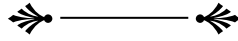


SLAVERY



For nearly 250 years, the existence of slavery deprived African Americans of independent lives and individual liberty. It also compromised the republican dreams of white Americans, who otherwise achieved unprecedented success in the creation of political institutions and social relationships based on citizens' equal rights and ever-expanding opportunity.

Thomas Jefferson, who in 1787 described slavery as an "abomination" and predicted that it "must have an end," had faith that "there is a superior bench reserved in heaven for those who hasten it." He later avowed that "there is not a man on earth who would sacrifice more than I would to relieve us from this heavy reproach in any *practicable* way." Although Jefferson made several proposals to curb slavery's growth or reduce its political or economic influence, a workable plan to eradicate slavery eluded him. Others also failed to end slavery until finally, after the loss of more than 600,000 American lives in the Civil War, the United States abolished it through the 1865 ratification of the Thirteenth Amendment to the Constitution.

American slavery and American freedom took root at the same place and at the same time. In 1619—the same year that colonial Virginia's House of Burgesses convened in Jamestown and became the New World's first representative assembly—about 20 enslaved Africans arrived at Jamestown and were sold by Dutch slave traders. The number of slaves in Virginia remained small for several decades, however, until the first dominant labor system—indentured servitude—fell out of favor after 1670. Until then indentured servants, typically young and landless white Englishmen and Englishwomen in search of opportunity, arrived by the thousands. In exchange for passage to Virginia, they agreed to labor in planters' tobacco fields for terms usually ranging from four to seven years. Planters normally agreed to give them, after their indentures expired, land on which they could establish their own tobacco farms. In the first few decades of settlement, as demand for the crop

boomed, such arrangements usually worked in the planters' favor. Life expectancy in Virginia was short and few servants outlasted their terms of indenture. By the mid-1600s, however, as the survival rate of indentured servants increased, more earned their freedom and began to compete with their former masters. The supply of tobacco rose more quickly than demand and, as prices decreased, tensions between planters and former servants grew.

These tensions exploded in 1676, when Nathaniel Bacon led a group composed primarily of former indentured servants in a rebellion against Virginia's government. The rebels, upset by the reluctance of Governor William Berkeley and the gentry-dominated House of Burgesses to aid their efforts to expand onto American Indians' lands, lashed out at both the Indians and the government.

After several months the rebellion dissipated, but so, at about the same time, did the practice of voluntary servitude.

In its place developed a system of race-based slavery. With both black and white Virginians living longer, it made better economic sense to own slaves, who would never gain their freedom and compete with masters, than to rent the labor of indentured servants, who would. A few early slaves had gained their freedom, established plantations, acquired servants, and enjoyed liberties shared by white freemen, but beginning in the 1660s Virginia's legislature passed laws banning interracial marriage; it also stripped African Americans of the rights to own property and carry guns, and it curtailed their freedom of movement. In 1650 only about 300 blacks worked Virginia's tobacco fields, yet by 1680 there were 3,000 and, by the start of the eighteenth century, nearly 10,000.

Slavery surged not only in Virginia but also in Pennsylvania, where people abducted from Africa and their descendants harvested wheat and oats, and in South Carolina, where by the 1730s rice planters had imported slaves in such quantity that they accounted for two-thirds of the population.



The sugar-based economies of Britain's Caribbean colonies required so much labor that, on some islands, enslaved individuals outnumbered freemen by more than ten to one. Even in the New England colonies, where staple-crop agriculture never took root, the presence of slaves was common and considered unremarkable by most.

Historian Edmund S. Morgan has suggested that the prevalence of slavery in these colonies may have, paradoxically, heightened the sensitivity of white Americans to attacks against their own freedom. Thus, during the crisis preceding the War for Independence Americans frequently cast unpopular British legislation—which taxed them without the consent of their assemblies, curtailed the expansion of their settlements, deprived them of the right to jury trials, and placed them under the watchful eyes of red-coated soldiers—as evidence of an imperial conspiracy to “enslave” them. American patriots who spoke in such terms did not imagine that they would be forced to toil in tobacco fields; instead, they feared that British officials would deny to them some of the same individual and civil rights that they had denied to enslaved African Americans. George Mason, collaborating with George Washington, warned in the Fairfax Resolves of 1774 that the British Parliament pursued a “regular, systematic plan” to “fix the shackles of slavery upon us.”

As American revolutionaries reflected on the injustice of British usurpations of their freedom and began to universalize the individual rights that they had previously tied to their status as Englishmen, they grew increasingly conscious of the inherent injustice of African-American slavery. Many remained skeptical that blacks possessed the same intellectual capabilities as whites, but few refused to count Africans as members of the human family or possessors of individual rights. When Jefferson affirmed in the Declaration of Independence “that all men are created equal,” he did not mean all *white* men. In fact, he attempted to turn the Declaration into a platform from which Americans would denounce the trans-Atlantic slave trade. This he blamed on Britain and its king who, Jefferson wrote, “has waged cruel war against human nature itself, violating it's [sic] 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.”

The king was wrong, he asserted, “to keep open a market where MEN should be bought & sold.” Delegates to the Continental Congress from South Carolina and Georgia, however, vehemently opposed the inclusion of these lines in the Declaration of Independence. Representatives of other states agreed to delete them. Thus began, at the moment of America's birth, the practice of prioritizing American unity over black Americans' liberty.

Pragmatism confronted principle not only on the floor of Congress but also on the plantations of many prominent revolutionaries. When Jefferson penned his stirring defense of individual liberty, he owned 200 enslaved individuals. Washington, the commander-in-chief of the Continental Army and future first president, was

In 1650 only about 300 African Americans worked Virginia's tobacco fields, yet by 1680 there were 3,000; by the start of the eighteenth century, there were nearly 10,000.

one of the largest slaveholders in Virginia. James Madison—who, like Jefferson and Washington, considered himself an opponent of slavery—was also a slaveholder. So was Mason, whose Virginia Declaration of Rights stands as one of the revolutionary era's most resounding statements on behalf of human freedom. Had these revolutionaries attempted to free their slaves, they would have courted financial ruin. Alongside their landholdings, slaves constituted the principal asset against which they borrowed. The existence of slavery, moreover, precluded a free market of agricultural labor; they could never afford to pay free people—who could always move west to obtain their own farms, anyway—to till their fields.

Perhaps the most powerful objection to emancipation, however, emerged from the same set of principles that compelled the American revolutionaries to question the justice of slavery. Although Jefferson, Washington, Madison, and Mason considered human bondage a clear violation of individual rights, they trembled when they considered the ways in which emancipation might thwart their republican experiments. Not unlike many nonslaveholders, they considered especially fragile the society that they had helped to create. In the absence of aristocratic selfishness and force, revolutionary American governments relied on virtue and voluntarism. Virtue they understood as a manly trait; the word, in fact, derives from the Latin noun *vir*, which means “man.” They considered men to be independent and self-sufficient, made free and responsible by

habits borne of necessity. Virtuous citizens made good citizens, the Founders thought. The use of political power for the purpose of exploitation promised the virtuous little and possessed the potential to cost them much. Voluntarism was virtue unleashed: the civic-minded, selfless desire to ask little of one's community but, because of one's sense of permanence within it, to give much to it. The Founders, conscious of the degree to which involuntary servitude had rendered slaves dependent and given them cause to resent white society, questioned their qualifications for citizenship. It was dangerous to continue to enslave them, but perilous to emancipate them. Jefferson compared it to holding a wolf by the ears.

