

*We Hold
These Truths*

We Hold These Truths
Edited by Ray Notgrass and John Notgrass

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INTRODUCTION

We Hold These Truths gives you handy access to significant original documents and provides the opinions and ideas of others so that you can develop your own informed thinking about government. This compilation includes ancient, medieval, and America colonial documents; foundational documents of American government; letters, speeches, and opinions by political figures; and finally modern essays and commentaries on government.

We created *We Hold These Truths* for students to use in conjunction with the text *Exploring Government*. The student who is using that text will find each of these readings assigned at the end of the appropriate lesson. The order of the documents reflects the order in which they are assigned in *Exploring Government*.

Several entries are taken from *Imprimis*, the monthly speech journal published by Hillsdale College. The title is pronounced im-PRY-mis. It comes from Latin and means “in the first place.” Hillsdale is a private, liberal arts college in Michigan that accepts no government money of any kind, not even federal loans and grants to students. The college decided some years ago that it did not want to deal with the strings that come with accepting federal money. Each month *Imprimis* presents the essence of a speech given at a recent Hillsdale-sponsored function. The publication is available free of charge, and it is also available on the Internet at www.imprimis.hillsdale.edu. The website has an archive of several years of *Imprimis* issues.

Hillsdale provides a valuable service with *Imprimis* by presenting thoughtful, relevant, conservative thinking; by offering the publication free; and by generously giving permission for the material to be reproduced without charge provided that the publication using it includes the appropriate credit line. The *Imprimis* material is copyrighted as of the date of original publication by Hillsdale College and is used here by permission of Hillsdale. Occasionally a speech will include a few comments that are inappropriate; but generally *Imprimis* is worth reading every month. I strongly encourage anyone who is interested in government and politics to subscribe to it or to read it online.

We have used excerpts of some documents, indicated by ellipses. Our explanations are enclosed in brackets. For the most part, we have left variations in spelling and the citations of other works as they appear in the originals.

You will probably read some documents in *We Hold These Truths* by people with whom you have strong disagreements, and you will likely read some ideas with which you disagree. Notgrass History does not endorse every idea included in this volume. The documents we have included provide good food for thought to accompany the lessons in *Exploring Government* and encourage you to firm up and clarify your own beliefs.

Soon you will be able to vote and even run for office yourself. You will influence our political process and our government. Our aim in *Exploring Government* and in this collection is to help you prepare for that right and that responsibility. We pray that you will discharge your duty in light of God's truth.

Ray Notgrass

John Notgrass

June 2016

Preamble of the Frame of Government of Pennsylvania

William Penn (1682)

The English Quaker William Penn oversaw the establishment of the colony of Pennsylvania. Penn wrote the original frame or structure of government for the colony in 1682. The details of his government system were later changed, and the colony always was subject to the provisions of a royal charter. In this opening section of the Frame of Government, Penn sets forth his understanding of the nature and purpose of government.

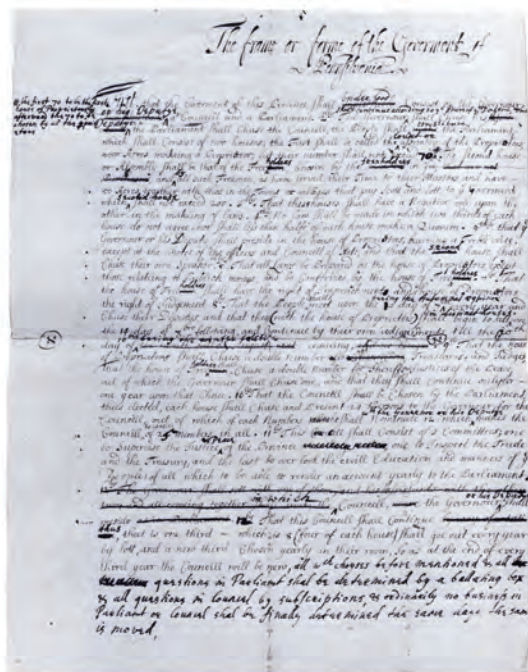
When the great and wise God had made the world, of all his creatures it pleased him to choose man his deputy to rule it; and to fit him for so great a charge and trust, he did not only qualify him with skill and power but with integrity to use them justly. This native goodness was equally his honor and his happiness; and whilst he stood here, all went well; there was no need of coercive or compulsive means, the precept of divine love and truth, in his bosom, was the guide and keeper of his innocence. But lust prevailing against duty made a lamentable breach upon it; and the law, that before had no power over him, took place upon him, and his disobedient posterity, that such as would not live comformable to the holy law within should fall under the reproof and correction of the just law without in a judicial administration.

This the Apostle [Paul] teaches in divers of his epistles: "The law," says he, "was added because of transgressions." In another place, "Knowing that the law was not made for the righteous man; but for the disobedient and ungodly, for sinners, for unholy and profane, for murderers, for whoremongers, for them that defile themselves with mankind, and for manstealers, for liars, for perjured persons," etc.; but this is not all, he opens and carries the matter of government a little further: "Let every soul be subject to the higher powers; for there is no power but of God. The powers that be are ordained of God: whosoever therefore resisteth the power, resisteth the ordinance of God. For rulers are not a terror to good works, but to evil: wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same." "He is the minister of God to thee for good." "Wherefore ye must needs be subject, not only for wrath, but for conscience's sake."

This settles the divine right of government beyond exception, and that for two ends: first, to terrify evildoers; secondly, to cherish those that do well; which

*William Penn Statue,
Philadelphia City Hall*





Draft copy of Penn's Frame of Government

gives government a life beyond corruption and makes it as durable in the world, as good men shall be. So that government seems to me a part of religion itself, a thing sacred in its institution and end. For, if it does not directly remove the cause, it crushes the effects of evil and is, as such (though a lower, yet), an emanation of the same Divine Power that is both author and object of pure religion; the difference lying here, that the one is more free and mental, the other more corporal and compulsive in its operations; but that is only to evildoers; government itself being otherwise as capable of kindness, goodness, and charity, as a more private society. They weakly err that think there is no other use of government than correction, which is the coarsest part of it: daily experience tells us that the care and regulation of many other affairs, more soft, and daily necessary, make up much of the greatest part of government; and which

must have followed the peopling of the world, had Adam never fell, and will continue among men, on earth, under the highest attainments they may arrive at, by the coming of the blessed Second Adam, the Lord from heaven. Thus much of government in general, as to its rise and end.

For particular frames and models, it will become me to say little; and comparatively I will say nothing. My reasons are:

First. That the age is too nice and difficult for it; there being nothing the wits of men are more busy and divided upon. It is true, they seem to agree to the end, to wit, happiness; but, in the means, they differ, as to divine, so to this human felicity; and the cause is much the same, not always want of light and knowledge, but want of using them rightly. Men side with their passions against their reason, and their sinister interests have so strong a bias upon their minds that they lean to them against the good of the things they know.

Secondly. I do not find a model in the world, that time, place, and some singular emergencies have not necessarily altered; nor is it easy to frame a civil government that shall serve all places alike.

Thirdly. I know what is said by the several admirers of monarchy, aristocracy, and democracy, which are the rule of one, a few, and many, and are the three common ideas of government, when men discourse on the subject.

But I choose to solve the controversy with this small distinction, and it belongs to all three: Any government is free to the people under it (whatever be the frame) where the laws rule, and the people are a party to those laws, and more than this is tyranny, oligarchy, or confusion.

But, lastly, when all is said, there is hardly one frame of government in the world so ill designed by its first founders that, in good hands, would not do well enough; and story tells us, the best, in ill ones, can do nothing that is great or good; witness the Jewish and Roman states. Governments, like clocks, go from the motion men give them, and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But, if men be bad, let the government be ever so good, they will endeavor to warp and spoil it to their turn.

