph Story said of Marshall, “His proudest epitaph may be written in a single line—‘Here lies the expounder of the Constitution.’”

## Education

Marshall received most of his early education at home, supplemented by instruction from a clergyman and a one-year stint at an academy in Westmoreland County; he studied law at the College of William & Mary and was admitted to the Virginia bar in 1780.

## Religion

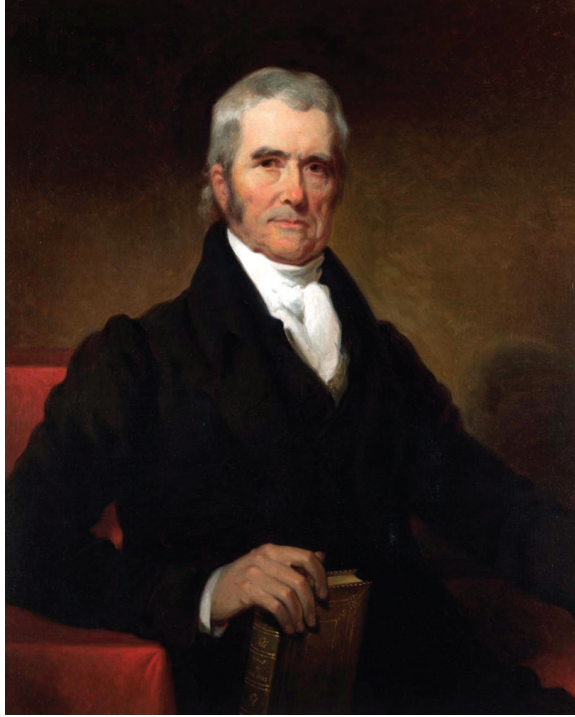
Although Marshall’s convictions were Unitarian, he attended a more popular Episcopalian church out of deference to his wife.

## Political Affiliation

Federalist Party

## Highlights and Accomplishments

1782–1789	Virginia House of Delegates
1785–1788	Recorder of the Hustings Court of the City of Richmond
1795–1796	Virginia House of Delegates
1799–1800	United States House of Representatives
1800–1801	Secretary of State
1801–1835	Chief Justice of the Supreme Court of the United States



John Marshall by Henry Inman, 1832, Virginia State Library.

One occasionally hears the expression that an *institution* is the lengthened shadow of an *individual*. It may be risky to suggest that any institution which has endured for two hundred ten years the way the Supreme Court of the United States has could be the lengthened shadow of any one individual; but surely there is only one individual who could possibly qualify for this distinction, and that individual is John Marshall. John Adams, after his retirement from the Presidency, said, “his gift of John Marshall to people of the United States was the proudest act of his life.” What a splendid gift.

—Chief Justice William Rehnquist, October 6, 2000<sup>1</sup>

# John Marshall: Expounder of the Constitution

## The Life of John Marshall

John Marshall began life in a log cabin close to the American frontier. His father, Thomas, came from a notable Virginia landowning family, and the elder Marshall would spend several years in local and state government. He became a prominent surveyor who befriended and frequently worked with George Washington, also a prominent surveyor and who would later play a significant role in Marshall's own life. His mother, Mary, was the daughter of an Anglican minister and a descendant of the influential Randolph family, which would make the younger Marshall a distant cousin of Thomas Jefferson. Marshall and Jefferson disliked each other, at times intensely. Some have speculated that one of the reasons for this tension was that Marshall's grandmother had been disowned by the wealthy Randolph family while Jefferson's ancestors stayed in good standing, although there are no writings that suggest this was the cause of their frosty relationship (they had many other reasons not to like each other).

Marshall was the eldest of 15, and his parents took it upon themselves to educate him themselves with supplemental instruction from a clergyman and a one-year stint at an academy in Westmoreland County where he befriended future President James Monroe. The family was well-equipped for the task. The elder Marshall's library included the works of Horace, Livy, Alexander Pope, John Dryden, John Milton, and William Shakespeare. As an adult, Marshall would recall fondly how his father instructed him to transcribe the poems of Pope. Among the books in that library was a copy of Sir William Blackstone's *Commentaries on the Laws of England*. Marshall would later write that from the time he was a young boy, "I was destined to the bar" (a similar destiny awaited four of his six brothers).

During the Revolutionary War, Marshall was appointed as a lieutenant in the Culpepper Minutemen, where he participated in the Battles of Great Bridge, Brandywine,

Germantown, Monmouth, Stony Point, and Paulus Hook. It was fighting during the war, rather than his life as a lawyer and jurist, that had the most profound impact on Marshall, who said that the experience confirmed in him “the habit of considering America [rather than Virginia] as my country.”

During the winter of 1777–1778, Marshall was stationed at Valley Forge with General George Washington’s troops. It was there that he developed a close relationship with Washington, who appointed him chief legal officer. Washington had a profound influence on Marshall, who referred to him as “the greatest Man on earth.” Decades later, Marshall would write a multi-volume biography of Washington—the only book he ever wrote. After Washington died on December 14, 1799, it was Marshall, then a member of Congress, who eulogized him on the floor of the House of Representatives, delivering the famous words, actually written by Henry Lee, that Washington was “First in war. First in Peace. First in the hearts of his countrymen.” And it was Marshall who on December 30 introduced a resolution, which passed the same day, declaring a national day of mourning on February 22, Washington’s birthday.

In 1779, having attained the rank of captain, he returned to Virginia and enrolled at the College of William & Mary where he studied under George Wythe, a judge on the Virginia Court of Chancery and a signer of the Declaration of Independence. Marshall’s classmates included Bushrod Washington, a nephew of George Washington who would later serve with Marshall on the Supreme Court, and Spencer Roane, who later served with Marshall in the Virginia legislature and became a judge on the Virginia Supreme Court of Appeals. Roane was an ardent defender of state sovereignty and Jeffersonian Republicanism, and he and Marshall became bitter rivals, often clashing (sometimes under pseudonyms) over legal matters in public periodicals. In contrast to Roane’s states’ rights, strict-constructionist view, Marshall favored a strong executive and a robust national government capable of encouraging commerce; raising revenue (he had experienced firsthand Congress’s inability to raise money to pay and adequately supply the troops during the war); and defending American interests against threats from abroad.

After being admitted to the bar in 1780, Marshall initially returned to the army, but he resigned his commission a year later to begin practicing law. A cousin of Marshall’s, Edmund Randolph (of the Constitutional Convention’s Virginia—or Randolph—Plan fame), offered Marshall the opportunity to practice law out of his office in Richmond. Marshall accepted eagerly, and his practice and reputation grew rapidly, placing him in high demand.

Marshall was elected to the Virginia House of Delegates in 1782 and reelected several times thereafter. In January 1783, he married Mary Willis “Polly” Ambler, daughter of the then-treasurer of Virginia. The marriage was a happy one, but Polly was devastated by the loss of four children through miscarriage or during infancy. Although six of their children lived to adulthood, Polly suffered from poor mental and physical health for most of her adult life, spending much of it living in seclusion. By contrast, Marshall was a tall and athletic man who walked several miles a day for most of his life, arising early and often returning before others had awakened. He was also a longtime member of Richmond’s exclusive Quoits Club, which limited its membership to 30. Quoits, which Marshall played every Saturday afternoon from May through September, was an old British game that was similar



to modern-day horseshoes. As with most games played at exclusive clubs, eating, drinking, and convivial socializing were de rigueur.

In 1786, Marshall took on the representation of the heirs of Lord Thomas Fairfax in *Hite v. Fairfax*, an important dispute about land grants. Although Lord Fairfax's heirs lost, the court of appeals acknowledged the legitimacy of the original grant of land from King James II. This was a significant victory for Marshall, who opposed post-Revolution efforts to invalidate colonial arrangements made before independence. A decade later, Marshall would argue his only case before the U.S. Supreme Court, *Ware v. Hylton*, which involved a dispute over the validity of debts owed to British creditors under the Treaty of Paris. Marshall lost the case, but the quality of his argument further cemented his status as an elite member of the bar.

Although not a delegate to the Constitutional Convention, Marshall was elected in 1788 to serve as a delegate to the Virginia Ratifying Convention, where he played a prominent and ultimately successful role (by a narrow vote of 89 to 79) in urging his fellow delegates to ratify the new Constitution, further enhancing his reputation. During the Washington Administration, the President asked Marshall to serve in several prominent posts, including as minister to France. Marshall declined these invitations but remained one of Washington's most ardent defenders both in the Virginia House of Delegates and in the court of public opinion. His support of Washington further irritated his cousin Thomas Jefferson, who had resigned from Washington's Cabinet and was a frequent critic of the Administration's policies. Marshall never forgave Jefferson for these criticisms.

In 1797, after the French refused to meet with American diplomats and began to attack American merchant ships, Marshall accepted an appointment by President John Adams to serve with Charles Cotesworth Pinckney and Elbridge Gerry as part of a three-member delegation to France. In what came to be known as the [XYZ Affair](#), the French Foreign Minister, the Marquis de Talleyrand, set certain conditions for negotiation that included making a large loan to France and paying a substantial bribe to Talleyrand. The Americans refused. In time, Congress and the American public learned of the situation, which resulted in an embargo against France and an undeclared war known as the Quasi-War. Marshall's handling of the situation made him extremely popular with the American public but not with Jefferson, a Francophile, who dismissed the XYZ Affair as a "dish cooked up by Marshall."