These conundrums seemed to preclude an easy fix. Too aware of the injustice of slavery to expect much forgiveness from slaves, in the first decades of the nineteenth century a number of Founders embarked on impractical schemes to purchase the freedom of slaves and "repatriate" them from America to Africa. In the interim, debate about the continued importation of slaves from Africa stirred delegates to the Constitutional Convention. South Carolina's Charles Pinckney vehemently opposed prohibitions on the slave trade, arguing that the matter was best decided by individual states. The delegates compromised, agreeing that the Constitution would prohibit for twenty years any restrictions on the arrival of newly enslaved Africans. As president, Jefferson availed himself of the opportunity afforded by the Constitution when he prohibited the continued importation of Africans into America in 1808. Yet he had already failed in a 1784 attempt to halt the spread of slavery into the U.S. government's western territory, which stretched from the Great Lakes south toward the Gulf of Mexico (the compromise Northwest Ordinance of 1787 drew the line at the Ohio River), and in his efforts to institute in Virginia a plan for gradual emancipation (similar to those that passed in Northern states, except that it provided for the education and subsequent deportation of freed African Americans). Of all the Founders, Benjamin Franklin probably took the most unequivocal public stand against involuntary servitude when, in 1790, he signed a strongly worded antislavery petition submitted to Congress by the Pennsylvania Abolition Society. This, too, accomplished little.

The revolutionary spirit of the postwar decade, combined with the desire of many Upper South plantation owners to shift from labor-intensive tobacco to wheat, created opportunities to reduce the prevalence of slavery in America—especially in the North. Those opportunities not seized upon—especially in the South—would not soon return.

Eli Whitney's invention of the cotton gin in 1793 widened the regional divide. By rendering more efficient the processing of cotton fiber—which in the first half of the nineteenth century possessed a greater value than all other U.S. exports combined—Whitney's machine triggered a resurgence of Southern slavery. Meanwhile, the wealth that cotton exports brought to America

fueled a booming Northern industrial economy that relied on free labor and created a well-educated middle class of urban professionals and social activists. These individuals kept alive the Founders' desire to rid America of

slavery, but they also provoked the development of Southern proslavery thought. At best, Southerners of the revolutionary generation had viewed slavery as a necessary evil; by the 1830s, however, slaveholders began to describe it as a positive good. African Americans were civilized Christians, they argued, but their African ancestors were not. In addition, the argument continued, slaves benefited from the paternalistic care of masters who, unlike the Northern employers of "wage slaves," cared for their subordinates from the cradle to the grave. This new view combined with an older critique of calls for emancipation: since slaves were the property of their masters, any attempt to force their release would be a violation of masters' property rights.

Regional positions grew more intractable as the North and South vied for control of the West. Proposals to admit into statehood Missouri, Texas, California, Kansas, and Nebraska resulted in controversy as Northerners and Southerners sparred to maintain parity in the Senate. The 1860 election to the presidency of Abraham Lincoln, a Republican who opposed the inclusion of additional slave states, sparked secession and the Civil War.

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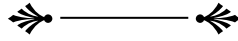
members of the founding generation failed to identify moderate means to abolish the practice, and hundreds of thousands died because millions had been deprived of the ability to truly live.

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FREEDOM OF RELIGION



A sound understanding of the United States requires an appreciation of the historical commitment of the American people to certain fundamental liberties. High on the list of these liberties is freedom of religion. The image of brave seventeenth-century English Puritans making the difficult journey across the Atlantic to American shores in pursuit of the freedom to live according to their faith is a powerful part of the American myth. Less remembered, however, is the fact that the commonwealth established by the Puritans was as intolerant as Anglican England, from which they had fled. Indeed, the road to achieving full religious liberty in the United States was long and arduous. By the time of the writing of the United States Constitution in 1787, Americans were committed to the principle of religious tolerance (or, to use the term of the time, “toleration”) and the idea of separation of church and state, but only to a limited degree. It would be another five decades before all states granted broad religious liberty to their citizens and provided for the complete separation of church and state.

Modern ideas about freedom of religion were developed in the wake of the Protestant Reformation of the sixteenth century, which shattered the unity of Christendom and plunged Europe into political and religious conflict. Though some European states remained religiously homogeneous, either retaining the traditional faith of Roman Catholicism or adopting some brand of Protestantism, religious division within many countries led to discord and bloodshed. In England, the church established in the mid-sixteenth century by King Henry VIII (who reigned from 1509 to 1547) faced stiff resistance, first from the many Catholics who refused to abandon the faith of their ancestors, and then from the Puritans who opposed the rule of bishops and wanted to purify the church so that it included only the elect.

Henry VIII’s successors, Elizabeth I (1558–1603) and James I (1603–1625), successfully quelled opposition to the Church of England (the Anglican

Church), largely through harsh persecution of dissenters. In 1642, however, England was engulfed by religious civil war, from which the Puritans emerged victorious. The Puritan Commonwealth established by Oliver Cromwell ruthlessly persecuted Anglicans and Catholics. But Puritan rule was short-lived. An Anglican monarch, Charles II, was restored to the throne in 1660.

This “settlement” of the religious crisis, however, was threatened by the accession of a Catholic, James II, to the throne in 1685. Anxious Protestants conspired and invited a foreigner, William of Orange, to assume the kingship of England. William invaded England, drove James into exile, assumed the throne, and reestablished the Church of England as the national church.

In this contentious atmosphere some English political thinkers, such as John Locke, began to advocate a policy of religious

toleration. Locke’s ideas reflected a key assumption of Enlightenment thought—that religious belief, like political theory, is a matter of opinion, not absolute truth. “The business of laws,” Locke wrote in his *Letter on Toleration* (1689), “is not to provide for the truth of opinions, but for the safety and security of the commonwealth and of every particular man’s goods and person.” Public security was in no way dependent on a uniformity of religious belief among the citizenry. “If a Jew do not believe the New Testament to be the Word of God,” Locke stated, “he does not thereby alter anything in men’s civil rights.” Rather, intolerance led to “discord and war,” and Locke warned that “no peace and security” could be “preserved amongst men so long as this opinion prevails . . . that religion is to be propagated by force of arms.” Religious belief, in Locke’s view, was a matter of individual choice, a matter for society, not for government.

Locke’s views on religious liberty had a profound influence on American thinking in the next century. Other writings, however, particularly the Bible, had at least as great an impact on American political theory. Indeed, the American experiment in religious toleration began years before the publication of



Locke's treatise, though the early history of Puritan Massachusetts Bay was hardly indicative of the course that toleration would take in America. Established by John Winthrop in 1630, Massachusetts was a repressive place where church and state were one and where religious dissent was ruthlessly stamped out. Dissenters had few options: they could be silent, suffer persecution, or leave the colony. Roger Williams, a freethinking preacher, was forced to choose this last option, leaving Massachusetts in 1636 to establish the colony of Rhode Island.

In Rhode Island, Williams instituted toleration for all people, and his new colony quickly became a refuge for persecuted groups like Quakers and Baptists. Williams's case for toleration was at least as radical as Locke's. Basing his arguments on the Bible, Williams insisted that the Jews, Muslims, and atheists were also deserving of religious liberty. The only "sword" to be used in fighting their opinions was scripture itself. Intolerance was an offense to God. "An enforced uniformity of religion throughout a nation or civil state," Williams wrote in *The Bloudy Tenent of Persecution* (1644), "denies the principles of Christianity." Williams argued that forced belief was not only a violation of God's law but also an unwise policy. "Enforced uniformity (sooner or later) is the greatest occasion of civil war, ravishing of conscience, persecution of Christ Jesus in his servants, and of the hypocrisy and destruction of millions of souls."

Two years before the founding of Rhode Island, Cecil Calvert founded the colony of Maryland and proclaimed toleration for all Christians. Calvert himself was a Catholic, but he knew that the viability of his colony depended on luring enough Protestant settlers to make it an economic success. A policy of toleration, he hoped, would serve this purpose. In setting up Pennsylvania in the 1680s, William Penn, a Quaker, followed a similar course, making his colony a haven not only for his fellow coreligionists, but, like Rhode Island, a refuge for people of all religious sects.

Pennsylvania and Rhode Island would preserve uninterrupted their traditions of religious liberty, but in Maryland, freedom of religion would be curtailed for Catholics once Protestants came to power in the last decade of the seventeenth century. Still, the idea that some degree of religious liberty was a healthful policy for government became

firmly rooted in America by the eighteenth century. Americans learned from the example of seventeenth-century England that religious persecution was ultimately detrimental to the political, social, and economic welfare of the nation. In America, where the Christian sects were more numerous than in England, the repercussions of religious intolerance would be especially adverse to the nation's prospects. Americans' devotion to religious freedom, then, was a product of necessity and experience as well as reason.