I know some say, "Let us have good laws, and no matter for the men that execute them"; but let them consider that, though good laws do well, good men do better, for good laws may want good men and be abolished or evaded by ill men; but good men will never want good laws nor suffer ill ones. It is true, good laws have some awe upon ill ministers, but that is where they have not power to escape or abolish them, and the people are generally wise and good, but a loose and depraved people (which is the question) love laws and an administration like themselves. That, therefore, which makes a good constitution, must keep it, viz.: men of wisdom and virtue, qualities that, because they descend not with worldly inheritances, must be carefully propagated by a virtuous education of youth; for which after ages will owe more to the care and prudence of founders, and the successive magistracy, than to their parents, for their private patrimonies.

These considerations of the weight of government, and the nice and various opinions about it, made it uneasy to me to think of publishing the ensuing frame and conditional laws, foreseeing both the censures they will meet with from men of differing humors and engagements and the occasion they may give of discourse beyond my design.

But, next to the power of necessity (which is a solicitor that will take no denial), this induced me to a compliance: that we have (with reverence to God, and good conscience to men), to the best of our skill, contrived and composed the frame and laws of this government, to the great end of all government, viz.: To support power in reverence with the people, and to secure the people from the abuse of power; that they may be free by their just obedience, and the magistrates honorable, for their just administration; for liberty without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution and partly to the magistracy; where either of these fail, government will be subject to convulsions; but, where both are wanting, it must be totally subverted; then where both meet, the government is like to endure. Which I humbly pray and hope God will please to make the lot of this of Pennsylvania. Amen.

Can We Be Good Without God?

Charles Colson (1993)

Charles Colson was special counsel to President Richard Nixon. He was involved in one of the illegal actions of the Nixon Administration which culminated in Watergate, and he served time in prison for what he had done. Colson was converted to Christ in 1973. He wrote many books and articles about Christianity and about politics and culture. He co-founded Prison Fellowship, which ministers to prisoners, ex-prisoners, victims, and their families. Colson delivered this speech at a 1993 seminar. He died in 2012 at the age of 80.

Last December, newspapers ran a striking photograph of a group of people held at bay by armed guards. They were not rioters or protesters; they were Christmas carolers. The town of Vienna, Virginia, had outlawed the singing of religious songs on public property. So these men, women, and children were forced to sing “Silent Night” behind barricades, just as if this were Eastern Europe under communist rule instead of Christmas in America in 1992.

We have spent the past 30 years determined to secularize our society. Some months before the incident in Virginia, the U.S. Supreme Court ruled in *Lee v. Weisman* that a rabbi who delivered a very politically correct “To Whom It May Concern” prayer at a Rhode Island junior high school commencement had violated the constitutional rights of a fifteen-year-old student in the audience. The Court said, in effect, that the girl must be legally protected against listening to views she disagreed with. There was a time when it was a mark of civility to listen respectfully to different views; now you have a constitutional right to demand that those views are not expressed in your presence.

In another case that went all the way to the Supreme Court, visual religious symbols have been banned. Zion, Illinois, in the “heartland of America,” was forced to eliminate the cross featured in its city seal, because the Justices ruled it a breach of the First Amendment.

In education, the same kind of court-enforced secularism has been so successful that teachers . . . are forbidden to display a copy of the Ten Commandments on a bulletin board. Students, meanwhile, may indulge in almost any kind of activity in school, but they are forbidden to pray.

The Supreme Court is not the only institution out to protect us from the “threat” faith poses. The media assault upon religious believers has been fierce. Cardinal O’Connor has been excoriated by the *New York Times* for even suggesting that he might deny the sacraments to a pro-choice legislator. (This was the same *New York Times* that praised a Louisiana archbishop who refused to administer communion to a segregationist legislator in 1962.)

In February of 1993, the *Washington Post* featured a front-page article that characterized evangelical Christians as “largely poor, uneducated, and easy to command.” If a journalist said that about any other group in America, he would be fired on the spot, but the *Post*



Light Display of Christmas Carolers in Vienna, Virginia (2013)

didn't fire anyone. It merely expressed surprise that many readers found the description offensive. A few days later, one of the bemused editors explained that they felt they were simply printing something that is "universally accepted."

It is no wonder that Peter Berger, professor of sociology at Boston University, says that if you look around the world you will find that the most religious country is India, and the most irreligious country is Sweden—and America is an interesting combination of Indians who are governed by Swedes.

A Post-Christian Society

These Swedes have done their job well. In 1962, polls indicated that at least 65 percent of all Americans believed the Bible to be true. In 1992, polls indicate that only 32 percent do, while 50 percent say they actually fear fundamentalists. If the polls are right, our Judeo-Christian heritage is no longer the foundation of our values. We have become a post-Christian society.

The process of "shedding" our religion began with the cultural revolution of the 1960s, which exalted existentialism and a kind of "live-for-the-moment-God-is-dead-or-irrelevant" philosophy. Today, that Sixties philosophy has become mainstream; it is in the White House, it is in the poetry of Maya Angelou, it is in every walk of life. This is not to say that people aren't going to church. Forty-four percent of the American people still attend religious services regularly. But we live in a Donahue-ized culture in which we sit and watch, hour by hour, the banality that passes for knowledge on television, and we rarely think about issues in terms of Judeo-Christian truth. We hear carolers singing "Silent Night" or an invocation at a public ceremony and we are filled with trepidation; we are worried that we are infringing upon the rights of nonbelievers. We see the symbol of the cross and we feel compelled to paint it out because it might violate the principle of separation between church and state. We exalt tolerance, not truth, as the ultimate virtue.

The City of Man

Can we really sustain the city of man without the influence of the City of God? St. Augustine argued that it was impossible.

Any society, especially a free society, depends on a moral consensus and on shared assumptions: What is ultimate reality? What is meaningful in life? By what standards should we be governed? These common values are the glue that holds society together.

In America, the glue is wearing pretty thin. We are in the middle of an identity crisis in which we are attempting to redefine our basic values all over again. We can no longer assume that right and wrong have clear meanings or that there is universal truth. After all, pollsters tell us that sixty-seven percent of the American people say there is no such thing.

What we fail to realize, however, is that rejecting transcendental truth is tantamount to committing national suicide. A secular state cannot cultivate virtue—an old-fashioned word you don't hear much in public discourse these days. In his classic novel, *The Brothers Karamazov*, the nineteenth century Russian novelist Dostoyevsky asked, essentially, "Can man be good without God?" In every age, the answer has been no. Without a restraining influence on their nature, men will destroy themselves. That restraining influence might take many abstract forms, as it did for the Greeks and Romans, or it might be the God of the Old and New Testaments. But it has always served the same purpose.

Even before Dostoyevsky posed his timeless question, an eighteenth century German professor of logic and metaphysics, Immanuel Kant, had already dismissed it as irrelevant. God exists, said Kant, but he is separate from the rest of life. Over here are the things that we can empirically know; over there are things we can accept only on faith. What does that do to ethics? Kant's answer was to separate them from faith; we can, on our own, with only our rational capacities to depend upon, develop what he called the "categorical imperative." He explained: "Act as if the maxim from which you act were to become through your will a universal law."

This rational, subjective view is the basis of ethics being taught in nearly every school in America today, from Public Grammar School No. 1 to Harvard Business School. Students are never exposed to traditional moral teaching in school, only to rationalism. Pragmatism and utilitarianism are substituted for Judeo-Christian ethics, and students are taught that they have the inner capacity to do good rationally, apart from God.

The Danger of Self-Righteousness

Nothing could be more dangerous. Let me give you a case study: Chuck Colson. I grew up in the Depression years. My dad, who was the son of a Swedish immigrant, used to tell me two things on Sunday afternoon. Although no one in my family had ever gone to college, he said, "If you work hard, you can get to the top. That's the American dream." And the second thing he used to say was, "Always tell the truth. No matter what you do in life, always tell the truth." (One could not go through Watergate and claim much distinction for anything, but the fact was that I testified under oath 44 times and I was the

only defendant who was not charged with perjury. My dad's lesson stuck: tell the truth.)