In 1798, Marshall declined a Supreme Court appointment, recommending his friend Bushrod Washington, who later became one of Marshall's staunchest allies on the Court. In 1799, at Washington's urging, Marshall ran for and was elected to the U.S. House of Representatives. Later that year, President Adams nominated him to replace Timothy Pickering as Secretary of State, in which capacity he negotiated the Convention of 1800 that ended the Quasi-War with France.

On January 20, 1801, shortly after losing the election to Thomas Jefferson, and with Republicans about to seize majority control of the Senate, Adams nominated Marshall to serve as the third Chief Justice of the U.S. Supreme Court. Marshall was confirmed unanimously by the Senate one week later and assumed office on February 4, although he also continued to serve as Secretary of State until Adams's term expired on March 4, an anomaly that was not uncommon at the time. Before offering the position to Marshall, Adams offered it to John Jay, who had served as the nation's first Chief Justice. Jay spurned

the offer because, in his view, the Court lacked “energy, weight, and dignity.” Nobody would say that after Marshall’s time on the Court ended 35 years later.

Jefferson, who was inaugurated a few short weeks after Marshall was confirmed as Chief Justice, remarked that the Federalists had “retreated into the judiciary as a stronghold.” Marshall did his utmost, at least in spirit, to keep it that way.

## Life on the Bench

Perhaps no other appointment to the Supreme Court has been as consequential as Marshall’s. During his tenure, the Court was transformed from an afterthought to a powerful branch of government on a par with the legislative and executive branches. Marshall participated in over 1,000 cases, writing the majority opinion in roughly half of them and dissenting rarely. In several seminal cases, some of which are discussed below, he set forth in clear and compelling prose fundamental principles of law that remain in place today and did much to establish the modern federal judiciary.

Throughout his judicial career, Marshall confounded his critics and charmed his colleagues, who shared lodgings when the Court was hearing cases, often frustrating the Presidents who had appointed those colleagues in the hope that they would serve as a counterweight to Marshall. Marshall won them over with the force of his mind and lack of pretension, as well as his unfailing politeness, congeniality, and generosity when it came to sharing high-quality intoxicating beverages.

### *Marbury v. Madison* (1803)

What is now acclaimed as Marshall’s greatest opinion—and the one that is certainly his most quoted—was the result of a political fight between Federalists and Republicans. After Jefferson and the Republicans swept the federal elections in 1800, President Adams and the Federalist-controlled Senate rushed to fill as many government positions as possible with Federalists. In addition to Marshall’s appointment to the Supreme Court, Adams nominated 42 justices of the peace, all of whom the Senate confirmed. After confirmation, the only remaining task was for then-Secretary of State Marshall to deliver the commissions to each nominee, but Marshall ran out of time. When Jefferson discovered that several commissions were still on Marshall’s desk, he refused to have his new Secretary of State, James Madison, deliver them.

One of the individuals whose commission had not been delivered, William Marbury, sued Madison in the Supreme Court. Marbury sought a writ of mandamus, an order from the Court directing Madison to deliver his commission. In a brilliant display of judicial and political legerdemain, on February 24, 1803, Marshall, writing for a unanimous Court, dismissed the case. The Court held that Marbury had a legal right to have the commission delivered and that Jefferson had acted lawlessly, but it also held that it could not provide relief because Marbury had filed his lawsuit in the wrong court.

Marbury relied on a federal statute that appeared to give the Court original jurisdiction to consider his lawsuit. While recognizing that Marbury had a legal right to his commission, Marshall declared with a flourish that “[t]he government of the United States has

been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right." The Constitution gave the Court original jurisdiction only over "cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party." This case, Marshall observed, did not fit any of those categories.

That raised a difficult question: What should the Court do with a law that was passed by Congress but conflicts with the Constitution? Marshall declared that a law that is "repugnant to the Constitution is void." Moreover, he said, "[t]he judicial power of the United States is extended to all cases arising under the Constitution." While this was certainly a significant pronouncement, the *piece de resistance* was his declaration that "[i]t is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each."

In one opinion, Marshall successfully sidestepped a potentially destructive conflict with the executive branch, affirmed the rule of law (and Jefferson's violation of the law), and laid the foundations for the federal judiciary's role in declaring what the law is in arbitrating constitutional disputes.

### ***McCulloch v. Maryland* (1819)**

*Marbury* was not the only political conflict that Marshall grappled with as Chief Justice. In 1819, the Court resolved an issue that had been debated for more than two decades: whether Congress could constitutionally establish a national bank.

During the Washington Administration, Secretary of the Treasury Alexander Hamilton had proposed a flood of economic measures designed to bolster the new nation's financial stability and credit at home and abroad. One of Hamilton's proposals was that Congress should create a national bank. Jefferson, then Secretary of State, and Madison, then serving in Congress, opposed the idea. Madison in particular argued that Congress had no constitutional authority to create a bank, pushing back on Hamilton's argument that a bank was "necessary and proper" for Congress to carry out its enumerated powers.

Hamilton prevailed when Congress passed legislation, which Washington signed into law, establishing the first Bank of the United States in 1791 and giving it a 20-year charter. When the charter expired in 1811, Congress declined to renew it, but after the federal government was forced to rely on high-interest private loans during the War of 1812, Congress renewed the Bank's charter in 1816. However, the bank was poorly run, and this led several states to retaliate either by banning the Bank outright or by imposing taxes on the Bank's local branches.

One such state was Maryland, which passed a law that required all out-of-state-banks to pay a yearly tax of \$15,000 or a smaller stamp tax on every bank note issued. To test the constitutionality of Maryland's tax on the bank, James McCulloch, the Bank's Baltimore office manager, issued an unstamped note without paying the tax. Inevitably, McCulloch's actions were challenged and found to violate the state law, paving the way for the case to reach the Supreme Court.

In 1819, Marshall issued the Court's unanimous opinion in [\*McCulloch v. Maryland\*](#),<sup>2</sup> upholding the constitutionality of the Bank. His opinion bore an uncanny resemblance

to arguments and words Hamilton had used to persuade Washington in 1791. The states, Marshall explained, no longer retained ultimate sovereignty to decide these kinds of issues because they had ratified the Constitution. The Constitution had been submitted to the people for their consideration, and “the people were at perfect liberty to accept or reject it, and their act was final. It required not the affirmance, and could not be negatived, by the State Governments. The Constitution, when thus adopted, was of complete obligation, and bound the State sovereignties.”

Congress, he next explained, had the power to establish a national bank. The Court rejected Maryland’s argument that the Necessary and Proper Clause gave Congress power to take an action only if it could not otherwise accomplish a permissible constitutional objective without taking that action. “Necessary,” Marshall explained, means “no more than” something that is “needful,” “requisite,” or “conducive to the complete accomplishment of the object.” Moreover, “[t]o employ the means necessary to an end is generally understood as employing any means calculated to produce the end, and not as being confined to those single means without which the end would be entirely unattainable.”

Marshall did not stop there. Lest his point be missed, he emphatically declared, “Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are Constitutional.” In other words, if establishing a federal bank was conducive to Congress’s ability to execute one of its enumerated powers and was not expressly prohibited, it was constitutional. Maryland’s tax on the national bank, Marshall concluded, would undermine Congress’s exercise of its enumerated powers and was therefore impermissible.

This decision was both politically and constitutionally consequential. Not only did it resolve once and for all the issue of Congress’s authority to create a national bank and curtail states’ efforts to undermine federal legislation, but it also established that the Necessary and Proper Clause allows Congress more readily to fill in details that were understandably left out of the Constitution. As Marshall further explained, to detail all of the government’s powers “would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind.... Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves.” He added memorably that “we must never forget that it is a *Constitution* we are expounding.”

## John Marshall’s Legacy

Marshall wrote numerous opinions that continue to be studied and invoked to this day. In addition to *Marbury* and *McCulloch*, he authored *Fletcher v. Peck*<sup>3</sup> and *Trustees of Dartmouth College v. Woodward*,<sup>4</sup> which laid the legal groundwork for American capitalism by limiting state legislatures’ ability to meddle with valid, preexisting private contracts; *Gibbons v. Ogden*,<sup>5</sup> which has been called the “emancipation proclamation of American commerce”<sup>6</sup> for protecting an uninhibited stream of interstate commerce that in turn created a vibrant national economy; and *Cohens v. Virginia*,<sup>7</sup> which permitted anyone who believed that a

state was violating his or her rights under the U.S. Constitution or federal law to seek a remedy in a federal court.

Marshall's epochal tenure as Chief Justice, which spanned the presidencies of John Adams, Thomas Jefferson, James Madison, James Monroe, John Quincy Adams, and Andrew Jackson, had a significant impact on the prestige of the Supreme Court. No one did more to enhance the authority and independence of the judiciary or had a greater impact on the law in this country than the "Great Chief Justice."