The crisis of empire during the 1760s and 1770s served to strengthen the American commitment to religious liberty. It was not only the intrusive economic measures passed by Parliament during these years that alarmed Americans. Patriot leaders also warned of the danger of the Anglican

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Church's interference in American religious affairs. There was much talk that the British government would install a bishop in America who would become the instrument of tyranny. This idea that political and religious liberty went hand in hand was reflected in the New York Constitution of 1776, which explicitly connected "civil tyranny" with "spiritual oppression and intolerance."

Nearly all the state constitutions written during the American independence movement reflected a commitment to some degree of religious liberty. The Massachusetts Constitution of 1780 promised that "no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience." The Virginia Declaration of Rights of 1776, authored by George Mason, proclaimed "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." Mason's ideas mirrored Locke's belief that government should not intrude upon the concerns of society.

But many states limited religious liberty to Christians in general, or to Protestants in particular. The North Carolina Constitution of 1776 decreed "That no person, who shall deny the being of God or the truth of the Protestant religion . . . shall be capable of holding any office or place of trust or profit in the civil department within this State." Similarly, the New Jersey Constitution of the same year declared that "there

shall be no establishment of any one religious sect in this Province, in preference to another,” but promised Protestants alone full civil rights. Thanks largely to the efforts of Charles Carroll of Carrollton, a Roman Catholic, Maryland’s Revolutionary Constitution was more liberal in its guarantee of religious liberty to “all persons, professing the Christian religion.”

The Protestant majority in America was indeed particularly concerned about the Catholic minority in its midst. Catholics constituted the largest non-Protestant creed in the country, and it was believed that Catholicism demanded loyalty to the pope above devotion to country. The connection between Catholicism and absolutism was deeply ingrained in the American Protestant mind and was a legacy of the Reformation, which Protestants saw as a period of liberation from the ignorance, superstition, and tyranny of the Roman Catholic Church. During the crisis with England, a wave of religious hysteria swept over American Protestants, who worried that the pope would personally lead the Catholics of Canada in a military assault on American forces. “Much more is to be dreaded from the growth of Popery in America,” patriot leader Samuel Adams asserted in 1768, “than from Stamp-Acts or any other acts destructive of men’s civil rights.” This bigotry caused Roman Catholics to become outspoken proponents of religious toleration and the separation of church and state. In a country dominated by Protestants, this was the only realistic course for them.

All thirteen states at the time of American independence, then, acknowledged to some degree in their constitutions the principle of religious liberty. Most also provided for some degree of separation of church and state. Several states went so far as to prohibit clergymen from holding state office, a restriction in the Georgia Constitution of 1777 that the Reverend John Witherspoon of New Jersey would famously protest. But few states provided for a complete separation of church and state, for it was believed that the government should give some support to religion in general. Though a substantial number of American elites in the late eighteenth century were not church-going Christians, nearly all believed in the God of the Old Testament, and all recognized the practical value of Christianity as a check on antisocial behavior. Many of the state constitutions written

in the era of independence, therefore, required that government give some support to Christianity. Though the Massachusetts Constitution guaranteed that “no subordination of any one sect or denomination to another shall ever be established by law,” it also permitted the legislature to levy taxes “for the support and maintenance of public protestant teachers of piety, religion and morality.” Similarly, the Maryland Constitution of 1776 permitted the legislature to “lay a general and equal tax for the support of the Christian religion.”

There were, however, calls for complete religious disestablishment at the state level. In Virginia, James Madison and Thomas Jefferson were two of the most prominent advocates of a

strict separation of church and state. Their ideas about religious liberty were clearly influenced by John Locke and fellow Virginian George Mason. In 1785, the Virginia legislature considered a bill that would provide for public funding of Christian

instruction. The measure was backed by several prominent statesmen, including Patrick Henry. But James Madison, then a member of the legislature, took the lead in opposing the bill, reminding Virginians that “torrents of blood have been spilt in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion.” The bill was defeated, and the following year, Jefferson introduced “A Bill for Establishing Religious Freedom,” which attempted to enshrine in law the idea “that no man shall be compelled to frequent or support any religious Worship place or Ministry whatsoever.” The bill passed with minor changes.

By the time of the Constitutional Convention of 1787, there was a broad consensus regarding the proper relationship between the national government and religion: first, that the government ought not to give support to any religious sect; second, that the government ought not to require a religious test for office; third, that the government ought not to interfere with private religious practice; and fourth, that the government ought not to interfere with the right of the states to do as they wished in regard to religious establishment and religious liberty. These points of consensus were reflected in both the body of the United States Constitution and in the First Amendment, which was ratified in 1791 as part of the Bill of Rights. Article VI of the Constitution explicitly stated that

Thomas Jefferson asserted that the First Amendment created “a wall of separation between church and state.” What Jefferson meant by this term is a subject of great debate.

“no religious test shall ever be required as a qualification to any office or public trust under the United States.” The First Amendment declared that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

The right of the states to set their own policy in regard to religion was implicitly acknowledged in Article I of the Constitution, which stipulated that to be eligible to vote in elections for the United States House of Representatives, “the elector in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.” Several states at the time mandated a religious test as a requirement for the franchise, and the Constitution therefore tacitly approved such tests. In addition, the First Amendment’s prohibition against religious establishment applied explicitly to the national Congress alone. Indeed, it was not until after the American Civil War, in the incorporation cases, that the United States Supreme Court ruled that some of the restrictions placed on the federal government by the amendments also applied to the state governments.

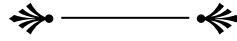
By 1800, then, there was a broad consensus among Americans that religious freedom was essential to political liberty and the well-being of the nation. During the next two centuries, the definition of freedom of religion would be broadened, as states abandoned religious tests and achieved complete disestablishment and as state and federal courts ruled that various subtle forms of government encouragement of religion were unconstitutional. Shortly after the dawn of the nineteenth century, in a letter to a Baptist congregation in Danbury, Connecticut, Thomas Jefferson asserted that the First Amendment created “a wall of separation between church and state.” What Jefferson meant by this term is a subject of great debate. But there is no doubt that his words have become part of the American political creed and a rallying cry for those who seek to expand the definition of religious liberty, even to mean that religion should be removed from public life altogether.

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COMMERCE



Although the modern United States is the preeminent example of a nation dedicated to free enterprise and commercial activity, the relationship between republican government and commerce was one of the central problems that confronted the Founders in the late eighteenth century. In order to understand the Founders' attitudes toward commerce, we need to understand both the role that commercial activity played in the American colonies in the century before the Revolution, as well as the important arguments about the legitimacy of commercial societies that animated English and European thinkers in the two centuries before the American Founding.

The American colonies originated in part as commercial enterprises. From the first settlements in the early seventeenth century until the eve of the Revolution, British and European settlers saw America as a place where they could come and make a better life for themselves. By the mid-eighteenth century, the British colonies in America were prosperous places heavily engaged in production and trade. Although the population was still overwhelmingly rural, colonial farmers were increasingly engaged in commercial agriculture. In all regions, they produced more than was needed for subsistence, trading their surplus with other colonies as well as engaging in a growing transatlantic trade with Britain and Europe. The Southern colonies produced valuable staple crops for export (tobacco, rice, indigo, wheat); farmers in the Middle colonies had a flourishing agricultural economy which was also involved in trade with the wider world; and, by the eighteenth century, the New England colonies were building ships, selling timber, and trading produce with the British Caribbean sugar islands. As a result of these extensive Atlantic trading networks, all of the colonial economies grew enormously in the eighteenth century. In addition, the main colonial port cities—Boston, New York, Philadelphia, and Charles Town (Charleston)—grew in size and importance. This burgeoning commercial

society also had a large merchant class, with powerful and wealthy men like John Hancock in Boston involved in far-flung commercial ventures.