I kept both of these pieces of advice in mind as I grew up, earned a scholarship to college and then went on to law school. I also remembered them when I joined a very successful law firm and years later in 1969 when President Nixon asked me to come to work at the White House. I took everything I had earned and put it into a blind trust. (If you want to make a small fortune, let me tell you how: You take a large fortune

and put it in a blind trust.) I did everything to avoid even the appearance of a conflict of interest. I passed unsolicited gifts on to my employees. I refused to see people whom I had practiced law with or made business deals with—I mean, I really had studied Kant's categorical imperative, and I knew that I would always do right.

What happened? I went to prison.

Why? Because we are never more dangerous than when we are feeling self-righteous. We have an infinite capacity for this feeling and for the self-justification that accompanies it. It was only when Jesus Christ came into my life that I was able to see myself for who I am. Indeed, it is only when we all turn to God that we begin to see ourselves as we really are—as fallen sinners desperately in need of His restraint and His grace.

Kant's philosophy, like much Enlightenment thought, was based on a flawed view of human nature that held that men are basically good and, if left to their own devices, will almost always do good things. It was also dead wrong in assuming that the categorical imperative could take the place of moral law. Just because men can think the right thing, it does not mean that they will heed it. Remember Pierre, one of the central characters in Tolstoy's *War and Peace*? Torn by spiritual agonies, he cried out to God, "Why is it that I know what is right and I do what is wrong?" We can know what is right, but we don't always have the will to do what is right.

How Shall We Live?

In books like *Mere Christianity* and *The Abolition of Man*, the twentieth-century British Christian apologist C.S. Lewis attempted to refute Kant and make a powerful intellectual case for the City of God that did not wall it off from the city of man. In an essay entitled, "Men Without Chests," he drew an analogy between the spiritual life and the body that



Colson (center) meets with President Nixon and others in the Oval Office.

sums up his objections to the supreme rationalism of the Enlightenment. The head, Lewis said, is reason, and the stomach is passion or appetite. The head alone cannot control the stomach. It needs the chest, which is spirit, to restrain our baser passions and appetites.

Yet after World War II schools began to teach ethics based on subjective standards without transcendent moral truths. Lewis challenged this, writing, “We make men without chests and we expect of them virtue and enterprise. We laugh at honor and we are shocked to find traitors in our midst. . . .” That is what we are doing in America today. We are taking away the spiritual element and abandoning morality based on religious truths, counting instead on our heads and our subjective feelings to make us do what is right.

In our zeal to accommodate our so-called enlightened and tolerant age, we have lost the ideal of public virtue. I am reminded of Samuel Johnson, who, upon learning that one of his dinner guests believed morality was merely a sham, said to his butler, “Well, if he really believes that there is no distinction between virtue and vice, let us count the spoons before he leaves.” Today, there aren’t any spoons left to count. Look at Washington, Wall Street, academia, sports, the ministry—all the spoons are gone because we can no longer distinguish between virtue and vice.

Recovering that ability depends on asking the right questions. Our brightest and best leaders are concerned with the question, “How shall we be governed?” But in the Book of Ezekiel the Jews asked: “How shall we live?” It doesn’t matter who governs if society has no spiritual element to guide it. Unless we learn how to live—as men with chests—we are doomed.

The City of God

I have seen this truth most powerfully in the area in which I’ve been called to spend my life. With the help of my friend Jack Eckerd and others, I work with men and women

Colson teaches in a prison.



in prison in 54 countries around the world. The crisis is grave. In Washington, D.C., for example, 46 percent of the inner city black population between the ages of 18 and 31 is either in prison, on parole, or on probation. America as a whole has the highest per capita rate of incarceration in the world, and, for the last 25 years, the crime rate has gone up every year. We can’t build prisons fast enough. . . . According to some sources, twenty percent of all schoolchildren carry a weapon.

Criminologist James Q. Wilson, among others, has tried to identify the root cause of this epidemic of violence. When he began his inquiry, he was certain that he would discover that in the great period of industrial revolution in the latter half of the nineteenth century there was a tremendous increase in crime. But, to his astonishment, he discovered a decrease. And then he looked at the years of the Great Depression. Again, there was a significant decrease in crime. Frustrated by these findings which upset all our preconceived notions, Wilson decided to search for a single factor to correlate. The factor he found was religious faith.

When crime should have been rising in the late 1800s because of rapid urbanization, industrialization, and economic dislocation, Victorian morality was sweeping across America.

It was a time of intense spirituality. It was not until the conscious rejection of Victorian morality during the Roaring Twenties that crime went up. This was the era when Sigmund Freud's views were coming into vogue among "thinking" Americans: people weren't evil, just misguided or mistreated, or they required better environments. Sin was regarded as a lot of religious claptrap.

The crime rate did not decline again until the Great Depression, a time of people banding together in the face of crisis. Wilson concluded, therefore, that crime was in large part caused by a breakdown of morality. Since 1965 the crime rate has steadily risen. In the same period, religious faith has waned. We have told people there are no absolutes and that they are not responsible for their own behavior. They are simply victims of a system that isn't working anymore and they don't have to worry about it because the government is going to fix it for them. We thought that in this brave new world we could create the perfect secular utopia. But the secular utopia is in reality the nightmare we see as we walk through the dark, rotten holes we call prisons all across America.

In this context, it always amazes me when I listen to politicians say, "We are going to win the war on drugs by building prisons, appointing more judges, and putting more police on the beat." I remember when President [George H. W.] Bush announced the "War on Drugs." Having spent seven months in prison, there wasn't one night that I did not smell marijuana burning. If you can get marijuana into a prison, with watchtowers, inspections, and prison guards, you can get it into a country. You can send the U.S. Marines to Colombia to burn all the fields, seal all the borders, and build all the prisons you



Angel Tree is one program created by Prison Fellowship. It provides gifts to children who have an incarcerated parent.



President George W. Bush presented Colson with the Presidential Citizens Medal in 2008.

want, but you won't stop drug use in this country because it isn't a problem of supply; it is a problem of demand. When there is no greater value in the lives of so many people than simply fulfilling individual desires and gratifications, then crime and drug abuse become inevitable. The soaring crime rate is powerful testimony to the failure of the city of man, deprived of the moral influence of the City of God.

If we cannot be good without God, how do we sustain public virtue in society? We cannot do

it through the instrument of politics. Alasdair MacIntyre, moral philosopher at Notre Dame, says that "Politics has become civil war carried on by other means." Without moral authority to call upon, our elected leaders are reduced to saying, "We can't say that this is right and that's wrong. We simply prefer that you wouldn't murder." And crime and drug abuse are not the only results of this loss of moral authority. Forty-four percent of the baby boomers say that there is no cause that would lead them to fight and die for their country.

In the city of man, there is no moral consensus, and without a moral consensus there can be no law. Chairman Mao expressed the alternative well: in his view, morality begins at the muzzle of a gun.

There has never been a case in history in which a society has been able to survive for long without a strong moral code. And there has never been a time when a moral code has not been informed by religious truth. Recovering our moral code—our religious truth—is the only way our society can survive. The heaping ash remains at Auschwitz, the killing fields of Southeast Asia, and the frozen wastes of the gulag remind us that the city of man is not enough; we must also seek the city of God.

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Thoughts on Government

John Adams (1776)

John Adams wrote this treatise in the spring of 1776 as he and many other Americans contemplated the possibility of a new government for the thirteen British colonies. He wrote it in response to a request from a fellow member of the Continental Congress for an outline of his ideas on the subject.

My dear Sir,

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

Pope flattered tyrants too much when he said,

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

Nothing can be more fallacious than this. But poets read history to collect flowers, not fruits; they attend to fanciful images, not the effects of social institutions. Nothing is more certain, from the history of nations and nature of man, than that some forms of government are better fitted for being well administered than others.

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

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

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

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

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

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



*John Adams statue in
Rapid City, South Dakota*

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

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

As good government is an empire of laws, how shall your laws be made? In a large society, inhabiting an extensive country, it is impossible that the whole should assemble to make laws. The first necessary step, then, is to depute power from the many to a few of the most wise and good. But by what rules shall you choose your representatives? Agree upon the number and qualifications of persons who shall have the benefit of choosing, or annex this privilege to the inhabitants of a certain extent of ground.