It was Marshall who introduced the now-standard garb of black robes for Supreme Court justices as a sign of the republican nature of American government rather than the white or red robes more commonly worn by the British judicial elite. And it was Marshall who introduced the idea of majority opinions. Before his arrival, each justice would write and read his own opinion. After his arrival, more often than not, the Court would issue unanimous decisions with each justice free to write a separate concurrence or dissent. Unlike the prior practice, which left the impression that the law was incoherent, the new practice of majority opinions gave the Court's opinions a sense of consistency, logic, and authority. The Court seemed to be speaking with one voice—and that voice was often Marshall's.

John Adams later described his choice of Marshall to be Chief Justice as "the proudest act of my life." Even Marshall's rivals respected his intellect. John Randolph, who criticized Marshall's opinion in *Gibbons v. Ogden*, described the Chief Justice this way: "No one admires more than I the extraordinary powers of Marshall's mind; no one respects more his amiable deportment in private life. He is the most unpretending and unassuming of men. His abilities and virtues render him an ornament not only to Virginia, but to our Nation."

In January 1833, Marshall's longtime friend and colleague, Justice Joseph Story, published his highly influential, three-volume *Commentaries on the Constitution of the United States*. In a touching tribute, he dedicated the work to Marshall:

Your expositions of constitutional law enjoy a rare and extraordinary authority. They constitute a monument of fame far beyond the ordinary memorials of political and military glory. They are destined to enlighten, instruct, and convince future generations; and can scarcely perish but with the memory of the constitution itself.... They remind us of some mighty river of our own country, which, gathering in its course the contributions of many tributary streams, pours at last its own current into the ocean, deep, clear, and irresistible.

On July 8, 1776, four days after the signing of the Declaration of Independence, bells rang throughout the city of Philadelphia to mark the occasion. It is believed that the Liberty Bell was one of them. On July 8, 1835, two days after Marshall died, bells rang out again in Philadelphia as his funeral cortege wended its way through the city. It is said (although the story may be apocryphal) that the Liberty Bell cracked that day, never to be rung again. And in tribute to its longtime distinguished member, the Quois Club announced that it henceforth would have only 29 members.



## SELECTED PRIMARY WRITINGS

### Speech at the Virginia Ratifying Convention (June 20, 1788)<sup>8</sup>

Mr. Chairman, this part of the plan before us is a great improvement on that system from which we are now departing. Here are tribunals appointed for *the decision of controversies* which were before either not at all, or improperly, provided for. That many benefits will result from this to the members of the collective society, every one confesses....

...With respect to its cognizance in all cases arising under the Constitution and the laws of the United States, he [George Mason] says that, the laws of the United States being paramount to the laws of the particular states, there is no case but what this will extend to. Has the government of the United States power to make laws on every subject? Does he understand it so? Can they make laws affecting the mode of transferring property, or contracts, or claims, between citizens of the same state? Can they go beyond the delegated powers? If they were to make a law not warranted by any of the powers enumerated, it would be considered by the judges as an infringement of the Constitution which they are to guard. They would not consider such a law as coming under their jurisdiction. They would declare it void. It will annihilate the state courts, says the honorable gentleman. Does not every gentleman here know that the causes in our courts are more numerous than they can decide, according to their present construction? Look at the dockets. You will find them crowded with suits, which the life of man will not see determined. If some of these suits be carried to other courts, will it be wrong? They will still have business enough....

...Is it not necessary that the federal courts should have cognizance of cases arising under the Constitution, and the laws, of the United States? What is the service or purpose of a judiciary, but to execute the laws in a peaceable, orderly manner, without shedding blood, or creating a contest, or availing yourselves of force? If this be the case, where can its jurisdiction be more necessary than here?

To what quarter will you look for protection from an infringement on the Constitution, if you will not give the power to the judiciary? There is no other body that can afford such a protection....

### *Marbury v. Madison* (1803)<sup>9</sup>

The very essence of civil liberty consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection....

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right....



By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority and in conformity with his orders.

In such cases, their acts are his acts; and whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and being entrusted to the Executive, the decision of the Executive is conclusive....

But when the Legislature proceeds to impose on that officer other duties; when he is directed peremptorily to perform certain acts; when the rights of individuals are dependent on the performance of those acts; he is so far the officer of the law; is amenable to the laws for his conduct; and cannot at his discretion, sport away the vested rights of others.

The conclusion from this reasoning is, that where the heads of departments are the political or confidential agents of the Executive, merely to execute the will of the President, or rather to act in cases in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured, has a right to resort to the laws of his country for a remedy....

That the people have an original right to establish for their future government such principles as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it nor ought it to be frequently repeated. The principles, therefore, so established are deemed fundamental. And as the authority from which they proceed, is supreme, and can seldom act, they are designed to be permanent....

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.

So, if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

If, then, the Courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.

*McCulloch v. Maryland* (1819)<sup>10</sup>

...The government proceeds directly from the people; is “ordained and established” in the name of the people, and is declared to be ordained, “in order to form a more perfect union, establish justice, insure domestic tranquillity, and secure the blessings of liberty to themselves and to their posterity.”

The assent of the States in their sovereign capacity is implied in calling a convention, and thus submitting that instrument to the people. But the people were at perfect liberty to accept or reject it, and their act was final....

But the Constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the Government to general reasoning. To its enumeration of powers is added that of making “all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this constitution, in the government of the United States, or in any department thereof.”...

But the argument on which most reliance is placed, is drawn from the peculiar language of this clause. Congress is not empowered by it to make all laws, which may have relation to the powers conferred on the Government, but such only as may be “necessary and proper” for carrying them into execution. The word “necessary” is considered as controlling the whole sentence, and as limiting the right to pass laws for the execution of the granted powers, to such as are indispensable, and without which the power would be nugatory. That it excludes the choice of means, and leaves to Congress, in each case, that only which is most direct and simple.

Is it true that this is the sense in which the word “necessary” is always used? Does it always import an absolute physical necessity so strong that one thing to which another may be termed necessary cannot exist without that other? We think it does not. If reference be had to its use in the common affairs of the world or in approved authors, we find that it frequently imports no more than that one thing is convenient, or useful, or essential to another. To employ the means necessary to an end is generally understood as employing any means calculated to produce the end, and not as being confined to those single means without which the end would be entirely unattainable. Such is the character of human language that no word conveys to the mind in all situations one single definite idea, and nothing is more common than to use words in a figurative sense. Almost all compositions contain words which, taken in their rigorous sense, would convey a meaning different from that which is obviously intended. It is essential to just construction that many words which import something excessive should be understood in a more mitigated sense—in that sense which common usage justifies. The word “necessary” is of this description. It has not a fixed character peculiar to itself. It admits of all degrees of comparison; and is often connected with other words which increase or diminish the impression the mind receives of the urgency it imports. A

thing may be necessary, very necessary, absolutely or indispensably necessary. To no mind would the same idea be conveyed, by these several phrases....

...The subject is the execution of those great powers on which the welfare of a Nation essentially depends. It must have been the intention of those who gave these powers to insure, as far as human prudence could insure, their beneficial execution. This could not be done by confiding the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in a Constitution intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs. To have prescribed the means by which Government should, in all future time, execute its powers would have been to change entirely the character of the instrument and give it the properties of a legal code. It would have been an unwise attempt to provide by immutable rules for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances....

We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national legislature that discretion with respect to the means by which the powers it confers are to be carried into execution which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are Constitutional.

### ***Cohens v. Virginia*** (1821)<sup>11</sup>

The American States, as well as the American people, have believed a close and firm Union to be essential to their liberty and to their happiness. They have been taught by experience that this Union cannot exist without a government for the whole, and they have been taught by the same experience that this government would be a mere shadow, that must disappoint all their hopes, unless invested with large portions of that sovereignty which belongs to independent States....

...But a Constitution is framed for ages to come, and is designed to approach immortality as nearly as human institutions can approach it. Its course cannot always be tranquil. It is exposed to storms and tempests, and its framers must be unwise statesmen indeed if they have not provided it, as far as its nature will permit, with the means of self-preservation from the perils it may be destined to encounter....

...The people made the constitution, and the people can unmake it. It is the creature of their will, and lives only by their will. But this supreme and irresistible power to make or to unmake, resides only in the whole body of the people; not in any sub-division of them....

***Gibbons v. Ogden*** (1824)<sup>12</sup>

It is the power to regulate, that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution. These are expressed in plain terms, and do not affect the questions which arise in this case, or which have been discussed at the bar. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations, and among the several States, is vested in Congress as absolutely as it would be in a single government, having in its Constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States. The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are, in this, as in many other instances, as that, for example, of declaring war, the sole restraints on which they have relied, to secure them from its abuse. They are the restraints on which the people must often rely solely, in all representative governments.

***Osborn v. Bank of the United States*** (1824)<sup>13</sup>

...Judicial power, as contradistinguished from the power of the laws, has no existence. Courts are the mere instruments of the law, and can will nothing. When they are said to exercise a discretion, it is a mere legal discretion, a discretion to be exercised in discerning the course prescribed by law; and, when that is discerned, it is the duty of the Court to follow it. Judicial power is never exercised for the purpose of giving effect to the will of the Judge; always for the purpose of giving effect to the will of the Legislature; or, in other words, to the will of the law.

## RECOMMENDED READINGS

Letters of John Marshall in Dartmouth College Libraries. See “Marshall, John, 1755–1835,” Dartmouth Libraries Archives & Manuscripts, <https://archives-manuscripts.dartmouth.edu/agents/people/7007> (accessed March 28, 2025).  
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Engraving depicting the shooting of Major Pitcairn at the Battle of Bunker Hill by free black man Peter Salem, public domain.