The pre-Revolutionary American colonies were also consumer societies that eagerly used their growing wealth to purchase goods from all over the world. And, as the Revolution approached,

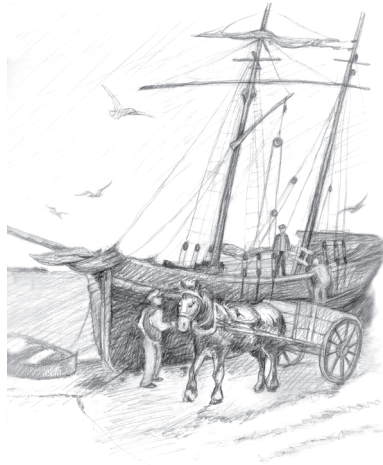
a growing number of white settlers not included in the political and economic elite were increasingly able to participate in this consumerism. Indeed, such was the widespread prosperity of these colonies that many modern historians have referred to them as the first middle class societies in the world.

All of this commercial activity, however, had a dark side. The Atlantic trade that the colonists engaged in with such profit was founded in part on the movement of African slaves to the New World. Once there,

these slaves were responsible for producing the lucrative staple crops that the colonies sold to England and Europe in exchange for manufactured goods. In addition, the ever-expanding agricultural economy of the colonies depended on the removal of the Native American population from their lands.

Several strands of thought provided intellectual justification for the increasingly commercial world of the eighteenth-century British Atlantic. The long tradition of English common law stressed the importance of property rights, which it saw as central to liberty, and which it protected from arbitrary seizure by preventing governments from taking property without the subject's consent. By stressing the sanctity of person and property, the English common law provided a legal infrastructure which supported a commercial society.

Seventeenth-century English Puritanism also provided a justification of commercial activity. According to Puritanism, God wanted people to work hard and prosper. To do so was a sign that you were one of the "elect," destined to be "saved"



and not “damned.” This Puritan work ethic remained a powerful force in American life well past the Revolution.

The political theory of the English writer John Locke (1632–1704), and in particular his ideas about a natural right to liberty and property, also provided justification for a commercial society. Like the common law, it placed a value on the liberty of the person, including the liberty to engage in production and trade. In addition, Locke offered an elaborate theoretical defense of an individual’s right to property. According to Locke, individuals were not given property rights by the state; rather, they generated a right to private property by their own labor. Locke defended commercial societies based on private property by arguing that they produced greater wealth for all than did those societies which eschewed private property and exchange. By making this case, Locke helped to legitimize commercial activity in the face of age-old denunciations that it was sinful. Building on these seventeenth-century ideas, English people on both sides of the Atlantic in the eighteenth century increasingly viewed themselves as free, Protestant, and deeply commercial.

By the time of the Revolution, the American Founders had also encountered the ideas of an influential group of eighteenth-century Enlightenment writers who offered a sophisticated defense of commercial societies. The French writer Montesquieu (1689–1755) argued that commerce “cures destructive prejudices” by fostering peaceful trade among peoples rather than war. Many Scottish writers in the eighteenth century made a similar defense of commerce. They argued that commercial societies constituted the highest stage of civilization and were the most conducive to human well-being, fostering political and religious liberty, peaceful relations among nations, higher standards of living, science, and the arts. The moral philosopher and economist Adam Smith (1723–1790), writing in the same year as the American Revolution, argued that self-interest was beneficent, and that those who sought private wealth were simultaneously benefiting society. All of these thinkers celebrated the modern commercial world in which they lived as superior to previous ages which, they argued, were characterized by feudal and aristocratic inequality, constant warfare, and religious fanaticism.

However, the ideas that influenced the Founders were not all supportive of commerce. Christianity, even in its Puritan form, could be used to denounce moneymaking. In New England in the seventeenth century, the merchant Robert Keayne was put on trial on charges of usury. In the years after independence, this Christian critique combined in the Founders’ thought with that of the republican thinkers of Greece and Rome who shared a similar skepticism about commerce. They argued that a society dedicated to commerce and self-interest would produce citizens overly concerned

with private matters and insufficiently attentive to the public good. These classical republican thinkers were particularly concerned about the political effects of luxury, worrying that liberty would be lost if people were too focused on the pursuit

of material gain. To the extent that republican thinkers defended property rights, they did so primarily as a means to the end of ensuring that there was an independent citizenry capable of acting for the public good. These classical ideas about the dangers of commerce to republican government influenced the Founders in the late eighteenth century. In particular, the ideas led some of them to be suspicious of the new institutions of commercial banking and public and private debt that supported the eighteenth-century commercial world.

The Revolution initially fostered these anticommercial sentiments in the colonial populace. In their attempts to harm the British economy, the colonies organized widespread nonimportation agreements in the 1760s and 1770s. Drawing on both the Christian and the classical republican critique of commerce, some colonists argued that this withdrawal from trade would also create a more virtuous citizenry, one less likely to succumb to luxury and self-interest. Writing his influential “Thoughts on Government” in 1776, a guide for lawmakers in the newly independent republican state governments, John Adams openly called for legal restrictions on consumption (called “sumptuary laws” in the eighteenth century), arguing that “the happiness of the people might be greatly promoted by them.”

Following the Revolution, the experience of both the new state governments and that of the Continental Congress operating under the Articles of Confederation brought these questions about

According to Puritanism, God wanted people to work hard and prosper. To do so was a sign that you were one of the “elect,” destined to be “saved” and not “damned.”

the relationship between republican governments and commercial activity to the fore. By ending the old British trading system, the Revolution also ushered in a debate about the commercial relations between the United States and the rest of the world.

The newly independent United States faced severe economic difficulties in the 1780s. The states found themselves with limited access to the lucrative British markets. They also owed money to those who had financed the war. But the Continental Congress lacked the legal power to compel the state governments to agree on a common commercial policy. It also lacked the authority to requisition the taxes necessary to pay off the Revolutionary War debt from the state governments. Robert Morris, who served as Congress' superintendent of finance from 1781–1783, was reduced to pleading with the state governors to send money to the national government.

The war had also left the individual states with large debts to repay. In order to pay these debts off, many states raised taxes and issued paper money that rapidly depreciated. In addition, many of the states began to interfere with the free movements of goods within the United States.

The drafting of the new Constitution in Philadelphia in 1787 set out to address the economic problems of the 1780s by creating a national government that would have the authority to impose taxes, regulate foreign trade, and, most importantly, create a common commercial policy between the various state governments. In the *Federalist Papers*, James Madison and Alexander Hamilton, the most prominent defenders of the new Constitution, argued forcefully that the federal government needed these expanded powers in order to create a large free trading area within the continental United States. They, along with their coauthor John Jay, also argued for a vigorous commercial policy to open up markets for foreign trade.

In making these arguments, the framers were heavily influenced by the Enlightenment defense of commerce discussed above. The Framers further argued that republican government, by allowing both political and economic freedom, would foster virtuous behavior in its citizens. Freed from the burden of supporting monarchs and aristocrats, ordinary people in a republic would have the incentive to be industrious and productive, secure

in the knowledge that they would be able to reap the benefits of their labor.

Although the new Constitution laid the groundwork for an extended commercial republic, it did not end the debates among the Founders over the legitimacy of commerce. In the 1790s, the Federalists argued for a government-led program of commercial expansion, involving investments in infrastructure as well as the creation of a national banking system. However, the Democratic-Republican Party under Thomas Jefferson was much more divided on the merits of commercial

Although the new Constitution laid the groundwork for an extended commercial republic, it did not end the debates among the Founders over the legitimacy of commerce.

republicanism. One strand of Jeffersonian thought was skeptical of extensive commercial activity, preferring instead a society of independent yeoman farmers whose landed status would give them a secure material base for republican

citizenship. In making this argument, the Jeffersonians echoed the republican thinkers of antiquity who valued landed property over commercial property because it alone enabled the virtuous citizen to act in the public interest. This aspect of Jeffersonian thought was also skeptical of manufacturing and wage labor, fearing that a populace engaged in such pursuits would not be able to obtain the independence required of republican citizens. Finally, Jeffersonians were very concerned about the modern institutions of banking and public and private debt, fearing that they would enable powerful men to undermine republican government by setting up an aristocracy of money.