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

A representation of the people in one assembly being obtained, a question arises, whether all the powers of government, legislative, executive, and judicial, shall be left in

this body? I think a people cannot be long free, nor ever happy, whose government is in one assembly. My reasons for this opinion are as follow:—

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

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

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

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

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

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

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

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

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

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

These two bodies, thus constituted, and made integral parts of the legislature, let them unite, and by joint ballot choose a governor, who, after being stripped of most of those badges of domination, called prerogatives, should have a free and independent exercise

of his judgment, and be made also an integral part of the legislature. This, I know, is liable to objections; and, if you please, you may make him only president of the council, as in Connecticut. But as the governor is to be invested with the executive power, with consent of council, I think he ought to have a negative upon the legislative. If he is annually elective, as he ought to be, he will always have so much reverence and affection for the people, their representatives and counselors, that, although you give him an independent exercise of his judgment, he will seldom use it in opposition to the two houses, except in cases the public utility of which would be conspicuous; and some such cases would happen.

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

These great men, in this respect, should be, once a year,

Like bubbles on the sea of matter borne,
They rise, they break, and to that sea return.

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

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

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

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

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

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

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

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

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

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

The very mention of sumptuary laws will excite a smile. Whether our countrymen have wisdom and virtue enough to submit to them, I know not; but the happiness of the



This 1801 painting of Boston by James Brown Marston shows the Old State House in the center. It was the seat of the Massachusetts General Court (state legislature) from 1713 to 1798.

people might be greatly promoted by them, and a revenue saved sufficient to carry on this war forever. Frugality is a great revenue, besides curing us of vanities, levities, and fopperies, which are real antidotes to all great, manly, and warlike virtues.

But must not all commissions run in the name of a king? No. Why may they not as well run thus, "The colony of --- to A.B. greeting," and be tested by the governor?

Why may not writs, instead of running in the name of the king, run thus, "The colony of --- to the sheriff," &c., and be tested by the chief justice?

Why may not indictments conclude, "against the peace of the colony of --- and the dignity of the same?"

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

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

These colonies, under such forms of government, and in such a union, would be unconquerable by all the monarchies of Europe.

You and I, my dear friend, have been sent into life at a time when the greatest lawgivers of antiquity would have wished to live. How few of the human race have ever enjoyed an opportunity of making an election of government, more than of air, soil, or climate, for themselves or their children! When, before the present epocha, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive? I hope you will avail yourself and your country of that extensive learning and indefatigable industry which you possess, to assist her in the formation of the happiest governments and the best character of a great people. For myself, I must beg you to keep my name out of sight; for this feeble attempt, if it should be known to be mine, would oblige me to apply to myself those lines of the immortal John Milton, in one of his sonnets:—

I did but prompt the age to quit their clogs
By the known rules of ancient liberty,
When straight a barbarous noise environs me
Of owls and cuckoos, asses, apes, and dogs.

On the Divine Right of Kings

James I of England (1609)

This is an excerpt from a speech King James presented to Parliament in 1609.

The state of monarchy is the supremest thing upon earth. . . . Kings are justly called gods, for that they exercise a manner or resemblance of divine power upon earth. For if you will consider the attributes to God, you shall see how they agree in the person of a king. God has power to create, or destroy, make, or unmake at his pleasure, to give life, or send death, to judge all, and to be judged nor accountable to none: to raise low things, and to make high things low at his pleasure, and to God are both soul and body due. And the like power have Kings; they make and unmake their subjects: they have power of raising, and casting down: of life, and of death: judges over all their subjects, and in all causes, and yet accountable to none but God only.

Now in these our times we are to distinguish between the state of kings in their first original, and between the state of kings and monarchs, that do at this time govern in civil kingdoms. . . . In the first original of kings, whereof some had their beginning by conquest,

*James I of England
attributed to John de Critz (English, c. 1605)*



and some by election of the people, their wills at that time served for law; Yet how soon kingdoms began to be settled in civility and policy, then did kings set down their minds by laws. . . . And I am sure to go to my grave with that reputation and comfort, that never king was in all his time more careful to have his laws duly observed, and himself to govern thereafter, than I.

I conclude then this point touching the power of kings, with this axiom of divinity, that as to dispute what God may do, is blasphemy. . . so is it sedition in subjects, to dispute what a king may do in the height of his power: But just kings will ever be willing to declare what they will do, if they will not incur the curse of God. I will not be content that my power be disputed upon: but I shall ever be willing to make the reason appear of all my doings, and rule my actions according to my laws. . . . Therefore all kings that are not tyrants, or perjured, will be glad to bound themselves within the limits of their laws; and they that persuade them the contrary, are vipers, and pests, both against them and the Commonwealth.

Twelve Tables of Roman Law

(c. 451 BC)

The Twelve Tables were originally inscribed on bronze tablets. The originals were lost, and scholars have reconstructed the contents based on quotations by later authors. These translated excerpts are from Remains of Old Latin: Volume III (1938) by E. H. Warmington.

If plaintiff summons defendant to court, he shall go. If he does not go, plaintiff shall call witness thereto. Then only shall he take defendant by force. If defendant shirks or takes to heels, plaintiff shall lay hands on him. If disease or age shall be an impediment, he shall grant him a team (for transport); he should not spread with cushions a covered carriage if he shall not so desire.

Whoever is in need of evidence, he shall go on every third day to shout before the witness' doorway.

A dreadfully deformed child shall be quickly killed.

Our ancestors have seen fit that females, by reason of levity in disposition, should remain in guardianship even when they have attained their majority.

If a man is raving mad, rightful authority over his person and chattels shall belong to his agnates or to his clansmen. A spendthrift is forbidden to exercise administration over his own goods and shall be under the guardianship of his agnates.*

If any person had sung or composed against another person a song such as was causing slander or insult to another . . . he should be clubbed to death.

If a person has maimed another's limb, let there be retaliation in kind unless he makes agreement for composition with him.

A person who had been found guilty of giving false witness shall be hurled down from the Tarpeian Rock.

No person shall hold meetings by night in the city.

[The sentence is] capital punishment on a judge or arbiter legally appointed who had been found guilty of receiving a bribe for giving a decision.

* *Relatives (male or female) connected through the male line.*

Putting to death . . . of any man, whosoever he might be, unconvicted is forbidden.

[Marriages] should not take place between plebeians and patricians.

Whatever the people had last ordained should be held as binding by law.

This is a surviving portion of the Servian Wall, built to protect the city of Rome around 375 BC.



Magna Carta

(1215)

These excerpts are from a translation by William Sharp McKechnie, published in 1914.

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to the archbishop, bishops, abbots, earls, barons, justiciaries, foresters, sheriffs, stewards, servants, and to all his bailiffs and liege subjects, greetings. Know that, having regard to God and for the salvation of our soul, and those of all our ancestors and heirs, and unto the honor of God and the advancement of his holy Church and for the rectifying of our realm, we have granted as underwritten by advice of our venerable fathers, Stephen, archbishop of Canterbury, primate of all England and cardinal of the holy Roman Church, [*and various named archbishops and earls*], our liegemen.

1. In the first place we have granted to God, and by this our present charter confirmed for us and our heirs forever that the English Church shall be free, and shall have her rights entire, and her liberties inviolate; and we will that it be thus observed; which is apparent from this that the freedom of elections, which is reckoned most important and very essential to the English Church, we, of our pure and unconstrained will, did grant, and did by our charter confirm and did obtain the ratification of the same from our lord, Pope Innocent III, before the quarrel arose between us and our barons: and this we will observe, and our will is that it be observed in good faith by our heirs forever. We have also granted to all freemen of our kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever. . . .

9. Neither we nor our bailiffs will seize any land or rent for any debt, as long as the chattels of the debtor are sufficient to repay the debt; nor shall the sureties of the debtor be distrained so long as the principal debtor is able to satisfy the debt; and if the principal debtor shall fail to pay the debt, having nothing wherewith to pay it, then the sureties shall answer for the debt; and let them have the lands and rents of the debtor, if they desire them, until they are indemnified for the debt which they have paid for him, unless the principal debtor can show proof that he is discharged thereof as against the said sureties. . . .