## A Note on Slavery and the American Founding

**S**LAVERY IS THE GREAT EXCEPTION TO THE RULE of liberty proclaimed in the Declaration of Independence and established in the United States Constitution. From the beginning there has been intense debate about slavery and America, precisely because it raises questions about this nation's dedication to liberty and human equality. Does the continued existence of slavery in the context of the American Founding, its motivating principles, and the individuals who proclaimed those principles, make the United States or its origins less defensible as a guide for just government?

At the time of the American Founding, there were about half a million slaves in the United States, mostly in the five southernmost states, where they made up 40 percent of the population. Many of the leading American Founders—most notably Thomas Jefferson, George Washington, and James Madison—owned slaves, but many did not. Benjamin Franklin thought that slavery was “an atrocious debasement of human nature” and “a source of serious evils.” He and Benjamin Rush founded the Pennsylvania Society for Promoting the Abolition of Slavery in 1774. John Jay, who was the president of a similar society in New York, believed that “the honour of the states, as well as justice and humanity, in my opinion, loudly call upon them to emancipate these unhappy people. To contend for our own liberty, and to deny that blessing to others, involves an inconsistency not to be excused.” John Adams opposed slavery his entire life as a “foul contagion in the human character” and “an evil of colossal magnitude.” James Madison called it “the most oppressive dominion ever exercised by man over man.”

From his first thoughts about the Revolution to his command of the Continental Army to his presidential administration, Washington's life and letters reflect a statesman struggling with the reality and inhumanity of slavery in the midst of the free nation being constructed. In 1774, Washington compared the alternative to Americans asserting their rights against British rule to being ruled “till custom and use shall make us as tame and abject slaves, *as*

*the blacks we rule over with such arbitrary sway.*" When he took command of the Continental Army in 1775, there were both slaves and free blacks in its ranks. (About 5,000 blacks served in the Continental Army.) Alexander Hamilton proposed a general plan to enlist slaves in the Army that would in the end "give them their freedom with their muskets," and Washington supported such a policy (with the approval of Congress) in South Carolina and Georgia, two of the largest slaveholding states.

In 1786, Washington wrote of slavery, "there is not a man living who wishes more sincerely than I do, to see a plan adopted for the abolition of it." He devised a plan to rent his lands and turn his slaves into paid laborers, and at the end of his presidency he quietly left several of his own household slaves to their freedom. In the end, he could take it no more, and decreed in his will that his slaves would become free upon the death of his wife. The old and infirm were to be cared for while they lived, and the children were to be taught to read and write and trained in a useful skill until they were age 25. Washington's estate paid for this care until 1833.

During his first term in the House of Burgesses, Thomas Jefferson proposed legislation to emancipate slaves in Virginia, but the motion was soundly defeated. His 1774 draft instructions to the Virginia Delegates to the First Continental Congress, *A Summary View of the Rights of British America*, called for an end to the slave trade: "The abolition of domestic slavery is the great object of desire in those colonies where it was unhappily introduced in their infant state." That same year the First Continental Congress agreed to discontinue the slave trade and boycott other nations that engaged in it. The Second Continental Congress reaffirmed the policy in 1776.

Jefferson's draft constitution for the state of Virginia forbade the importation of slaves, and his draft of the Declaration of Independence—written at a time when he owned about 200 slaves — included a paragraph condemning the British king for introducing slavery into the colonies and continuing the slave trade:

He has waged cruel war against human nature itself, violating it's most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of INFIDEL powers, is the warfare of a CHRISTIAN king of Great Britain. Determined to keep open a market where MEN should be bought & sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce.

These words were especially offensive to delegates from Georgia and South Carolina, who were unwilling to acknowledge that slavery went so far as to violate the "most sacred rights of life and liberty," and, like some of Jefferson's more expressive phrases attacking the king, were dropped in the editing process. Nevertheless, Jefferson's central point—that all men are created equal—remained as an obvious rebuke to the institution.

From very early in the movement for independence it was understood that calls for colonial freedom from British tyranny had clear implications for domestic slavery. "The colonists

are by the law of nature free born, as indeed all men are, white and black,” James Otis wrote in 1761. “Does it follow that it is the right to enslave a man because he is black?” In the wake of independence, state after state passed legislation restricting or banning the institution. In 1774 Rhode Island had already passed legislation providing that all slaves imported thereafter should be freed. In 1776 Delaware prohibited the slave trade and removed restraints on emancipation, as did Virginia in 1778. In 1779 Pennsylvania passed legislation providing for gradual emancipation; as did New Hampshire, Rhode Island, and Connecticut in the early 1780s; and New York and New Jersey in 1799 and 1804. In 1780, the Massachusetts Supreme Court ruled that the state’s bill of rights made slavery unconstitutional. By the time of the U.S. Constitution, every state (except Georgia) had at least proscribed or suspended the importation of slaves.

Thomas Jefferson’s 1784 draft plan of government for the western territories prohibited slavery and involuntary servitude after the year 1800. The final Northwest Ordinance of 1787, passed by the Confederation Congress (and repassed two years later by the First Congress and signed into law by President George Washington), prohibited slavery in the future states of Ohio, Indiana, Michigan, Illinois, and Wisconsin. That same year Jefferson published his *Notes on the State of Virginia*, which included this about slavery:

And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever.... I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation.

When delegates convened at Philadelphia to write a new constitution, however, strong sectional interests supported the maintenance of slavery and the slave trade. “The real difference of interests,” Madison noted, “lay not between large and small states but between the Northern and Southern states. The institution of slavery and its consequences formed a line of discrimination.” In order to get the unified support needed for the Constitution’s ratification and successful establishment, the Framers made certain concessions to the pro-slavery interests. The compromises they agreed to, however, were designed to tolerate slavery where it currently existed, not to endorse or advance the institution.

Consider the three compromises made by the Constitutional Convention delegates and approved as part of the final text:

1. On enumeration: apportionment for Representatives and taxation purposes would be determined by the number of free persons and three-fifths “of all other Persons” (Art. I, Sec. 2). The pro-slavery delegates wanted their slaves counted as whole persons, thereby according their states more representation in Congress. It

was the anti-slavery delegates who wanted to count slaves as less—not to dehumanize them but to penalize slaveholders. Indeed, it was antislavery delegate James Wilson of Pennsylvania who proposed the three-fifths compromise. Also, this clause did not include blacks generally, as free blacks were understood to be free persons.

2. On the slave trade: Congress was prohibited until 1808 from blocking the migration and importation “of such Persons as any of the states now existing shall think proper to admit” (Art. I, Sec. 9). Although protection of the slave trade was a major concession demanded by pro-slavery delegates, the final clause was only a temporary exemption for existing states from a recognized federal power. Moreover, it did not prevent states from restricting or outlawing the slave trade, which many had already done. “If there was no other lovely feature in the Constitution but this one,” James Wilson observed, “it would diffuse a beauty over its whole countenance. Yet the lapse of a few years, and Congress will have power to exterminate slavery from within our borders.” Congress passed, and President Jefferson signed into law, such a national prohibition effective January 1, 1808.
3. On fugitive slaves: the Privileges and Immunities Clause (Art. IV, Sec. 2) guaranteed the return upon claim of any “Person held to Service or Labour” in one state who had escaped to another state. At the last minute, the phrase “Person *legally* held to Service or Labour in one state” was amended to read “Person held to Service or Labour in one state, *under the Laws thereof*.” This revision emphasized that slaves were held according to the laws of individual states and, as the historian Don Fehrenbacher has noted, “made it impossible to infer from the passage that the Constitution itself legally sanctioned slavery.” Indeed, none of these clauses recognized slavery as having any legitimacy from the point of view of federal law.

It is significant to note that the words “slave” and “slavery” were kept out of the Constitution. Madison recorded in his notes that the delegates “thought it wrong to admit in the Constitution the idea that there could be property in men.” This seemingly minor distinction of insisting on the use of the word “person” rather than “property” was not a euphemism to hide the hypocrisy of slavery but was of the utmost importance. Madison explained in *Federalist* No. 54:

But we must deny the fact, that slaves are considered merely as property, and in no respect whatever as persons. The true state of the case is, that they partake of both these qualities: being considered by our laws, in some respects, as persons, and in other respects as property. In being compelled to labor, not for himself, but for a master; in being vendible by one master to another master; and in being subject at all times to be restrained in his liberty and chastised in his body, by the capricious will of another—the slave *may appear* to be degraded from the human rank, and classed with those irrational animals which fall under the legal denomination of property. In

being protected, on the other hand, in his life and in his limbs, against the violence of all others, even the master of his labor and his liberty; and in being punishable himself for all violence committed against others—the slave is no less evidently regarded by the law as a member of the society, not as a part of the irrational creation; *as a moral person, not as a mere article of property.*

Frederick Douglass, for one, believed that the government created by the Constitution “was never, in its essence, anything but an antislavery government.” Douglass had been born a slave in Maryland, but escaped and eventually became a prominent spokesman for free blacks in the abolitionist movement. “Abolish slavery tomorrow, and not a sentence or syllable of the Constitution need be altered,” he wrote in 1864. “It was purposely so framed as to give no claim, no sanction to the claim, of property in man. If in its origin slavery had any relation to the government, it was only as the scaffolding to the magnificent structure, to be removed as soon as the building was completed.” This point is underscored by the fact that, although slavery was abolished by constitutional amendment, not one word of the original text was amended or deleted.