However, Jeffersonian thought also had a strong laissez-faire element, one that became increasingly important as the eighteenth century came to a close. Although still preferring commercial agriculture over manufacturing, Jeffersonians were ardently in favor of free labor, free trade, and free markets. On this view, commerce was a liberating, even equalizing force, allowing the common people to benefit from the fruits of their own labor. In addition, this Jeffersonian policy of laissez-faire was very skeptical of the Federalist plans for extensive state-directed commerce, preferring instead to let individuals make their own economic decisions. This element of the Jeffersonian attitude toward commerce expressed the powerful desire of the American populace for material improvement, a desire which had deep roots in the colonial past.

Jefferson's election in 1800 did not end these debates about the propriety of commercial activity. Most Americans agreed that republican liberty included the right to own property and to enjoy the fruits of one's labor. However, as Jefferson's "empire of liberty" expanded west, this vision of free men and free labor clashed with the institution of slavery as it became an increasingly profitable form of commercial activity, and one that was sometimes defended as an expression of the

American commitment to private property. Along with the relationship between slavery and free labor, the question of the place of manufacturing in a republican society, the role of banks, the issue of free trade, and the desirability of state intervention in the economy remained pressing questions in the increasingly commercial United States well into the nineteenth century.

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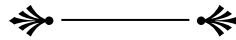
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REPUBLICAN GOVERNMENT



As Benjamin Franklin left Philadelphia's Convention Hall in September 1787, upon the completion of the work of the Framers of the Constitution, a woman approached him and asked the old sage of the Revolution what the delegates had created. Franklin responded, "A republic, Madame, if you can keep it." The woman's reaction to Franklin's reply is left unrecorded by history, but she might well have asked Franklin for a more detailed answer. Though the word "republic" was common currency in America at the time, the meaning of the term was imprecise, encompassing various and diverse forms of government.

Broadly, a republic meant a country not governed by a king. The root of the word is the Latin, *res publica*, meaning "the public things." "The word *republic*," Thomas Paine wrote, "means the *public good*, or the good of the whole, in contradistinction to the despotic form, which makes the good of the sovereign, or of one man, the only object of the government." In a republic, the people are sovereign, delegating certain powers to the government whose duty is to look to the general welfare of society. That citizens of a republic ought to place the common good before individual self-interest was a key assumption among Americans of the eighteenth century. "Every man in a republic," proclaimed Benjamin Rush, "is public property. His time and talents—his youth—his manhood—his old age, nay more, life, all belong to his country."

Republicanism was not an American invention. In shaping their governments, Americans looked to history, first to the ancient world, and specifically to the Israel of the Old Testament, the Roman republic, and the Greek city-states. New Englanders in particular often cited the ancient state of Israel as the world's first experiment in republican government and sometimes drew a parallel between the Twelve Tribes of Israel and the thirteen American states. In 1788, while ratification of the Constitution was being debated, one Yankee preacher gave a sermon entitled, "The Republic of the Israelites an Example

to the American States." Indeed, the Bible was cited by American authors in the eighteenth century more often than any other single source.

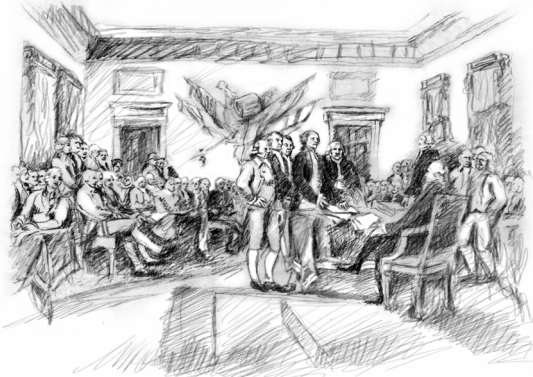
Americans not only knew their Bible, but also the history of the Greeks and Romans. The elite class mastered ancient languages and literature, a requirement of colleges at the time. To these men

of the eighteenth century, ancient languages were not dead, nor were ancient events distant; rather, the worlds of Pericles and Polybius, Sallust and Cicero were vibrant and near. The relatively minor advancements in technology across 2,000 years—people still traveled by horse and sailing ship—

served to reinforce the bond eighteenth-century Americans felt with the ancients.

Like the Greeks and Romans of antiquity, Americans believed that government must concern itself with the character of its citizenry. Indeed, virtue was "the Soul of a republican Government," as Samuel Adams put it. Virtue had two connotations, one secular and the other sacred. The root of the word was the Latin, *vir*, meaning "man," and indeed republican virtue often referred to the display of such "manly" traits as courage and self-sacrifice for the common good. These qualities were deemed essential for a republic's survival. "A popular government," Patrick Henry proclaimed, "cannot flourish without virtue in the people." But virtue could also mean the traditional Judeo-Christian virtues, and many Americans feared that God would punish the entire nation for the sins of its people. "Without morals," Charles Carroll proclaimed, "a republic cannot subsist any length of time." New Englanders in particular sought to have society's institutions—government and schools as well as churches—inculcate such qualities as industry, frugality, temperance, and chastity in the citizenry. The Massachusetts Constitution of 1780, for example, provided for "public instructions in piety, religion, and morality."

The second ingredient of a good republic was a well-constructed government with good institutions.



“If the foundation is badly laid,” George Washington said of the American government, “the superstructure must be bad.” Americans adhered to a modified version of the idea of “mixed” government, advocated by the Greek thinker Polybius and later republican theorists. A mixed republic combined the three basic parts of society—monarchy (the one ruler), aristocracy (the rich few), and democracy (the people)—in a proper formula so that no one part could tyrannize the others. But Americans believed that the people of a republic were sovereign, so they sought to create institutions that approximated the monarchical and aristocratic elements of society. The Framers of the Constitution did just this by fashioning a single executive and a Senate once removed from the people. The problem, as John Adams pointed out in his *Thoughts on Government*, was that “the possible combinations of the powers of society are capable of innumerable variations.”

Americans had every reason to be pessimistic about their experiment in republicanism. History taught that republics were inherently unstable and vulnerable to decay. The Roman republic and the city-state of Athens, for instance, had succumbed to the temptations of empire and lost their liberty. The histories of the Florentine and Venetian republics of Renaissance Italy too had been glorious but short-lived. Theorists from the ancient Greek thinker Polybius to the seventeenth-century English radical Algernon Sidney warned that republics suffer from particular dangers that monarchies and despotisms do not. Republics were assumed to burn brightly but briefly because of their inherent instability. One element of society always usurped power and established a tyranny.

The great danger to republics, it was generally believed, stemmed from corruption, which, like virtue, had both a religious and a worldly meaning. Corruption referred, first, to the prevalence of immorality among the people. “Liberty,” Samuel Adams asserted, “will not long survive the total Extinction of Morals.”

“If the Morals of the people” were neglected, Elbridge Gerry cautioned during the crisis with England, American independence would not produce liberty but “a Slavery, far exceeding that of every other Nation.”

This kind of corruption most often resulted from avarice, the greed for material wealth. Several American colonial legislatures therefore passed

sumptuary laws, which prohibited ostentatious displays of wealth. “Luxury . . . leads to corruption,” a South Carolinian declared during the Revolutionary era, “and whoever encourages great luxury in a free state must be a bad citizen.” Another writer warned of the “ill effect of superfluous riches” on republican society. Avarice was seen as a “feminine” weakness; the lust for wealth rotted away “masculine” virtues. John Adams bemoaned “vanities, levities, and fopperies, which are real antidotes to all great, manly, and warlike virtues.”

Fear of government’s tendency to expand its power at the expense of the people’s liberty was part of Americans’ English political heritage.

The second meaning of corruption referred to placing private interest above the common good. This temptation plagued public officials most of all, who had ample opportunity to misappropriate public funds and to expand their power.

“Government was instituted for the general good,” Charles Carroll wrote, “but officers intrusted with its powers have most commonly perverted them to the selfish views of avarice and ambition.” Increasingly in the eighteenth century, Americans came to see government itself as the primary source of corruption.