12. No scutage [*monetary payments to replace military service*] nor aid [*tax*] shall be imposed on our kingdom, unless by common counsel of our kingdom, except for ransoming our person, for making our eldest son a knight, and for once marrying our eldest daughter; and for these there shall not be levied more than a reasonable aid. In like manner it shall be done concerning aids from the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water; furthermore, we decree and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs.



This parchment, held by the British Library, is one of four surviving copies of the 1215 Magna Carta.

14. And for obtaining the common counsel of the kingdom anent the assessing of an aid (except in the three cases aforesaid) or of a scutage, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons, severally by our letters; and we will moreover cause to be summoned generally, through our sheriffs and bailiffs, and others who hold of us in chief, for a fixed date, namely, after the expiry of at least forty days, and at a fixed place; and in all letters of such summons we will specify the reason of the summons. And when the summons has thus been made, the business shall proceed on the day appointed, according to the counsel of such as are present, although not all who were summoned have come. . . .

20. A freeman shall not be amerced [*fined or punished*] for a slight offense, except in accordance with the degree of the offense; and for a grave offense he shall be amerced in accordance with the gravity of the offense, yet saving always his "contentment"; and a merchant in the same way, saving his "merchandise"; and a villein shall be amerced in the same way, saving his "wainage" if they have fallen into our mercy: and none of the aforesaid ameracements shall be imposed except by the oath of honest men of the neighborhood.

21. Earls and barons shall not be amerced except through their peers, and only in accordance with the degree of the offense. . . .

28. No constable or other bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.

29. No constable shall compel any knight to give money in lieu of castle-guard, when he is willing to perform it in his own person, or (if he himself cannot do it from any reasonable cause) then by another responsible man. Further, if we have led or sent him upon military service, he shall be relieved from guard in proportion to the time during which he has been on service because of us.

30. No sheriff or bailiff of ours, or other person, shall take the horses or carts of any freeman for transport duty, against the will of the said freeman.

31. Neither we nor our bailiffs shall take, for our castles or for any other work of ours, wood which is not ours, against the will of the owner of that wood.

32. We will not retain beyond one year and one day, the lands of those who have been convicted of felony, and the lands shall thereafter be handed over to the lords of the fiefs.

...

35. Let there be one measure of wine throughout our whole realm; and one measure of ale; and one measure of corn, to wit, "the London quarter"; and one width of cloth (whether dyed, or russet, or "halberget"), to wit, two ells within the selvedges; of weights also let it be as of measures. . . .

38. No bailiff for the future shall, upon his own unsupported complaint, put anyone to his "law" without credible witnesses brought for this purpose. . . .

40. To no one will we sell, to no one will we refuse or delay, right or justice.

41. All merchants shall have safe and secure exit from England, and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quit from all evil tolls, except (in time of war) such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.

42. It shall be lawful in future for anyone (excepting always those imprisoned or outlawed in accordance with the law of the kingdom, and natives of any country at war with us, and merchants, who shall be treated as if above provided) to leave our kingdom and to return, safe and secure by land and water, except for a short period in time of war, on grounds of public policy—reserving always the allegiance due to us. . . .

45. We will appoint as justices, constables, sheriffs, or bailiffs only such as know the law of the realm and mean to observe it well. . . .

54. No one shall be arrested or imprisoned upon the appeal of a woman, for the death of any other than her husband. . . .

61. Since, moreover, for God and the amendment of our kingdom and for the better allaying of the quarrel that has arisen between us and our barons, we have granted all these concessions, desirous that they should enjoy them in complete and firm endurance



In 1976, to celebrate the 200th anniversary of U.S. independence, the British government presented the U.S. government with an elaborate case featuring a copy of the Magna Carta written in gold text and replicas of King John's seal. For one year, the display also featured one of the four surviving 1215 copies. The case remains on display at the U.S. Capitol.

forever, we give and grant to them the underwritten security, namely, that the barons choose five and twenty barons of the kingdom, whomsoever they will, who shall be bound with all their might, to observe and hold, and cause to be observed, the peace and liberties we have granted and confirmed to them by this our present Charter, so that if we, or our justiciar, or our bailiffs or any one of our officers, shall in anything be at fault towards anyone, or shall have broken any one of the articles of this peace or of this security, and the offense be notified to four barons of the foresaid five and twenty, the said four barons shall repair to us (or our justiciar, if we are out of the realm) and, laying the transgression before us, petition to have that transgression redressed without delay. And if we shall not have corrected the transgression (or, in the event of our being out of the realm, if our justiciar shall not have corrected it) within forty days, reckoning from the time it has been intimated to us (or to our justiciar, if we should be out of the realm), the four barons aforesaid shall refer that matter to the rest of the five and twenty barons, and those five and twenty barons shall, together with the community of the whole realm, distrain and distress us in all possible ways, namely, by seizing our castles, lands, possessions, and in any other way they can, until redress has been obtained as they deem fit, saving harmless

our own person, and the persons of our queen and children; and when redress has been obtained, they shall resume their old relations towards us.

62. And all the will, hatreds, and bitterness that have arisen between us and our men, clergy and lay, from the date of the quarrel, we have completely remitted and pardoned to everyone. Moreover, all trespasses occasioned by the said quarrel, from Easter in the sixteenth year of our reign till the restoration of peace, we have fully remitted to all, both clergy and laymen, and completely forgiven, as far as pertains to us. And on this head, we have caused to be made for them letters testimonial patent of the lord Stephen, archbishop of Canterbury, of the lord Henry, archbishop of Dublin, of the bishops aforesaid, and of Master Pandulf as touching this security and the concessions aforesaid.

63. Wherefore we will and firmly order that the English Church be free, and that the men in our kingdom have and hold all the aforesaid liberties, rights, and concessions, well and peaceably, freely and quietly, fully and wholly, for themselves and their heirs, of us and our heirs, in all respects and in all places forever, as is aforesaid. An oath, moreover, has been taken, as well on our part as on the part of the barons, that all these conditions aforesaid shall be kept in good faith and without evil intent.

Given under our hand — the above named and many others being witnesses —
in the meadow which is called Runnymede, between Windsor and Staines,
on the fifteenth day of June, in the seventeenth year of our reign.

The American Bar Association erected a memorial to the Magna Carta at Runnymede in 1957. The association held a rededication ceremony in 2015 on the document's 800th anniversary.



English Bill of Rights

(1689)

When the Catholic King James II fled from England, Parliament declared that he had abdicated and offered the throne to William and Mary. The next year, the new monarchs signed a Bill of Rights, guaranteeing certain protections to individuals and ensuring that a Catholic could not assume the throne. Here are some excerpts.

[. . . Parliament hereby declares:]

That the pretended power of suspending the laws or the execution of laws by regal authority without consent of Parliament is illegal;

That the pretended power of dispensing with laws or the execution of laws by regal authority, as it hath been assumed and exercised of late, is illegal;

That the commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other commissions and courts of like nature, are illegal and pernicious;

That levying money for or to the use of the Crown by pretence of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal;

That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal;

That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law;

That the subjects which are Protestants may have arms for their defence suitable to their conditions and as allowed by law;

That election of members of Parliament ought to be free;

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament;

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted;

That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders;

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void;



This Dutch stamp from 1988 commemorates the 300th anniversary of William and Mary assuming the throne of England.

And whereas it hath been found by experience that it is inconsistent with the safety and welfare of this Protestant kingdom to be governed by a popish prince, or by any king or queen marrying a papist, the said Lords Spiritual and Temporal and Commons do further pray that it may be enacted, that all and every person and persons that is, are or shall be reconciled to or shall hold communion with the see or Church of Rome, or shall profess the popish religion, or shall marry a papist, shall be excluded and be for ever incapable to inherit, possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging or any part of the same, or to have, use or exercise any regal power, authority or jurisdiction within the same. . . .