Judging by the policy developments of the previous three decades, the Founders could be somewhat optimistic that the trend was against slavery. At the Constitutional Convention Roger Sherman said that “the abolition of slavery seemed to be going on in the United States and that the good sense of the several states would probably by degrees complete it.” In the draft of his first inaugural, George Washington looked forward to the day when “mankind will reverse the absurd position that the many were made for the few; and that they will not continue slaves in one part of the globe, when they can become freemen in another.” And in one of his last letters, Jefferson wrote that “All eyes are opened, or opening, to the rights of man. The general spread of the light of science has already laid open to every view the palpable truth, that the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them legitimately, by the grace of God.”

Nevertheless, there was plenty of reason for concern. In 1776, Adam Smith argued in *The Wealth of Nations* that slavery was uneconomical because the plantation system was a wasteful use of land and because slaves cost more to maintain than free laborers. But in 1793 Eli Whitney invented the cotton gin, making cotton production economical and leading to dramatic growth in the cotton industry, which greatly contributed to an increased demand for slave labor in the United States.

In 1819, during the debate over the admission of Missouri as a slave state, John Adams worried that a national struggle over slavery “might rend this mighty fabric in twain.” He told Jefferson that he was terrified about the future and appealed to him for guidance. “What we are to see God knows, and I leave it to Him and his agents in posterity,” he wrote. “I have none of the genius of Franklin, to invent a rod to draw from the cloud its thunder and lightning.”

The Missouri crisis was “a fire bell in the night,” wrote Jefferson in 1820. “We have the wolf by the ears and we can neither hold him, nor safely let him go. Justice is in one scale, and self-preservation in the other.” But Jefferson gave no public support to emancipation and refused to free his own slaves. “This enterprise is for the young,” he wrote.

Slavery was, indeed, the great flaw of the American Founding. Those who founded this nation chose to make practical compromises for the sake of establishing in principle a new nation dedicated to the proposition that all men are created equal. “The inconsistency of the institution of slavery with the principles of the Declaration of Independence was seen and lamented,” John Quincy Adams readily admitted in 1837. Nevertheless, he argued, “no charge of insincerity or hypocrisy can be fairly laid to their charge. Never from their lips was heard one syllable of attempt to justify the institution of slavery. They universally considered it as a reproach fastened upon them by the unnatural step-mother country and they saw that before the principles of the Declaration of Independence slavery, in common with every mode of oppression, was destined sooner or later to be banished from the earth.”

“In the way our Fathers originally left the slavery question, the institution was in the course of ultimate extinction, and the public mind rested in the belief that it was *in the course of ultimate extinction*,” Abraham Lincoln observed in 1858. “All I have asked or desired anywhere, is that it should be placed back again upon the basis that the Fathers of our government originally placed it upon.”

Lincoln once explained the relationship between the Constitution and the Declaration of Independence by reference to Proverbs 25:11: “A word fitly spoken is like apples of gold in a setting of silver.” He revered the Constitution, and was the great defender of the Union. But he knew that the word “fitly spoken”—the apple of gold—was the assertion of principle in the Declaration of Independence. “The *Union*, and the *Constitution*, are the *picture of silver*, subsequently framed around it,” Lincoln wrote. “The *picture* was made *for* the apple—not the apple for the picture.” That is, the Constitution was made to secure the unalienable rights recognized in the Declaration of Independence. As such, the slavery compromises included in the Constitution can only be understood—that is, can only be understood to be prudential compromises rather than a surrender of principle—in light of the Founders’ proposition that all men are created equal. In the end, lamentably, it took a bloody civil war to reconcile the protections of the Constitution with that proposition and to attest that this nation, so conceived and dedicated, could long endure.

MATTHEW SPALDING<sup>1</sup>



# III

## PRIMARY DOCUMENTS



## Articles of Association, 1774<sup>1</sup>

WE, his majesty's most loyal subjects, the delegates of the several colonies of New-Hampshire, Massachusetts-Bay, Rhode Island, Connecticut, New-York, New-Jersey, Pennsylvania, the three lower counties of New-Castle, Kent and Sussex, on Delaware, Maryland, Virginia, North-Carolina, and South-Carolina, deputed to represent them in a continental Congress, held in the city of Philadelphia, on the 5th day of September, 1774, avowing our allegiance to his majesty, our affection and regard for our fellow-subjects in Great-Britain and elsewhere, affected with the deepest anxiety, and most alarming apprehensions, at those grievances and distresses, with which his Majesty's American subjects are oppressed; and having taken under our most serious deliberation, the state of the whole continent, find, that the present unhappy situation of our affairs is occasioned by a ruinous system of colony administration, adopted by the British ministry about the year 1763, evidently calculated for enslaving these colonies, and, with them, the British empire. In prosecution of which system, various acts of Parliament have been passed, for raising a revenue in America, for depriving the American subjects, in many instances, of the constitutional trial by jury, exposing their lives to danger, by directing a new and illegal trial beyond the seas, for crimes alleged to have been committed in America: and in prosecution of the same system, several late, cruel, and oppressive acts have been passed, respecting the town of Boston and the Massachusetts-Bay, and also an act for extending the province of Quebec, so as to border on the western frontiers of these colonies, establishing an arbitrary government therein, and discouraging the settlement of British subjects in that wide extended country; thus, by the influence of civil principles and ancient prejudices, to dispose the inhabitants to act with hostility against the free Protestant colonies, whenever a wicked ministry shall chuse so to direct them.

To obtain redress of these grievances, which threaten destruction to the lives, liberty, and property of his majesty's subjects, in North America, we are of opinion, that a

non-importation, non-consumption, and non-exportation agreement, faithfully adhered to, will prove the most speedy, effectual, and peaceable measure: and therefore, we do, for ourselves, and the inhabitants of the several colonies, whom we represent, firmly agree and associate, under the sacred ties of virtue, honour and love of our country, as follows:

1. That from and after the first day of December next, we will not import, into British America, from Great-Britain or Ireland, any goods, wares, or merchandise whatsoever, or from any other place, any such goods, wares, or merchandise, as shall have been exported from Great Britain or Ireland; nor will we, after that day, import any East-India tea from any part of the world; nor any molasses, syrups, paneles, coffee, or pimento, from the British plantations or from Dominica; nor wines from Madeira, or the Western Islands; nor foreign indigo.

2. We will neither import nor purchase, any slave imported after the first day of December next; after which time, we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it.

3. As a non-consumption agreement, strictly adhered to, will be an effectual security for the observation of the non-importation, we, as above, solemnly agree and associate, that, from this day, we will not purchase or use any tea, imported on account of the East-India company, or any on which a duty hath been or shall be paid; and from and after the first day of March next, we will not purchase or use any East-India tea whatever; nor will we, nor shall any person for or under us, purchase or use any of those goods, wares, or merchandise, we have agreed not to import, which we shall know, or have cause to suspect, were imported after the first day of December, except such as come under the rules and directions of the tenth article hereafter mentioned.

4. The earnest desire we have not to injure our fellow-subjects in Great-Britain, Ireland, or the West-Indies, induces us to suspend a non-exportation, until the tenth day of September, 1775; at which time, if the said acts and parts of acts of the British parliament herein after mentioned are not repealed, we will not, directly or indirectly, export any merchandise or commodity whatsoever to Great-Britain, Ireland, or the West-Indies, except rice to Europe.

5. Such as are merchants, and use the British and Irish trade, will give orders, as soon as possible, to their factors, agents and correspondents, in Great-Britain and Ireland, not to ship any goods to them, on any pretence whatsoever, as they cannot be received in America; and if any merchant, residing in Great-Britain or Ireland, shall directly or indirectly ship any goods, wares or merchandise, for America, in order to break the said non-importation agreement, or in any manner contravene the same, on such unworthy conduct being well attested, it ought to be made public; and, on the same being so done, we will not, from thenceforth, have any commercial connexion with such merchant.

6. That such as are owners of vessels will give positive orders to their captains, or masters, not to receive on board their vessels any goods prohibited by the said non-importation agreement, on pain of immediate dismissal from their service.

7. We will use our utmost endeavours to improve the breed of sheep, and increase their number to the greatest extent; and to that end, we will kill them as seldom as may be, especially those of the most profitable kind; nor will we export any to the West-Indies or elsewhere; and those of us, who are or may become overstocked with, or can

conveniently spare any sheep, will dispose of them to our neighbours, especially to the poorer sort, on moderate terms.

8. We will, in our several stations, encourage, frugality, economy, and industry, and promote agriculture, arts and the manufactures of this country, especially that of wool; and will discountenance and discourage every species of extravagance and dissipation, especially all horse-racing, and all kinds of gaming, cock-fighting, exhibitions of shews, plays, and other expensive diversions and entertainments; and on the death of any relation or friend, none of us, or any of our families, will go into any further mourning dress, than a black crape or ribbon on the arm or hat, for gentlemen, and a black ribbon and necklace for ladies, and we will discontinue the giving of gloves and scarves at funerals.

