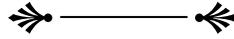


# EQUALITY



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

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

*American revolutionaries now made their appeals on the basis of self-evident truths and universal rights granted by God or nature.*

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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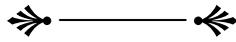
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# LIMITED GOVERNMENT



Thomas Jefferson accurately represented the convictions of his fellow colonists when he observed in the Declaration of Independence that a government, to be considered legitimate, must be based on the consent of the people and respect their natural rights to “life, liberty and the pursuit of happiness.” Along with other leading members of the founding generation, Jefferson understood that these principles dictated that the government be given only limited powers that, ideally, are carefully described in written charters or constitutions.

Modern theorists like John Locke and the Baron de Montesquieu had been making the case for limited government and separation of powers during the century prior to the American Revolution. Colonial Americans were quite familiar with Locke’s argument from his *Two Treatises of Government* that “Absolute Arbitrary Power, or Governing without settled standing Laws, can neither of them consist with the ends of Society and Government. . . .” Locke added that the reason people “quit the freedom of the state of Nature [is] to preserve their Lives, Liberties and Fortunes.” Civil society has no higher end than to provide for the safety and happiness of the people, and this is best done under a system of known rules or laws that apply equally to “the Rich and Poor, . . . the Favorite at Court, and the Country Man at plough.” For his part, Montesquieu argued that only where governmental power is limited in scope, and then parceled out among different departments, will people be free from oppression. Constitutional government, for modern natural rights theorists, should be limited government dedicated to the comfortable preservation of the people—that is, to their security, freedom, and prosperity.

John Adams echoed the beliefs of many Americans when he argued that only by creating a balance of forces within the government could the people hope to escape despotism and misery. An unchecked legislature, he observed, would be capable not only of making tyrannical laws, but of

executing them in a tyrannical manner as well. In his famous draft of a constitution for the commonwealth of Massachusetts, Adams declared that the “legislative, executive and judicial power shall be placed in separate departments, to the end that it might be a government of laws, and not of men.”

This document, along with his *Defence of the Constitutions of Government of the United States of America*, containing a strong case for checks and balances in government, were well known to the delegates who attended the Constitutional Convention of 1787.



James Wilson, one of the foremost legal scholars of the founding period and a delegate from Pennsylvania at the Constitutional Convention, agreed with Adams’ insistence that the power of government should be divided to the end of advancing the peace and happiness of the

people. In the words of Wilson, “In government, the perfection of the whole depends on the balance of the parts, and the balance of the parts consists in the independent exercise of their separate powers, and, when their powers are separately exercised, then in their mutual influence and operation on one another. Each part acts and is acted upon, supports and is supported, regulates and is regulated by the rest.”

Both the Articles of Confederation and the Constitution of the United States provided for governments with limited powers. As John Jay had discovered as America’s secretary of foreign affairs, the power of the central government was severely limited under the Articles and, hence, could be trusted to a unitary legislative department. Fear of governmental tyranny and a desire to preserve the power enjoyed by the new states resulted in the creation of a central government that could not effectively oversee interstate commerce or do other things that were critical to ensuring the safety and happiness of the people. In a letter to Edmund Randolph at the end of 1786, George Washington bemoaned the “awful situation of our affairs” which he attributed to “the want of sufficient power

in the foederal head.” Washington quickly joined the movement to create a new governmental system that was equal to “the exigencies of Union,” to quote from the instructions given the delegates to the Constitutional Convention of 1787.

The Constitution of 1787 grew out of a plan drafted largely by James Madison during the winter and spring before the Convention. The “Virginia Plan” proposed a central government that was supreme over the states. Evidence that the national government was to be entrusted with considerable power could be found in the provisions for a bicameral legislature and independent executive and judicial departments.

The delegates who attended the Constitutional Convention were sufficiently versed in modern political theory to understand that they would have to divide the power of the national government if they intended to entrust it with real authority over the lives of the people and the states. They understood the dangers of imparting considerable political power to a unitary sovereign. In this connection, there was never any doubt in their minds that they should create a government of “delegated and enumerated” powers, that is, that the government should only be entrusted with specified (enumerated) powers that derived directly from the people. While they worried about the “turbulence and follies” of democracy, they recognized that government had to be based on the consent of the people to be legitimate.