Two Treatises of Government

John Locke (1689)

John Locke originally published this work anonymously in London. A Boston printer released an abridged version in 1773. This excerpt is from Chapter IX of Book II.

Of the Ends of Political Society and Government.

Sec. 123. If man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? why will he give up this empire, and subject himself to the dominion and controul of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, property.

Sec. 124. The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property. To which in the state of nature there are many things wanting. First, There wants an established, settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them: for though the law of nature be plain and intelligible to all rational creatures; yet men being biased by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.

Sec. 125. Secondly, In the state of nature there wants a known and indifferent judge, with authority to determine all differences according to the established law: for every one in that state being both judge and executioner of the law of nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat, in their own cases; as well as negligence, and unconcernedness, to make them too remiss in other men's.

Sec. 126. Thirdly, In the state of nature there often wants power to back and support the sentence when right, and to give it due execution. They who by any injustice offended, will seldom fail, where they are able, by force to make good their injustice; such resistance many times makes the punishment dangerous, and frequently destructive, to those who attempt it.

Sec. 127. Thus mankind, notwithstanding all the privileges of the state of nature, being but in an ill condition, while they remain in it, are quickly driven into society.

Hence it comes to pass, that we seldom find any number of men live any time together in this state. The inconveniencies that they are therein exposed to, by the irregular and uncertain exercise of the power every man has of punishing the transgressions of others, make them take sanctuary under the established laws of government, and therein seek the preservation of their property. It is this makes them so willingly give up every one his single power of punishing, to be exercised by such alone, as shall be appointed to it amongst them; and by such rules as the community, or those authorized by them to that purpose, shall agree on. And in this we have the original right and rise of both the legislative and executive power, as well as of the governments and societies themselves.

Sec. 128. For in the state of nature, to omit the liberty he has of innocent delights, a man has two powers. The first is to do whatsoever he thinks fit for the preservation of himself, and others within the permission of the law of nature: by which law, common to them all, he and all the rest of mankind are one community, make up one society, distinct from all other creatures. And were it not for the corruption and viciousness of degenerate men, there would be no need of any other; no necessity that men should separate from

this great and natural community, and by positive agreements combine into smaller and divided associations. The other power a man has in the state of nature, is the power to punish the crimes committed against that law. Both these he gives up, when he joins in a private, if I may so call it, or particular politic society, and incorporates into any commonwealth, separate from the rest of mankind.

Sec. 129. The first power, viz. of doing whatsoever he thought for the preservation of himself, and the rest of mankind, he gives up to be regulated by laws made by the society, so far forth as the preservation of himself, and the rest of that society shall require; which laws of the society in many things confine the liberty he had by the law of nature.

Sec. 130. Secondly, The power of punishing he wholly gives up, and engages his natural force, (which he might before employ in the execution of the law of nature, by his own single authority, as he thought fit) to assist the executive power of the society, as the

Statue of John Locke at University College, London
Sir Richard Westmacott (English, c. 1808)



law thereof shall require: for being now in a new state, wherein he is to enjoy many conveniencies, from the labour, assistance, and society of others in the same community, as well as protection from its whole strength; he is to part also with as much of his natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require; which is not only necessary, but just, since the other members of the society do the like.

Sec. 131. But though men, when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in every one the better to preserve himself, his liberty and property; (for no rational creature can be supposed to change his condition with an intention to be worse) the power of the society, or legislative constituted by them, can never be supposed to extend farther, than the common good; but is obliged to secure every one's property, by providing against those three defects above mentioned, that made the state of nature so unsafe and uneasy. And so whoever has the legislative or supreme power of any commonwealth, is bound to govern by established standing laws, promulgated and known to the people, and not by extemporary decrees; by indifferent and upright judges, who are to decide controversies by those laws; and to employ the force of the community at home, only in the execution of such laws, or abroad to prevent or redress foreign injuries, and secure the community from inroads and invasion. And all this to be directed to no other end, but the peace, safety, and public good of the people.

Declaration of Independence

(1776)

IN CONGRESS, July 4, 1776.
The unanimous Declaration of the thirteen
United States of America

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—that whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

Writing the Declaration of Independence, 1776
Jean Leon Gerome Ferris (American, c. 1900)



In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

[Georgia:]	[Virginia:]	[Delaware:]	[Massachusetts:]
<i>Button Gwinnett</i>	<i>George Wythe</i>	<i>Caesar Rodney</i>	<i>John Hancock</i>
<i>Lyman Hall</i>	<i>Richard Henry Lee</i>	<i>George Read</i>	<i>Samuel Adams</i>
<i>George Walton</i>	<i>Thomas Jefferson</i>	<i>Thomas McKean</i>	<i>John Adams</i>
	<i>Benjamin Harrison</i>		<i>Robert Treat Paine</i>
[North Carolina:]	<i>Thomas Nelson, Jr.</i>	[New York:]	<i>Elbridge Gerry</i>
<i>William Hooper</i>	<i>Francis Lightfoot Lee</i>	<i>William Floyd</i>	
<i>Joseph Hewes</i>	<i>Carter Braxton</i>	<i>Philip Livingston</i>	[Rhode Island:]
<i>John Penn</i>		<i>Francis Lewis</i>	<i>Stephen Hopkins</i>
	[Pennsylvania:]	<i>Lewis Morris</i>	<i>William Ellery</i>
[South Carolina:]	<i>Robert Morris</i>		
<i>Edward Rutledge</i>	<i>Benjamin Rush</i>	[New Jersey:]	[Connecticut:]
<i>Thomas Heyward, Jr.</i>	<i>Benjamin Franklin</i>	<i>Richard Stockton</i>	<i>Roger Sherman</i>
<i>Thomas Lynch, Jr.</i>	<i>John Morton</i>	<i>John Witherspoon</i>	<i>Samuel Huntington</i>
<i>Arthur Middleton</i>	<i>George Clymer</i>	<i>Francis Hopkinson</i>	<i>William Williams</i>
	<i>James Smith</i>	<i>John Hart</i>	<i>Oliver Wolcott</i>
[Maryland:]	<i>George Taylor</i>	<i>Abraham Clark</i>	
<i>Samuel Chase</i>	<i>James Wilson</i>		
<i>William Paca</i>	<i>George Ross</i>	[New Hampshire:]	
<i>Thomas Stone</i>		<i>Josiah Bartlett</i>	
<i>Charles Carroll</i>		<i>William Whipple</i>	
<i>of Carrollton</i>		<i>Matthew Thornton</i>	

Articles of Confederation

(1777)

The Continental Congress finalized the Articles of Confederation on November 15, 1777. They went into force after Maryland ratified them on March 1, 1781.

To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting.

Articles of Confederation and perpetual Union between the states of New Hampshire, Massachusetts-Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

I. The Stile of this Confederacy shall be “The United States of America.”

II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled.

III. The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall enjoy free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State, of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any State, on the property of the United States, or either of them.

If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the Governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense.

Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

V. For the most convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislatures of each State shall direct, to meet in Congress on the first Monday in November, in every year, with

a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two, nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall

any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress, and the members of Congress shall be protected in their persons from arrests or imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

VI. No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King, Prince or State; nor shall any person holding any office of profit or trust under the United States, or any of them, accept any present, emolument, office or title of any kind whatever from any King, Prince or foreign State; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any King, Prince or State, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessel of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the United States in Congress assembled, for the defense of such State, or its trade; nor shall any body of forces be kept up by any State in time of peace, except such number only, as in the judgement of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready



View of New York from Long Island (c. 1778)

for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the Kingdom or State and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

VII. When land forces are raised by any State for the common defense, all officers of or under the rank of colonel, shall be appointed by the legislature of each State respectively, by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

VIII. All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint.

View of Boston (c. 1778)



The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States within the time agreed upon by the United States in Congress assembled.

IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article

- of sending and receiving ambassadors

- entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever

- of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated

- of granting letters of marque and reprisal in times of peace

- appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other causes whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgement and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and

if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgement, which shall in like manner be final and decisive, the judgement or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgement, shall take an oath to be administered by one of the judges of the supreme or superior court of the State, where the cause shall be tried, 'well and truly to hear and determine the matter in question, according to the best of his judgement, without favor, affection or hope of reward': provided also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States

- fixing the standards of weights and measures throughout the United States

- regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated

- establishing or regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority:

- to appoint a committee, to sit in the recess of Congress, to be denominated 'A Committee of the States', and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction

- to appoint one of their members to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the United States, transmitting every half-year to the respective States an account of the sums of money so borrowed or emitted.

—to build and equip a navy
—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding, and thereupon the legislature of each State shall appoint the regimental officers, raise the men and clothe, arm and equip them in a solid-like manner, at the expense of the United States; and the officers and men so



View of Philadelphia (c. 1778)

clothed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled. But if the United States in Congress assembled shall, on consideration of circumstances judge proper that any State should not raise men, or should raise a smaller number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of each State, unless the legislature of such State shall judge that such extra number cannot be safely spread out in the same, in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque or reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of the majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgement require secrecy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegates of a State, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

X. The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of the nine States, shall from time to time think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled be requisite.

XI. Canada acceding to this confederation, and adjoining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

XII. All bills of credit emitted, monies borrowed, and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith are hereby solemnly pledged.

XIII. Every State shall abide by the determination of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said Articles of Confederation and perpetual Union, Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said Confederation are submitted to them. And that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual.

In Witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of July in the Year of our Lord One Thousand Seven Hundred and Seventy-Eight, and in the Third Year of the independence of America.

The Federalist Number 2

John Jay (1787)

This essay concerning dangers from foreign force and influence was published October 31, 1787.

To the People of the State of New York:

When the people of America reflect that they are now called upon to decide a question, which, in its consequences, must prove one of the most important that ever engaged their attention, the propriety of their taking a very comprehensive, as well as a very serious, view of it, will be evident.

Nothing is more certain than the indispensable necessity of government, and it is equally undeniable, that whenever and however it is instituted, the people must cede to it some of their natural rights in order to vest it with requisite powers. It is well worthy of consideration therefore, whether it would conduce more to the interest of the people of America that they should, to all general purposes, be one nation, under one federal government, or that they should divide themselves into separate confederacies, and give to the head of each the same kind of powers which they are advised to place in one national government.

It has until lately been a received and uncontradicted opinion that the prosperity of the people of America depended on their continuing firmly united, and the wishes, prayers, and efforts of our best and wisest citizens have been constantly directed to that object.

United States Postal Service commemorative postcard and stamp honoring John Jay (1958)



But politicians now appear, who insist that this opinion is erroneous, and that instead of looking for safety and happiness in union, we ought to seek it in a division of the States into distinct confederacies or sovereignties. However extraordinary this new doctrine may appear, it nevertheless has its advocates; and certain characters who were much opposed to it formerly, are at present of the number. Whatever may be the arguments or inducements which have wrought this change in the sentiments and declarations of these gentlemen, it certainly would not be wise in the people at large to adopt these new political tenets without being fully convinced that they are founded in truth and sound policy.

It has often given me pleasure to observe that independent America was not composed of detached and distant territories, but that one connected, fertile, widespreading country was the portion of our western sons of liberty. Providence has in a particular manner blessed it with a variety of soils and productions, and watered it with innumerable streams, for the delight and accommodation of its inhabitants. A succession of navigable waters forms a kind of chain round its borders, as if to bind it together; while the most noble rivers in the world, running at convenient distances, present them with highways

Portrait of a Family, *Gilbert Stuart (American, c. 1788)*



for the easy communication of friendly aids, and the mutual transportation and exchange of their various commodities.

With equal pleasure I have as often taken notice that Providence has been pleased to give this one connected country to one united people—a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established general liberty and independence.

This country and this people seem to have been made for each other, and it

appears as if it was the design of Providence, that an inheritance so proper and convenient for a band of brethren, united to each other by the strongest ties, should never be split into a number of unsocial, jealous, and alien sovereignties.

Similar sentiments have hitherto prevailed among all orders and denominations of men among us. To all general purposes we have uniformly been one people, each individual citizen everywhere enjoying the same national rights, privileges, and protection. As a nation we have made peace and war; as a nation we have vanquished our common enemies; as a nation we have formed alliances, and made treaties, and entered into various compacts and conventions with foreign states.

A strong sense of the value and blessings of union induced the people, at a very early period, to institute a federal government to preserve and perpetuate it. They formed it almost as soon as they had a political existence; nay, at a time when their habitations were in flames, when many of their citizens were bleeding, and when the progress of hostility and desolation left little room for those calm and mature inquiries and reflections which must ever precede the formation of a wise and well-balanced government for a free people. It is not to be wondered at, that a government instituted in times so inauspicious, should on experiment be found greatly deficient and inadequate to the purpose it was intended to answer.

This intelligent people perceived and regretted these defects. Still continuing no less attached to union than enamored of liberty, they observed the danger which immediately threatened the former and more remotely the latter; and being persuaded that ample security for both could only be found in a national government more wisely framed, they as with one voice, convened the late convention at Philadelphia, to take that important subject under consideration.

This convention, composed of men who possessed the confidence of the people, and many of whom had become highly distinguished by their patriotism, virtue and wisdom, in times which tried the minds and hearts of men, undertook the arduous task. In the mild season of peace, with minds unoccupied by other subjects, they passed many months in cool, uninterrupted, and daily consultation; and finally, without having been awed by power, or influenced by any passions except love for their country, they presented and recommended to the people the plan produced by their joint and very unanimous councils.

Admit, for so is the fact, that this plan is only recommended, not imposed, yet let it be remembered that it is neither recommended to blind approbation, nor to blind reprobation; but to that sedate and candid consideration which the magnitude and importance of the subject demand, and which it certainly ought to receive. But this (as was remarked in the foregoing number of this paper) is more to be wished than expected, that it may be so considered and examined. Experience on a former occasion teaches us not to be too sanguine in such hopes. It is not yet forgotten that well-grounded apprehensions of imminent danger induced the people of America to form the memorable Congress of 1774. That body recommended certain measures to their constituents, and the event proved their wisdom; yet it is fresh in our memories how soon the press began to teem

with pamphlets and weekly papers against those very measures. Not only many of the officers of government, who obeyed the dictates of personal interest, but others, from a mistaken estimate of consequences, or the undue influence of former attachments, or whose ambition aimed at objects which did not correspond with the public good, were indefatigable in their efforts to persuade the people to reject the advice of that patriotic Congress. Many, indeed, were deceived and deluded, but the great majority of the people reasoned and decided judiciously; and happy they are in reflecting that they did so.

They considered that the Congress was composed of many wise and experienced men. That, being convened from different parts of the country, they brought with them and communicated to each other a variety of useful information. That, in the course of the time they passed together in inquiring into and discussing the true interests of their country, they must have acquired very accurate knowledge on that head. That they were individually interested in the public liberty and prosperity, and therefore that it was not less their inclination than their duty to recommend only such measures as, after the most mature deliberation, they really thought prudent and advisable.

These and similar considerations then induced the people to rely greatly on the judgment and integrity of the Congress; and they took their advice, notwithstanding the various arts and endeavors used to deter them from it. But if the people at large had reason to confide in the men of that Congress, few of whom had been fully tried or generally known, still greater reason have they now to respect the judgment and advice of the convention, for it is well known that some of the most distinguished members of that Congress, who have been since tried and justly approved for patriotism and abilities, and who have grown old in acquiring political information, were also members of this convention, and carried into it their accumulated knowledge and experience.