9. Such as are venders of goods or merchandise will not take advantage of the scarcity of goods, that may be occasioned by this association, but will sell the same at the rates we have been respectively accustomed to do, for twelve months last past.—And if any vender of goods or merchandise shall sell any such goods on higher terms, or shall, in any manner, or by any device whatsoever violate from this agreement, no person ought, nor will any of us deal with any such person, or his or her factor or agent, at any time thereafter, for any commodity whatever.

10. In case any merchant, trader, or other person, shall import any goods or merchandise, after the first day of December, and before the first day of February next, the same ought forthwith, at the election of the owner, to be either re-shipped or delivered up to the committee of the county or town, wherein they shall be imported, to be stored at the risque of the importer, until the non-importation agreement shall cease, or be sold under the direction of the committee aforesaid; and in the last-mentioned case, the owner or owners of such goods shall be reimbursed out of the sales, the first cost and charges, the profit, if any, to be applied towards relieving and employing such poor inhabitants of the town of Boston, as are immediate sufferers by the Boston port-bill; and a particular account of all goods so returned, stored, or sold, to be inserted in the public papers; and if any goods or merchandises shall be imported after the said first day of February, the same ought forthwith to be sent back again, without breaking any of the packages thereof.

11. That a committee be chosen in every country, city, and town, by those who are qualified to vote for representatives in the legislature, whose business it shall be attentively to observe the conduct of all persons touching this association; and when it shall be made to appear, to the satisfaction of a majority of any such committee, that any person within the limits of their appointment has violated this association, that such majority do forthwith cause the truth of the case to be published in the gazette; to the end, that all such foes to the rights of British-America may be publicly known, and universally condemned as the enemies of American liberty; and thenceforth we respectively will break off all dealings with him or her.

12. That the committee of correspondence, in the respective colonies, do frequently inspect the entries of their custom-houses, and inform each other, from time to time, of the true state thereof, and of every other material circumstance that may occur relative to this association.

13. That all manufactures of this country be sold at reasonable prices, so that no undue advantage be taken of a future scarcity of goods.

14. And we do further agree and resolve, that we will have no trade, commerce, dealings or intercourse whatsoever, with any colony or province, in North-America, which shall not accede to, or which shall hereafter violate this association, but will hold them as unworthy of the rights of freemen, and as inimical to the liberties of their country.

And we do solemnly bind ourselves and our constituents, under the ties aforesaid, to adhere to this association, until such parts of the several acts of parliament passed since the close of the last war, as impose or continue duties on tea, wine, molasses, syrups, pan-  
eles, coffee, sugar, pimento, indigo, foreign paper, glass, and painters' colours, imported into America, and extend the powers of the admiralty courts beyond their ancient limits, deprive the American subject of trial by jury, authorize the judge's certificate to indemnify the prosecutor from damages, that he might otherwise be liable to from a trial by his peers, require oppressive security from a claimant of ships or goods seized, before he shall be allowed to defend his property, are repealed.—And until that part of the act of the 12 G. 3. ch. 24, entitled “An act for the better securing his majesty's dock-yards, magazines, ships, ammunition, and stores,” by which any persons charged with committing any of the offences therein described, in America, may be tried in any shire or county within the realm, is repealed—and until the four acts, passed the last session of parliament, viz. that for stopping the port and blocking up the harbour of Boston—that for altering the charter and government of the Massachusetts-Bay—and that which is entitled “An act for the better administration of justice, &c.”—and that “for extending the limits of Quebec, &c.” are repealed. And we recommend it to the provincial conventions, and to the committees in the respective colonies, to establish such farther regulations as they may think proper, for carrying into execution this association.

The foregoing Association being determined upon by the Congress, was ordered to be subscribed by the several members thereof; and thereupon, we have hereunto set our respective names accordingly.

IN CONGRESS, PHILADELPHIA, *October 20, 1774.*

Signed, PEYTON RANDOLPH, *President.*

*New Hampshire*

John Sullivan  
Nathaniel Folsom

*Massachusetts Bay*

Thomas Cushing  
Samuel Adams  
John Adams  
Robert Treat Paine

*Rhode Island*

Stephen Hopkins  
Samuel Ward

*Connecticut*

Eliphalet Dyer  
Roger Sherman  
Silas Deane

*New York*

Isaac Low  
John Alsop  
John Jay  
James Duane  
Philip Livingston  
William Floyd  
Henry Wisner  
Simon Boerum



*New Jersey*

James Kinsey  
William Livingston  
Stephen Crane  
Richard Smith  
John De Hart

*Pennsylvania*

Joseph Galloway  
John Dickinson  
Charles Humphries  
Thomas Mifflin  
Edward Biddle  
John Morton  
George Ross

*The Lower Counties New Castle*

Caesar Rodney  
Thomas McKean  
George Read

*Maryland*

Matthew Tilghman  
Thomas Johnson Jr.  
William Paca  
Samuel Chase



# Declaration of Independence, 1776<sup>1</sup>

IN CONGRESS, July 4, 1776

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these 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, it is the Right of the People to alter or to abolish it, and to institute 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. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government.

The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render

it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

*Georgia*

Button Gwinnett  
Lyman Hall  
George Walton

*North Carolina*

William Hooper  
Joseph Hewes  
John Penn

*South Carolina*

Edward Rutledge  
Thomas Heyward, Jr.  
Thomas Lynch, Jr.  
Arthur Middleton

*Maryland*

Samuel Chase  
William Paca  
Thomas Stone  
Charles Carroll of Carrollton

*Virginia*

George Wythe  
Richard Henry Lee  
Thomas Jefferson  
Benjamin Harrison  
Thomas Nelson, Jr.  
Francis Lightfoot Lee  
Carter Braxton

*Pennsylvania*

Robert Morris  
Benjamin Rush  
Benjamin Franklin  
John Morton  
George Clymer  
James Smith  
George Taylor  
James Wilson  
George Ross

*Delaware*

Caesar Rodney  
George Read  
Thomas McKean

*New York*

William Floyd  
Philip Livingston  
Francis Lewis  
Lewis Morris

*New Jersey*

Richard Stockton  
John Witherspoon  
Francis Hopkinson  
John Hart  
Abraham Clark

*New Hampshire*

Josiah Bartlett  
William Whipple  
Matthew Thornton

*Massachusetts*

John Hancock  
Samuel Adams  
John Adams  
Robert Treat Paine  
Elbridge Gerry

*Rhode Island*

Stephen Hopkins  
William Ellery

*Connecticut*

Roger Sherman  
Samuel Huntington  
William Williams  
Oliver Wolcott



# Articles of Confederation, 1781<sup>1</sup>

*To all to whom these Presents shall come, we the under signed Delegates of the States affixed to our Names, send greeting.*

Whereas the Delegates of the United States of America, in Congress assembled, did, on the 15th day of November, in the Year of Our Lord One thousand Seven Hundred and Seventy seven, and in the Second Year of the Independence of America, agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia in the words following, viz. “Articles of Confederation and perpetual Union between the states of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.

**Article I.** The Stile of this Confederacy shall be “The United States of America.”

**Article II.** Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

**Article III.** The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

**Article IV.** The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state

shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state, of which the Owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any state, on the property of the united states, or either of them.

If any Person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states, he shall, upon demand of the Governor or executive power, of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

**Article V.** For the more convenient management of the general interests of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state, to recal[l] its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year.

No state shall be represented in Congress by less than two, nor by more than seven Members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining quest[i]ons in the united states in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any Court, or place out of Congress, and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on congress, except for treason, felony, or breach of the peace.

**Article VI.** No state, without the Consent of the united states in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King[,] prince or state; nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the united states in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the united states in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the united states in congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only, as shall be deemed necessary by the united states in congress assembled, for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only, as in the judgment of the united states, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the united states in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the united states in congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united states in congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations, as shall be established by the united states in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united states in congress assembled, shall determine otherwise.

**Article VII.** When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the State which first made the appointment.

**Article VIII.** All charges of war, and all other expences that shall be incurred for the common defence or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state, granted to or surveyed for any Person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the united states in congress assembled, shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.

**Article IX.** The united states in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities, whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be

divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress stating the matter in question and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as congress shall direct, shall in the presence of congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy,, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, “well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward:” provided also, that no state shall be deprived of territory for the benefit of the united states.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the congress of the united states, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The united states in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by

that of the respective states—fixing the standard of weights and measures throughout the united states—regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated—establishing or regulating post-offices from one state to another, throughout all the united states, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expences of the said office—appointing all officers of the land forces, in the service of the united states, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The united states in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated “A Committee of the States,” and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expences—to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expence of the united states; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled: But if the united states in congress assembled shall, on consideration of circumstances judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled.

The united states in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expences necessary for the defence and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from

day to day be determined, unless by the votes of a majority of the united states in congress assembled.

The congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states, so that no period of adjournment be for a longer duration than the space of six Months, and shall publish the Journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the Journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said Journal, except such parts as are above excepted, to lay before the legislatures of the several states.

**Article X.** The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united states in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the united states assembled is requisite.