Fear of government’s tendency to expand its power at the expense of the people’s liberty was part of Americans’ English political heritage. They imbibed the writings of late-seventeenth-century English radicals and eighteenth-century “country” politicians who were suspicious of the power of British officials (the “court”). Government corruption was manifested in patronage (the awarding of political office to friends), faction (the formation of parties whose interests were opposed to the common good), standing (permanent) armies, established churches, and the promotion of an elite class. Power, these country writers argued, was possessed by the government; it was aggressive and expansionist. Liberty was the property of the governed; it was sacred and delicate. The history of liberty in the world was a history of defeat by the forces of tyranny.

Though the history of republicanism was a dismal one, the lessons of history as well as their own colonial experience convinced the American Founders that they possessed sufficient information on which to base a new science of politics. “Experience must be our only guide,” John Dickinson proclaimed at the Philadelphia Convention; “reason may mislead us.” The Framers of the United States Constitution all had experience as public servants,

and it must be remembered that the document they produced did not spring forth as something entirely new in the American experience. Rather, the Founders had learned much from the operation of their colonial charters, state constitutions, and the Articles of Confederation.

At Philadelphia, the Founders focused on the proper construction of the machinery of government as the key to the building of a stable republic. The Constitution makes no mention of the need for virtue among the people, nor does it make broad appeals for self-sacrifice on behalf of the common good. It is a hard-headed document forged by practical men who had too often witnessed avarice and ambition among their peers in the state house, the courtroom, and the counting house. A good constitution, the Founders held, was the key to good government. Corruption and decay could be overcome primarily through the creation of a written constitution—something England lacked—that carefully detailed a system in which powers were separated and set in opposition to each other so that none could dominate the others.

James Madison, often called “The Father of the Constitution” because of the great influence of his ideas at Philadelphia, proposed to arrange the machinery of government in such a fashion as not to make virtue or “better motives” critical to the advancement of the common good. Acknowledging in *The Federalist Papers* that “enlightened statesmen will not always be at the helm,” Madison believed that the separate powers of government—legislative, executive, and judicial—must be set in opposition to one another, so that “ambition must be made to counteract ambition.”

“In framing a government which is to be administered by men over men,” Madison asserted, “the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

James Wilson, representing Pennsylvania at the Philadelphia Convention, declared that the Constitution’s separation of powers and checks and balances made “it advantageous even for bad men to act for the public good.” This is not to say that the delegates believed that the republic could survive if corruption vanquished virtue in society. Madison himself emphasized the importance of republican virtue when defending the new government in *The Federalist Papers*. But the Framers

agreed with Madison that men were not angels, and most were satisfied that the Constitution, as George Washington put it, “is provided with more checks and barriers against the introduction of Tyranny . . . than any Government hitherto instituted among mortals.”

The question remained, however, whether one part of society would come to dominate. No matter how perfect the design, the danger remained that a faction would amass enough political power to take away the liberty of others. To combat this problem, classical republican theory called for creating a uniformity of opinion among the republican

citizenry so that factions could not develop. The ancient Greek city-states, for example, feared anything that caused differentiation among citizens, including commerce, which tended to create inequalities of wealth and opposing interests. In

contrast, Madison and the Founders recognized that factionalism would be inherent in a commercial republic that protected freedom of religion, speech, press, and assembly. They sought only to mediate the deleterious effects of faction.

Republics also were traditionally thought to be durable only when a small amount of territory was involved. The Greek city-states, the Roman republic, the Italian republics, and the American states all encompassed relatively small areas. When the Roman republic expanded in its quest for empire, tyranny was the result. Madison turned this traditional thinking on its head in *The Federalist Papers*, arguing that a large republic was more conducive to liberty because it encompassed so many interests that no single one, or combination of several, could gain control of the government.

Not all Americans accepted the Madisonian solution. Agrarians, such as Thomas Jefferson, were uncomfortable with the idea of a commercial republic centered on industry and sought to perpetuate a nation of independent farmers through the expansion of the frontier. Though uneasy about the “energetic government” created by the Constitution, Jefferson endorsed the Framers’ work after a bill of rights was added to the document. “Old republicans” like Samuel Adams and George Mason opposed the Constitution, even after the addition of a bill of rights, fearing that the power granted to the central government was too great and wistfully looking back to the Revolutionary era when virtue, not ambition, was the animating principle of government. But in 1789, as the new government went into operation,

[The Constitution] is a hard-headed document forged by practical men who had too often witnessed avarice and ambition among their peers.

most Americans shared the optimism of Benjamin Franklin, who had decided at the conclusion of the Philadelphia Convention that the sun carved into the back of the chair used by George Washington was a rising—not a setting—sun, and thereby indicative of the bright prospects of the nation.

“We have it in our power to begin the world over again,” Thomas Paine had written in 1776, during the heady days of American independence. And indeed the American Founders in 1787 were keenly aware that they possessed a rare opportunity.

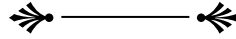
Like the legendary Lycurgus of Ancient Greece, they were to be the supreme lawgivers of a new republic, a *novus ordo seclorum* or new order of the ages. The American Founders were aware that the eyes of the world and future generations were upon them, and they were determined to build an eternal republic founded in liberty, a shining city upon a hill, as an example to all nations for all time.

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EQUALITY



Perhaps no single phrase of the Founders is more commonly misinterpreted than the claim, made by Thomas Jefferson in the Declaration of Independence, “that all men are created equal.” Jefferson did not mean that all people are, in fact, in every way equal. Nor did he mean that all people *should* be equal in every way. He did, however, mean that all individuals possess identical natural rights. These rights, he wrote, include “life, liberty,” and the ability of individuals to engage without injuring one another in “the pursuit of happiness.” Jefferson’s belief in the equality of natural rights reflected deeply-rooted Anglo-American tradition. His words, after all, echoed the reasoning of John Locke, the English political philosopher who, in 1689, maintained that no one—no matter how powerful—possesses the right to “take away” without just cause “the Life, Liberty, Health, Limb or Goods of another.”

Yet Jefferson’s assertion regarding natural rights also sanctioned a radical departure from the past. The Declaration of Independence, which Jefferson penned in behalf of the other privileged delegates to the Continental Congress, helped to inspire ordinary Americans to overturn timeworn social and political barriers separating aristocrats from common people and the powerful from the powerless.

In 1776, these distinctions were stark. Maybe the 3.5 million people who lived in America had been created equal, but more than 600,000 had subsequently been enslaved. When women married, a legal doctrine known as “coverture” held that they lost their legal identity and forfeited to their husbands their property. They could not vote, and since nearly everywhere laws made enfranchisement conditional on the ownership of a sizeable portion of land, neither could many men. Laws establishing primogeniture, which passed to the eldest son all of a father’s land if he died without leaving a will, slowed a fairly consistent trend during the colonial era toward the gradual expansion of land ownership among the population,

as well as the gradual expansion of common people’s political power, which land ownership made possible. In addition, individuals who subscribed to minority religious faiths also suffered from legal inequality. Despite the relative rarity of instances of state-sanctioned intolerance toward members of most minority religions, nine of the original thirteen

states designated an official faith that enjoyed taxpayer-financed subsidies as well as other benefits and privileges.

A general acceptance of social hierarchy reflected and reinforced these instances of legal inequality. In many ways American society continued to fit the description of Jonathan Edwards, the eighteenth-century theologian, who observed that all individuals possessed “their appointed office, place and station, according to their several capacities and talents, and everyone keeps his place,

and continues in his proper business.” These assumptions, according to historian Gordon Wood, coalesced naturally with “the hierarchy of a monarchical society” and were feudal in their origins. “In such a society it was inconceivable,” Wood maintains, “for inequality not to exist.”

While an acceptance of monarchical government helped to foster legal inequality and social hierarchy, the republican alternative to absolutism—which gained ground in America especially after the Glorious Revolution of 1688—did not immediately spark a move toward egalitarianism. In many ways, in fact, republicanism bolstered the notion that limits should be placed on who could be entrusted with the reins of government. While republican thinkers believed that the distribution of political power should be expanded to varying degrees, the empowerment of an increasing number of individuals constituted merely a means to a greater end, which was the restraint of government power itself.