The Virginia Plan anticipated the bicameral legislature and independent executive and judicial departments found in the United States Constitution today. Building on Madison’s model, the delegates assigned responsibilities to the departments based on their peculiar characteristics. The six-year term of senators, for example, seemed to make this a proper institution to involve in foreign policy (e.g., ratification of treaties) since senators would have more time than members of the House of Representatives to acquaint themselves with international affairs and their longer terms and larger constituencies (entire states) also would give them more freedom to attend to matters other than the immediate interests of constituents back home. The House of Representatives was entrusted with the important power to initiate revenue (taxation) bills precisely because the members of

this chamber are tied so closely to the people by short terms and small districts.

In addition to matching powers and governmental responsibilities, the delegates were careful to position each department to “check and balance” the other departments. Examples are the executive’s veto power, the congressional impeachment power, and the judicial review power entrusted to the Supreme Court, the only national court formally established by the Constitution. Although in good Lockean fashion the legislative department was designed to be the preeminent department, it was still subjected to checks by the other branches of the government. Separation of powers as well as the system of checks and balances were devices for reducing the threat of governmental tyranny, not excluding legislative tyranny.

However, the constitutional arrangement, put into its final wording by Gouverneur Morris, was not driven entirely by a desire to eliminate the threat of tyrannical government. The system of separated and divided powers also was intended to promote competence in government. The president can employ his veto not only to check legislative action that he considers irresponsible, but to provoke Congress to improve a legislative enactment. The Senate can use its authority to ratify presidential nominations of cabinet officers or judges to ensure that qualified candidates are named to fill these positions.

Writing in *Federalist No. 9*, Alexander Hamilton identified the principle of separated and divided powers, along with checks and balances, as among the inventions of the new science of politics that had made republican government defensible. Madison described in *Federalist No. 51* the benefits of the governmental arrangement represented in the new Constitution: “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 control each other, at the same time that each will be controlled by itself.” Significantly, Anti-Federalists as well as Federalists agreed that governmental powers should be limited and that these powers should be subject to internal as well as external checks.

*There was never any doubt in their minds that they should create a government of “delegated and enumerated” powers . . .*

It is important to emphasize that the Framers settled on an arrangement that divided yet blended the legislative, executive, and judicial powers. This facilitates interdepartmental checking while promoting mature deliberation. Their aim was to create a decent and competent democracy, something beyond mere non-tyrannical government. They placed the whole of the government, and even the people, under constitutional limitations. The Constitution is the supreme law of the land, not the enactments of Congress or the order of the president or the momentary will of the people. As Chief Justice Marshall declared in *Marbury v. Madison* (1803), “The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation.” Even the

desires of the people are held in check by the Constitution. The political system still meets the criteria of democratic government, however, since the people hold the power, through their representatives, to amend the Constitution.

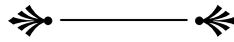
The paradigm of constitutional government embraced by the American people in 1787, that is, limited government based on the consent of the people and committed to the protection of fundamental rights, has become the dominant model throughout the world. The rhetoric of rights, whether couched in the language of natural rights or human rights, is universally appealing. Also universally accepted is the argument that rights are most secure when governmental powers are limited in scope and subject to internal and external checks.

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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

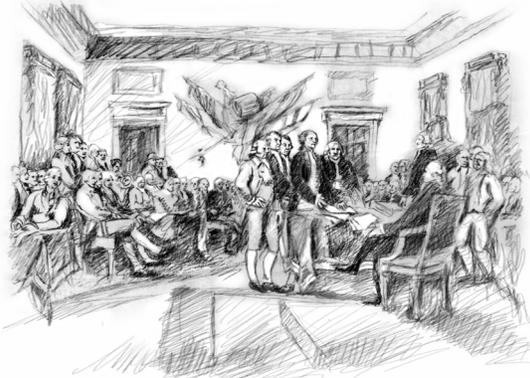
to the American States." Indeed, the Bible was cited by American authors in the eighteenth century more often than any other single source.

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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### Suggestions for Further Reading

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