**Article XI.** Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into, and entitled to all the advantages of this union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

**Article XII.** All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states, and the public faith are hereby solemnly pledged.

**Article XIII.** Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the united states in congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In Witness whereof we have hereunto set our hands in



Congress. Done at Philadelphia in the state of Pennsylvania the ninth day of July, in the Year of our Lord one Thousand seven Hundred and Seventy-eight, and in the third year of the independence of America.

*New Hampshire*

Josiah Bartlett  
John Wentworth Jr.

*Massachusetts Bay*

John Hancock  
Samuel Adams  
Elbridge Gerry  
Francis Dana  
James Lovell  
Samuel Holten

*Rhode Island and Providence**Plantations*

William Ellery  
Henry Marchant  
John Collins

*Connecticut*

Roger Sherman  
Samuel Huntington  
Oliver Wolcott  
Titus Hosmer  
Andrew Adams

*New York*

James Duane  
Francis Lewis  
William Duer  
Gouverneur Morris

*New Jersey*

John Witherspoon  
Nathaniel Scudder

*Pennsylvania*

Robert Morris  
Daniel Roberdeau  
Jonathan Bayard Smith  
William Clingan

Joseph Reed

*Delaware*

Thomas McKean  
John Dickinson  
Nicholas Van Dyke

*Maryland*

John Hanson  
Daniel Carroll

*Virginia*

Richard Henry Lee  
John Banister  
Thomas Adams  
John Harvie  
Francis Lightfoot Lee

*North Carolina*

John Penn  
Cornelius Harnett  
John Williams

*South Carolina*

Henry Laurens  
William Henry Drayton  
John Mathews  
Richard Hutson  
Thomas Heyward Jr.

*Georgia*

John Walton  
Edward Telfair  
Edward Langworthy



# Constitution of the United States, 1787<sup>1</sup>

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

## Article. I.

**Section. 1.** All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**Section. 2.** The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one

Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

**Section. 3.** The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes.

The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

**Section. 4.** The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

**Section. 5.** Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do

Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

**Section. 6.** The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

**Section. 7.** All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

**Section. 8.** The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish a uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

**Section. 9.** The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.



The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

**Section. 10.** No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## Article. II.

**Section. 1.** The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each;

which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Persons except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: — “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

**Section. 2.** The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other

public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

**Section. 3.** He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

**Section. 4.** The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

## Article. III.

**Section. 1.** The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

**Section. 2.** The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States; — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make. The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

**Section. 3.** Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained.

## Article. IV.

**Section. 1.** Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

**Section. 2.** The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

**Section. 3.** New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

**Section. 4.** The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

## Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments,

which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

## Article. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

## Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Attest William Jackson Secretary done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In Witness whereof We have hereunto subscribed our Names,

George Washington  
President and deputy from Virginia

*New Hampshire*  
John Langdon  
Nicholas Gilman

*Massachusetts*  
Nathaniel Gorham  
Rufus King

*Connecticut*  
William Samuel Johnson  
Roger Sherman

*New York*

Alexander Hamilton

*New Jersey*

William Livingston

David Brearley

William Paterson

Jonathan Dayton

*Pennsylvania*

Benjamin Franklin

Thomas Mifflin

Robert Morris

George Clymer

Thomas FitzSimons

Jared Ingersoll

James Wilson

Gouverneur Morris

*Delaware*

George Read

Gunning Bedford Jr.

John Dickinson

Richard Bassett

Jacob Broom

*Maryland*

James McHenry

Daniel of St. Thomas Jenifer

Daniel Carroll

*Virginia*

John Blair

James Madison Jr.

*North Carolina*

William Blount

Richard Dobbs Spaight

Hugh Williamson

*South Carolina*

John Rutledge

Charles Cotesworth Pinckney

Charles Pinckney

Pierce Butler

*Georgia*

William Few

Abraham Baldwin



# Notes

## LEADING FOUNDERS

### They Knew They Were Founders

1. See, for example, Ray Huang, *1587, A Year of No Significance: The Ming Dynasty in Decline* (New Haven, CT: Yale University Press, 1982).
2. Joseph Ellis, *Founding Brothers: The Revolutionary Generation* (New York: Vintage Books, 2000); H.W. Brands, *Founding Partisans: Hamilton, Madison, Jefferson, Adams, and the Brawling Birth of American Politics* (New York: Vintage Books, 2024); and Gordon S. Wood, *Friends Divided: John Adams and Thomas Jefferson* (New York: Penguin Books, 2017).
3. “John Adams to Abigail Adams, 3 July 1776,” National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/04-02-02-0016> (accessed May 8, 2025).
4. Alexander Hamilton, “The Federalist No. 1, [27 October 1787],” National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0152> (accessed May 8, 2025).
5. George Washington, “First Inaugural Address: Final Version, 30 April 1789,” National Archives, Founders Online, <https://founders.archives.gov/documents/Washington/05-02-02-0130-0003> (accessed May 8, 2025). Emphasis in original.
6. “From Thomas Jefferson to Henry Lee, 8 May 1825,” National Archives, Founders Online, <https://founders.archives.gov/documents/Jefferson/98-01-02-5212> (accessed May 8, 2025).
7. See “The Virginia Declaration of Rights,” National Archives, America’s Founding Documents, <https://www.archives.gov/founding-docs/virginia-declaration-of-rights> (accessed May 8, 2025).
8. For the text of the Declaration, see “Declaration of Independence: A Transcription,” National Archives, America’s Founding Documents, <https://www.archives.gov/founding-docs/declaration-transcript> (accessed May 8, 2025). The National Archives specifies that this is a transcription of the Stone Engraving of the parchment Declaration that is on display in the Rotunda of the National Archives in Washington, DC, and that the spelling and punctuation reflect the spelling and punctuation in the original document.

9. "From Thomas Jefferson to John Cartwright, 5 June 1824," National Archives, Founders Online, <https://founders.archives.gov/documents/Jefferson/98-01-02-4313> (accessed May 8, 2025).
10. John Phillip Reid, "The Jurisprudence of Liberty: The Ancient Constitution in the Legal History of the Seventeenth and Eighteenth Centuries," in *The Roots of Liberty: Magna Carta, Ancient Constitution, and the Anglo-American Tradition of Rule of Law*, ed. Ellis Sandoz (Indianapolis, IN: Liberty Fund, 1993), p. 185, [https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2180/Sandoz1470\\_LFeBk.pdf](https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2180/Sandoz1470_LFeBk.pdf) (accessed May 8, 2025). Emphasis in original.
11. "Proposal for the Great Seal of the United States, [Before 14 August 1776]," National Archives, Founders Online, <https://founders.archives.gov/documents/Franklin/01-22-02-0330> (accessed May 8, 2025). Emphasis in original.
12. "Personal Seal," Monticello, Research & Education, Thomas Jefferson Encyclopedia, <https://www.monticello.org/research-education/thomas-jefferson-encyclopedia/personal-seal/> (accessed May 8, 2025).
13. Barry Alan Shain, *The Myth of American Individualism: The Protestant Origins of American Political Thought* (Princeton, NJ: Princeton University Press, 1994).
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### Thomas Paine: Agitator for Revolution

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3. On the evening of December 16, 1773, Bostonians disguised as Mohawk Indians boarded three merchant vessels loaded with tea and threw their cargo into the harbor.
4. The Continental Congress met from September 5 through October 26, 1774. It reconvened in May 1775 as the Second Continental Congress. By then, fighting had begun, and this Second Congress remained continuously in session as the effective wartime government of the colonies/states.
5. England formally changed its name to Great Britain in 1707 when the Acts of Union joined Scotland to England and Wales (joined to England in 1543). England is used here when the reference is to England before 1707 or to England alone; otherwise, Britain or Great Britain is used. Paine used both names interchangeably, irrespective of date and location, while generally preferring England to Britain.
6. Richard Price, *Political Writings*, ed. D. O. Thomas (Cambridge: Cambridge University Press, 1991), p. 186.
7. *Ibid.*, p. 190.
8. Edmund Burke, *Reflections on the Revolution in France*, ed. Conor Cruise O'Brien (London: Penguin Books, 1986), pp. 102–104. The 1689 English Bill of Rights, which codified the Declaration of Right of earlier that year, stated that "the said Lords Spiritual and Temporal and Commons do in the name of all the people aforesaid most humbly and faithfully submit themselves, their heirs and posterities for ever..." "English Bill of Rights 1689," Yale University, Avalon Project, [http://www.avalon.law.yale.edu/17th\\_century/england.asp](http://www.avalon.law.yale.edu/17th_century/england.asp) (accessed March 31, 2025).
9. Price, *Political Writings*, p. 98.
10. Anne, sister of Mary, who was childless, succeeded on the death of William (1702); German-born George I, great grandson of James I by way of granddaughter Sophia, succeeded childless Anne (1714); George II succeeded George I (1727); and George III, king at the time, succeeded George II (1760). So determined were the English to maintain the line of succession that they accepted a non-native, even non-English speaking, distant relative who was nonetheless next in line—or the next Protestant in line, which was an important consideration. An English but Catholic alternative was available: James Francis Edward, son of James II, also Catholic. In 1711, James Francis was approached about assuming the throne after Anne, but the price demanded was renunciation of his Catholic faith. He refused and invaded Britain instead (1715). The attack was repulsed, and James Francis, called the "Old Pretender," returned to France (1716). His followers were called Jacobites (not to be confused with Jacobins).
11. *Rights of Man*, in *The Writings of Thomas Paine*, coll. & ed. Moncure Daniel Conway, Vol. II (New York: G.P. Putnam's Sons, Knickerbocker Press, 1894), p. 281, [https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/344/0548-02\\_Bk.pdf](https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/344/0548-02_Bk.pdf) (accessed March 31, 2025).
12. See, for example, John Locke, "Of Government, Book II," in *The Works of John Locke*, Vol. 4 (London: C. Baldwin, Printer, 1824), §§ 95–99, 149, 240, <https://oll-resources.s3.us-east-2->