Republicans insisted, for example, that political participants be virtuous and that their decisions be motivated by a concern for the good of the entire society. In other words, republicans maintained that



voters and officeholders alike should be selfless (or “disinterested”) in their decision-making—that they should not aim to use the power of government to serve the interests of themselves or any particular constituency. Such disinterestedness, republicans believed, could only be expected of individuals who possessed a sufficient degree of economic independence. Certainly the enslaved lacked independence, and women were presumed to be dependent on their husbands and fathers. Were the poor empowered with the franchise, their desperation could mean that their votes could be cheaply purchased. It might also lead them to use their power to seize the wealth of others. Republican theorists presumed that the rich and the middling, meanwhile, would less easily fall under the influence of others and would be less likely give in to selfish motives. Republicans, who maintained that the only people who should be entrusted with the government of others were people capable of governing themselves, focused their energies on restraining the predatory nature of political power.

One of the most effective weapons in this crusade, however, was the principle that all men had a right to equal protection under the law. Republicans in Britain and America maintained, for example, that all men accused of serious crimes were entitled to be tried in front of juries of their peers. In addition, republicans believed that all men deserved protection against the imposition of excessive bails and excessive fines, and against the infliction of punishments disproportionate with those accorded to others found to have committed similar offenses against the law. A general acceptance of this sort of procedural equality, which aimed to prevent government officials from singling out individuals or groups for persecution, created a climate within which other forms of equality could take root.

So did the belief that all Britons—whether they resided in England or America—shared an equal right to the protection of a representative assembly. The English Bill of Rights (1689) not only guaranteed to all men the benefit of consistent legal practices, but also restricted government from acting in certain circumstances without the consent of Parliament. The monarch possessed no unilateral power to suspend laws, levy taxes, station an army among the civilian population, or interfere with elections or the

legislative process. While members of the House of Commons generally favored a narrow interpretation of the Bill of Rights and believed themselves to be the ultimate authority on these matters throughout the British empire, Americans tended to disagree. Since they had no direct representation in Parliament, Americans believed that their own elected colonial assemblies possessed Parliament’s prerogatives.

The 1763–1776 imperial crisis brought this issue to the fore and cemented in the minds of many Americans a belief in their own collective equality with the people of Britain. First, Parliament drew its unpopular Proclamation Line, which prohibited American settlement beyond the crest of the Appalachian Mountains. Then Parliament passed the hated 1765 Stamp Act, through which it acted

without the consent of colonial legislatures to impose a tax on legal documents, newspapers, broadsides, and other paper goods. These and other British measures spurred a spirited resistance movement, helped to provoke the spilling of blood at Lexington and Concord, and led to the Declaration of Independence. Many Americans came to agree with Thomas Paine, who wrote in his 1776 pamphlet, *Common Sense*, that “there is something very absurd, in supposing a continent to be perpetually governed by an island.” Parliament’s recalcitrant insistence on its authority to govern a distant people portended continued abuses of power and unacceptable usurpations of rights. Since in Parliament there existed no equality between the people of Great Britain and the people of America, there was no accountability on the part of Great Britain compelling it to consider what was good for America.

This unbalanced relationship unleashed the avarice of Britons, whom some colonists compared to wolves salivating over vulnerable American sheep. As Paine observed, “the property of no man is secure in the present unbraced system of things.” Within this context, Jefferson, in the Declaration of Independence, not only claimed the equal rights of American people but also the equality of the American people relative to the people of all other nations when he asserted that Americans had a right to enjoy “the separate and equal station to which the Laws of Nature and Nature’s God entitle them.” Americans, in other words, counted for just as much as people anywhere else.

One of the most effective weapons in this crusade, however, was the principle that all men had a right to equal protection under the law.

This was a powerful sentiment. First, it expressed the collective will of the people who comprised the various colonies that now—like the independent nations of Europe—called themselves “states.” The value placed on collective equality by these new states manifested itself through the fact that, according to the rules that governed the Continental Congress as well as those of the Articles of Confederation, a tiny state such as Delaware had a voice as loud as a much more populous state, such as Pennsylvania. Even under the 1787 Constitution, which provided for a lower chamber with proportional representation, within the Senate the states had equal power. Second, the statement drafted by Jefferson helped to inspire the hopes of various groups—such as common people, religious minorities, women, and African-Americans—that would now begin to question their own unequal stations. If earlier, Americans had based their claims of equality upon their inclusion within a system of English rights and privileges, American revolutionaries now made their appeals on the basis of self-evident truths and universal rights granted by God or nature. As Paine wrote, “a new method of thinking hath arisen.”

It took no great leap of logic to apply the universal claims of the Declaration to various deprived groups. Abigail Adams did this when in 1776 she wrote to her husband, John, a member of the Continental Congress. “I long to hear that you have declared an independency,” she said, for it would provide him and his colleagues with an opportunity to make a new code of law. In this, she maintained, “I desire you would remember the ladies and be more generous and favorable to them than your ancestors.” Appropriating some of the same principles that had been used to justify American opposition to Britain, she reminded her husband that “all men would be tyrants if they could. If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation.”

A group of slaves from the towns of Stratford and Fairfield in 1779 used similar arguments when they petitioned the Connecticut General Assembly for freedom. “We are endowed with the same Faculties as our masters,” they wrote, “and there is nothing that leads us to a Belief, or Suspicion, that we are any more obliged to serve them, than they

us.” Not unlike white Americans, they maintained, “we are Convinced of our Right (by the Laws of Nature and by the whole Tenor of the Christian Religion. . . .) to be free.” It was simply not “consistent with the present Claims, of the united States, to hold so many Thousands, of the Race of Adam, our Common Father, in perpetual Slavery.”

Although women and African-Americans would continue to suffer under unequal laws for many decades, for white Americans the idea of equality yielded much more immediate benefits. To a certain degree, American social hierarchy had

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never been as fully articulated as in Europe. John Adams observed in 1761 that “all Persons under the Degree of Gentlemen are styled Yeoman.” Yet, within the lifetime of the revolutionary generation, the very existence of a special class of

“gentlemen” and “ladies” had been called into question. Old distinctions melted away as the principles of the Revolution combined with the dramatic new economic opportunities of the Market Revolution and the leveling spirit of early nineteenth-century religious revivalism to foster in the minds of Americans the notion that no man or woman was in any fundamental sense better than any other.

This spirit manifested itself through the gradual elimination of laws that favored certain religious groups over others. Paine helped to set the stage for this development, for in 1776 he wrote that “there should be diversity of religious opinions among us: It affords a larger field for our Christian kindness.” Then the efforts of Jefferson and James Madison resulted in the 1786 passage of the Virginia Statute for Religious Freedom, starting a trend that would continue until 1833, when Massachusetts became the last state to cut ties with a specific church. Similarly, laws limiting the franchise also eroded. Thanks to egalitarian principles and the recognition that, in the diversified market economy, land no longer served as a meaningful measure of independence, by the 1840s all white men could vote.

The flowering of equality in America manifested itself not only through the new republic’s laws but also through its people’s spirit. This is what struck Englishman Charles Janson, who traveled in the United States in the first decade of the nineteenth century. Upon his arrival at the house of an acquaintance, he was greeted by a servant. “Is your master at home?” he asked. The servant’s response

was simple: “I have no master.” The point was that Americans were their own masters and that status had more to do with effort, behavior, and character than inheritance. Americans never called for equality of condition, but they did seek equal opportunities to engage in individual pursuits of happiness. Americans, who had abandoned old

notions that paid deference to the inherited aristocracy of wealth and privilege, now embraced what Jefferson described as a “natural aristocracy of talents & virtue.”

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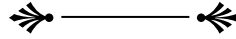
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LIBERTY



Liberty was the central political principle of the American Revolution. As Patrick Henry, one of its staunchest supporters, famously intoned, “Give me liberty or give me death.” Henry was not alone in his rhetorical fervor. Indeed, no ideal was proclaimed more often in the eighteenth-century Anglo-American world than liberty.

The idea of liberty defended by the American Founders came from several sources. The most venerable was English common law. Beginning in the late medieval period, writers in the common law tradition developed an understanding of liberty which held that English subjects were free because they lived under a system of laws which even the Crown was bound to respect. Leading English jurists argued that these legal limits on royal power protected the subject’s liberty by limiting the arbitrary use of political power.