- amazonaws.com/oll3/store/titles/763/0128-04\_Bk.pdf (accessed March 31, 2025); Jean-Jacques Rousseau, *On the Social Contract, with Geneva Manuscript and Political Economy*, ed. Roger D. Masters (New York: St. Martin's Press, 1978), III.1, 16.
13. Magna Carta established the principle of the supremacy of law by placing some limitations on the Crown's power and securing some rights for the nobility, the Church, and the people. Under pressure from the barons of the realm, King John acceded to the charter on June 15, 1215, at Runnymede.
  14. *Rights of Man*, in *The Writings of Thomas Paine*, Vol. II, p. 437. The impulse to start fresh without the encumbrances of the past and guided only by abstract reason was perhaps Paine's core disagreement with Burke, for whom incremental reform, respectful of the past, provided the surest and safest means of progress.
  15. "Agrarian Justice," in *The Writings of Thomas Paine*, coll. & ed. Moncure Daniel Conway, Vol. III (New York: G.P. Putnam's Sons, Knickerbocker Press, 1897), p. 339, [https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1082/0548-03\\_Bk.pdf](https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1082/0548-03_Bk.pdf) (accessed March 31, 2025).
  16. The Reign of Terror was a period of the French Revolution when the Committee of Public Safety, the country's de facto government, ordered the arrest and execution of thousands. Although a point of controversy among historians, the usual dates assigned to the Reign of Terror are September 1793 to July 1794, when the Thermidorian Reaction set in (Thermidor denoted a month on the new French calendar).
  17. "Age of Reason (First Part)," in *The Writings of Thomas Paine*, coll. & ed. Moncure Daniel Conway, Vol. IV (New York: G.P. Putnam's Sons, Knickerbocker Press, 1896), p. 72, [https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1083/0548-04\\_Bk.pdf](https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1083/0548-04_Bk.pdf) (accessed March 31, 2025).
  18. *Ibid.*, p. 74. Paine seemed to assume that intelligent life exists on other planets: "The inhabitants of each of the worlds of which our system is composed enjoy the same opportunities of knowledge as we do." *Ibid.*, p. 72.
  19. Deism was a philosophical/theological system of the 17th and 18th centuries especially that espoused the existence of a creator God knowable by empirical reason alone, independent of revelation.
  20. "Dissertation on First Principles of Government," in *The Writings of Thomas Paine*, Vol. III, pp. 265–273.
  21. *Rights of Man*, Part II, in *The Writings of Thomas Paine*, Vol. II, pp. 515–518.

### Patrick Henry: Defender of American Liberty

1. Patrick Henry, speech in the Parsons' Cause, quoted in letter from James Maury to Rev. John Camm, December 12, 1763, in Rev. James Fontaine, *Memoirs of a Huguenot Family* (New York: George P. Putnam & Co., 1853), p. 422.
2. Thomas S. Kidd, *Patrick Henry: First Among Patriots* (New York: Basic Books, 2011), p. 52.
3. Letter from George Mason to Martin Cockburn, May 26, 1774, in Kate Mason Rowland, *The Life of George Mason, 1725–1792*, (New York: G.P. Putnam's Sons, 1892), Vol. I, p. 169.
4. John Adams, "Notes of Debates in the Continental Congress, 6 September 1774," National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/01-02-02-0004-0006-0007> (accessed April 4, 2025).
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6. Constitution of Virginia, Article I, Section 16, <https://law.lis.virginia.gov/constitution/article1/section16/> (accessed April 4, 2025).

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13. "The Virginia Resolves of 1765," May 30, 1765, Ashbrook Center at Ashland University, Teaching American History, <https://teachingamericanhistory.org/document/the-virginia-resolves-of-1765/> (accessed April 4, 2025). Emphasis in original.
14. Patrick Henry, "Give Me Liberty or Give Me Death!" speech, March 23, 1775, Ashbrook Center at Ashland University, Teaching American History, <https://teachingamericanhistory.org/document/give-me-liberty-or-give-me-death/> (accessed April 4, 2025).
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12. John Adams, "Governor Winthrop to Governor Bradford," in *Revolutionary Writings*, p. 63.
13. John Adams, *Novanglus*, in *Revolutionary Writings*, p. 15.
14. John Adams, *Diary: With Passages from an Autobiography*, in *Works*, Vol. II, p. 331.
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### George Mason: Progenitor of the Bill of Rights

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11. *Ibid.*, p. 172.
12. *Ibid.*, p. 253. Italics in original.
13. *Ibid.*, p. 66.
14. *Ibid.*, p. 49.
15. *Ibid.*, pp. 132–133. Emphasis in original.
16. *Ibid.*, pp. 243–244.
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18. *Records*, Vol. II, p. 501.
19. *Records*, Vol. I, p. 80
20. *Records*, Vol. II, p. 497.
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22. *Ibid.*, p. 565.
23. See Wilson, "Considerations on the Bank of North America" *before* the Constitution was framed: "Though the United States in Congress assembled derive *from the particular States* no power, jurisdiction or right, which is not expressly delegated by the confederation, it does not thence follow, that the United States in Congress have *no other* powers, jurisdiction or rights, than those delegated by the particular States.... [¶] The act of independence was made before the articles of confederation.... [¶] The confederation was not intended to weaken or abridge the powers and rights, to which the United States were previously entitled. It was not intended to transfer any of those powers or rights to the particular States, or any of them. If, therefore, the power now in question was vested in the United States before the confederation; it continues vested in them still. The confederation clothed the United States with many, though, perhaps, not with sufficient powers: But of none did it disrobe them. [¶]"

- It is no new position, that rights may be vested in a political body, which did not previously reside in any or in all the members of that body. They may be derived solely from the union of those members. ‘The case,’ says the celebrated Burlamaqui, is here very near the same as in that of several voices collected together, which, by their union, produce a harmony, that was not to be found separately in each.” *Collected Works*, Vol. I, pp. 65–67. Footnotes omitted. But see also John Mikhail, “The Necessary and Proper Clauses,” *Georgetown Law Review*, Vol. 102, No. 4 (April 2014), pp. 1045–1132, <https://repository.library.georgetown.edu/handle/10822/1083437> (accessed April 26, 2025).
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  27. James Wilson, Opinion in *Chisholm v. State of Ga.*, in *Collected Works*, Vol. I, pp. 352 and 356.
  28. *Ibid.*
  29. *Ibid.*, p. 357. Emphasis in original.
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  31. *Ibid.*
  32. *Ibid.*
  33. Wilson, “Of the Natural Rights of Individuals,” in *Collected Works*, Vol. II, p. 1057.
  34. Wilson, Opinion in *Chisholm v. State of Ga.*, in *Collected Works*, Vol. I, p. 353.
  35. See “General Rules of Conduct Prescribed by Reason. Of the Nature and First Foundations of Obligation,” Chapter VI in Jean-Jacques Burlamaqui, *The Principles of Natural and Politic Law*, trans. Thomas Nugent, ed. Peter Korkman (Indianapolis, IN: Liberty Fund, 2006), Vol. I, pp. 79–80, and “Of the Foundation of Sovereignty, or the Right of Commanding,” Chapter IX, in *ibid.*, pp. 92–103, [https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1717/1347\\_LFeBk.pdf](https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1717/1347_LFeBk.pdf) (accessed April 26, 2025)
  36. James Wilson, “Of Man, as an Individual,” in *Collected Works*, Vol. I, p. 594.
  37. Wilson, Opinion in *Chisholm v. State of Ga.*, in *ibid.*, p. 352.
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  39. Wilson, “Of the Natural Rights of Individuals,” in *Collected Works*, Vol. II, pp. 1053–1056, 1061.
  40. Wilson, “Of Man, as an Individual,” in *Collected Works*, Vol. I, pp. 585, 591–595, 601–604, 616–617. Footnotes omitted.

### Gouverneur Morris: Penman of the Constitution

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### Alexander Hamilton: Champion of American Enterprise

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### John Jay: Father of American Jurisprudence and Diplomacy

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### John Marshall: Expounder of the Constitution

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9. 5 U.S. (1 Cranch) 137 (1803).
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- 1. Reprinted from *The Founders' Almanac: A Practical Guide to the Notable Events, Greatest Leaders & Most Eloquent Words of the American Founding*, ed. Matthew Spalding (Washington: The Heritage Foundation, 2002), pp. 281–289, [https://www.heritage.org/sites/default/files/2022-09/Founders\\_Almanac.pdf](https://www.heritage.org/sites/default/files/2022-09/Founders_Almanac.pdf). Emphasis in original.

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