Under English common law, liberty also consisted in the subject enjoying certain fundamental rights to life, liberty and property. William Blackstone (1723–1780), the leading common lawyer of the eighteenth century, argued that these rights allowed an English subject to be the “entire master of his own conduct, except in those points wherein the public good requires some direction or restraint . . .” For Blackstone, these English rights further protected the subjects’ liberty by making them secure in their persons from arbitrary search and seizure, and by ensuring that their property could not be taken from them without due process of law.

In order to preserve these fundamental rights, the English common law allowed the subject the right to consent to the laws that bound him by electing representatives to Parliament whose consent the monarch had to obtain before acting.

Common lawyers in the seventeenth and eighteenth centuries did not view these rights and the liberty they protected as the gift or grant of the monarch; rather, they believed that they were an Englishmen’s “birthright,” something that inhered in each subject and that therefore could not be taken away by royal prerogative.

This common law understanding of liberty was central to the seventeenth-century struggles against the Stuart monarchy. Prominent jurists and Parliamentarians such as Edward Coke (1552–1634) took the lead in the attempt to limit what they saw as the illegal and arbitrary nature of the Stuarts’ rule. This struggle culminated in the Glorious Revolution

of 1689 and the triumph of Parliamentary authority over the Crown. For champions of English liberty, the result of this century-long struggle was the achievement of political liberty. They further argued that, as a result of this struggle, Britain in the eighteenth century had the freest constitution in the world. According to the French writer Montesquieu (1689–1755), Britain was “the only nation in the world, where political and civil liberty” was “the direct end of the constitution.”

This seventeenth century struggle between royal power and the subject’s liberties made a great impression on the American Founders. They absorbed its lessons about the nature and importance of liberty through their reading of English history as well as through their instruction in English law.

A second and equally influential understanding of liberty was also forged in the constitutional battles of the seventeenth century: the idea that liberty was a natural right pertaining to all. The foremost exponent of this understanding of liberty in the English-speaking world was John Locke (1632–1704). Locke’s political ideas were part of a wider European political and legal movement which argued that there were certain rights that all men were entitled to irrespective of social class or creed.

Like the common lawyers, Locke saw liberty as centrally about the enjoyment of certain rights. However, he universalized the older English understanding of liberty, arguing that it applied to all persons, and not just to English subjects. Locke also expanded the contemporary understanding of liberty by arguing that it included other rights—in particular a right to religious toleration (or liberty of conscience), as well as a right to resist governments that violated liberty. In addition, Locke argued that the traditional English common



law right to property was also a natural right, and was an important part of the subject's liberty.

Locke began his political theory by arguing that liberty was the natural state of mankind. According to Locke, all men are “naturally” in a “State of perfect Freedom to order” their “Actions, and dispose of their Possessions, and Persons as they think fit, within the bounds of the Law of Nature, without asking leave, or depending upon the Will of any other Man.”

However, Locke did not argue that this natural liberty was a license to do whatever we want.

“Freedom is not,” he argued, “A Liberty for every Man to do what he lists (For who could be free, when every other Man’s humour might domineer over him?).” Rather, Locke held that since all men are “equal and independent, no one ought to harm another in his Life, health, Liberty, or Possessions.” According to Locke, each of us has “an uncontrollable Liberty to dispose of our persons and possession,” but we do not have the right to interfere with the equal liberty of others to do the same.

In Locke’s political theory, men enter into society and form governments to better preserve this natural liberty. When they do so, they create a political system where the natural law limits on liberty in the state of nature are translated into a legal regime of rights. In such a system, Locke argued, each person retains his “Liberty to dispose, and order, as he lists, his Person, Actions, Possession, and his whole Property, within the Allowance of those Laws under which he is; and therein not to be subject to the arbitrary Will of another, but freely follow his own.”

For Locke, as for the common lawyers, the rule of law was necessary for liberty. In Locke’s view, “the end of law is not to abolish or restrain, but to preserve and enlarge Freedom.” According to Locke, “Where there is no Law, there is no Freedom. For Liberty is to be free from restraint and violence from others which cannot be, where there is no law.”

Building on both the English common law and on Locke’s ideas, the eighteenth-century English writer Cato argued “that liberty is the unalienable right of mankind.” It is “the power which every Man has over his own Actions, and his Right to enjoy the Fruit of his Labour, Art, and Industry, as far as by it he hurts not the Society, or any members of it, by taking from any Member or by

hindering him from enjoying what he himself enjoys.” Cato was the pseudonym for two British writers, John Trenchard and Thomas Gordon. Their co-authored *Cato’s Letters* (1720–1723) were widely read in the American colonies.

On the eve of the American Revolution, then, the received understanding of liberty in the Anglo-American world was a powerful amalgam of both the English common law and the liberal ideas of writers like Locke and Cato. On this view, liberty meant being able to act freely, secure in your basic rights, unhindered by the coercive actions of others,

and subject only to the limitation of such laws as you have consented to. Central to this idea of liberty was the right to hold property and to have it secure from arbitrary seizure. In addition, under the influence of Locke, liberty was increasingly being seen on

both sides of the Atlantic as a universal right, one not limited to English subjects. Equally influential was Locke’s argument that if a government violated its citizens’ liberty the people could resist the government’s edicts and create a new political authority. However, despite the gains that had been made since the seventeenth century, many Englishmen in the eighteenth century still worried that liberty was fragile and would always be endangered by the ambitions of powerful men.

Since the first settlements were established in the early seventeenth century, the American colonists shared in this English understanding of liberty. In particular, they believed that they had taken their English rights with them when they crossed the Atlantic. It was on the basis of these rights that they made a case for their freedom as colonists under the Crown. In addition, in the eighteenth century, the colonists were increasingly influenced by the Lockean idea that liberty was a natural right. As a result, when they were confronted with the policies of the British Crown and Parliament in the 1760s and 1770s to tax and legislate for them without their consent, the colonists viewed them as an attack on their liberty.

In response, the colonists argued that these British taxes and regulations were illegal because they violated fundamental rights. They were particularly resistant to the claims of the British Parliament, as expressed in the Declaratory Act of 1766, to legislate for the colonies “in all cases whatsoever.” By 1774, following the Boston Tea Party organized by Samuel Adams and John Hancock, and the subsequent

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Coercive Acts, many leading colonists such as Thomas Paine and James Otis argued that they had a natural right to govern themselves, and that such a right was the only protection for their liberty. In addition to several essays in defense of rights, including *Letters from a Farmer in Pennsylvania*, John Dickinson wrote the first patriotic song, “The Liberty Song.”

This colonial thinking about liberty and rights culminated in the Declaration of Independence issued by the Continental Congress in 1776, which proclaimed that, because their liberty was endangered, the colonists had a natural right to resist the English King and Parliament.

Having made a revolution in the name of liberty, the American challenge was to create a form of government that preserved liberty better than the vaunted British constitution had done. In doing so, the founders turned to the ancient ideal of republican self-government, arguing that it alone could preserve the people’s liberty. They further argued that the modern understanding of liberty as the possession of rights needed to be a central part of any proper republican government. Beginning in 1776, in the midst of the Revolutionary War, all of the former colonies began to construct republican governments which rested on the people’s consent and which included bills of rights to protect the people’s liberty.

Since there was widespread consensus among the Founders that liberty required the protection of rights and the rule of law, much of the political debate in the crucial decades following the American Revolution revolved around the question of which institutional arrangements best supported liberty. Was liberty best protected by strong state governments jealously guarding the people’s liberties from excessive federal authority, as leading Anti-Federalists like George Mason contended; or, was an extended federal republic best able to preserve the freedom of all, as leading Federalists like James Madison and Alexander Hamilton argued?

The era of the American Revolution also gave birth to a further series of important debates about liberty. Was slavery, as some Americans in the eighteenth century were beginning to recognize, an unjust infringement upon the liberty of African Americans? Were women, long deprived of basic legal rights, also entitled to have equal liberty with their male fellow citizens? By making a Revolution in its name, the Founders ensured that debates about the nature and extent of liberty would remain at the center of the American experiment in self-government.

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