It is worthy of remark that not only the first, but every succeeding Congress, as well as the late convention, have invariably joined with the people in thinking that the prosperity of America depended on its Union. To preserve and perpetuate it was the great object of the people in forming that convention, and it is also the great object of the plan which the convention has advised them to adopt. With what propriety, therefore, or for what good purposes, are attempts at this particular period made by some men to depreciate the importance of the Union? Or why is it suggested that three or four confederacies would be better than one? I am persuaded in my own mind that the people have always thought right on this subject, and that their universal and uniform attachment to the cause of the Union rests on great and weighty reasons, which I shall endeavor to develop and explain in some ensuing papers. They who promote the idea of substituting a number of distinct confederacies in the room of the plan of the convention, seem clearly to foresee that the rejection of it would put the continuance of the Union in the utmost jeopardy. That certainly would be the case, and I sincerely wish that it may be as clearly foreseen by every good citizen, that whenever the dissolution of the Union arrives, America will have reason to exclaim, in the words of the poet: "Farewell! A Long Farewell to All My Greatness."

Publius

Comments at the Virginia Ratifying Convention

Patrick Henry (1788)

Delegates from around Virginia met in Richmond from June 2 to June 27, 1788, to decide whether or not Virginia would ratify the proposed U.S. Constitution. Patrick Henry led a group opposed to the Constitution. He made comments expressing his opinions over several days. Here are some excerpts.

. . . I rose yesterday to ask a question which arose in my own mind. When I asked that question, I thought the meaning of my interrogation was obvious. The fate of this question and of America may depend on this. Have they said, We, the states? Have they made a proposal of a compact between states? If they had, this would be a confederation. It is otherwise most clearly a consolidated government. The question turns, sir, on that poor little thing—the expression, We, the people, instead of the states, of America. I need not take much pains to show that the principles of this system are extremely pernicious, impolitic, and dangerous.

Is this a monarchy, like England—a compact between prince and people, with checks on the former to secure the liberty of the latter? Is this a confederacy, like Holland—an association of a number of independent states, each of which retains its individual sovereignty? It is not a democracy, wherein the people retain all their rights securely. Had these principles been adhered to, we should not have been brought to this alarming

transition, from a confederacy to a consolidated government. We have no detail of these great considerations, which, in my opinion, ought to have abounded before we should recur to a government of this kind.

Here is a resolution as radical as that which separated us from Great Britain. It is radical in this transition; our rights and privileges are endangered, and the sovereignty of the states will be relinquished: and cannot we plainly see that this is actually the case? The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost, by this change, so loudly talked of by some, and inconsiderately by others. Is this tame relinquishment of rights worthy of freemen? Is it worthy of that manly

Patrick Henry
George Bagby Matthews (American, c. 1891)



fortitude that ought to characterize republicans? It is said eight states have adopted this plan. I declare that if twelve states and a half had adopted it, I would, with manly firmness, and in spite of an erring world, reject it. You are not to inquire how your trade may be increased, nor how you are to become a great and powerful people, but how your liberties can be secured; for liberty ought to be the direct end of your government.

. . . Is it necessary for your liberty that you should abandon those great rights by the adoption of this system? Is the relinquishment of the trial by jury and the liberty of the press necessary for your liberty? Will the abandonment of your most sacred rights tend to the security of your liberty? Liberty, the greatest of all earthly blessing—give us that precious jewel, and you may take every thing else! But I am fearful I have lived long enough to become an old-fashioned fellow. Perhaps an invincible attachment to the dearest rights of man may, in these refined, enlightened days, be deemed old-fashioned; if so, I am contented to be so. I say, the time has been when every pulse of my heart beat for American liberty, and which, I believe, had a counterpart in the breast of every true American; but suspicions have gone forth—suspicions of my integrity—publicly reported that my professions are not real.

Twenty-three years ago was I supposed a traitor to my country? I was then said to be the bane of sedition, because I supported the rights of my country. I may be thought suspicious when I say our privileges and rights are in danger. But, sir, a number of the people of this country are weak enough to think these things are too true. I am happy to find that the gentleman on the other side declares they are groundless. But, sir, suspicion is a virtue as long as its object is the preservation of the public good, and as long as it stays within proper bounds: should it fall on me, I am contented: conscious rectitude is a powerful consolation. I trust there are many who think my professions for the public good to be real. Let your suspicion look to both sides. There are many on the other side, who possibly may have been persuaded to the necessity of these measures, which I conceive to be dangerous to your liberty. Guard with jealous attention the public liberty. Suspect every one who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are inevitably ruined.

I am answered by gentlemen, that, though I might speak of terrors, yet the fact was, that we were surrounded by none of the dangers I apprehended. I conceive this new government to be one of those dangers: it has produced those horrors which distress many of our best citizens. We are come hither to preserve the poor commonwealth of Virginia, if it can be possibly done: something must be done to preserve your liberty and mine. The Confederation, this same despised government, merits, in my opinion, the highest encomium: it carried us through a long and dangerous war; it rendered us victorious in that bloody conflict with a powerful nation; it has secured us a territory greater than any European monarch possesses: and shall a government which has been thus strong and vigorous, be accused of imbecility, and abandoned for want of energy? Consider what you are about to do before you part with the government. Take longer time in reckoning things; revolutions like this have happened in almost every country in Europe; similar examples are to be found in ancient Greece and ancient Rome—instances

of the people losing their liberty by their own carelessness and the ambition of a few. We are cautioned by the honorable gentleman, who presides, against faction and turbulence. I acknowledge that licentiousness is dangerous, and that it ought to be provided against: I acknowledge, also, the new form of government may effectually prevent it: yet there is another thing it will as effectually do—it will oppress and ruin the people.

There are sufficient guards placed against sedition and licentiousness; for, when power is given to this government to suppress these, or for any other purpose, the language it assumes is clear, express, and unequivocal; but when this Constitution speaks of privileges, there is an ambiguity, sir, a fatal ambiguity—an ambiguity which is very astonishing. In the clause under consideration, there is the strangest language that I can conceive. I mean, when it says that there shall not be more representatives than one for every thirty thousand. Now, sir, how easy is it to evade this privilege! “The number shall not exceed one for every thirty thousand.” This may be satisfied by one representative from each state. Let our numbers be ever so great, this immense continent may, by this artful expression, be reduced to have but thirteen representatives. I confess this construction is not natural; but the ambiguity of the expression lays a good ground for a quarrel. Why was it not clearly and unequivocally expressed, that they should be entitled to have one for every thirty thousand? This would have obviated all disputes; and was this difficult to be done? What is the inference? When population increases, and a state shall send representatives in this proportion, Congress may remand them, because the right of having one for every thirty thousand is not clearly expressed. This possibility of reducing the number to one for each state approximates to probability by that other expression—“but each state shall at least have one representative.” Now, is it not clear that, from the first expression, the number might be reduced so much that some states should have no representatives at all, were it not for the insertion of this last expression? And as this is the only restriction upon them, we may fairly conclude that they may restrain the number to one from each state. . . .

My great objection to this government is, that it does not leave us the means of defending our rights, or of waging war against tyrants. It is urged by some gentlemen, that this new plan will bring us an acquisition of strength—an army, and the militia of the states. This is an idea extremely ridiculous: gentlemen cannot be earnest. This acquisition will trample on our fallen liberty. Let my beloved Americans guard against that fatal lethargy that has pervaded the universe. Have we the means of resisting disciplined armies, when our only defence, the militia, is put into the hands of Congress? The honorable gentleman said that great danger would ensue if the Convention rose without adopting this system. I ask, Where is that danger? I see none. Other gentlemen have told us, within these walls, that the union is gone, or that the union will be gone. Is not this trifling with the judgment of their fellow-citizens? Till they tell us the grounds of their fears, I will consider them as imaginary. I rose to make inquiry where those dangers were; they could make no answer: I believe I never shall have that answer. Is there a disposition in the people of this country to revolt against the dominion of laws? Has there been a single tumult in Virginia? Have not the people of Virginia, when laboring under the severest pressure

of accumulated distresses, manifested the most cordial acquiescence in the execution of the laws? What could be more awful than their unanimous acquiescence under general distresses? Is there any revolution in Virginia? Whither is the spirit of America gone? Whither is the genius of America fled? It was but yesterday, when our enemies marched in triumph through our country. Yet the people of this country could not be appalled by their pompous armaments. . . . Where is the peril, now, compared to that? Some minds are agitated by foreign alarms. Happily for us, there is no real danger from Europe; that country is engaged in more arduous business: from that quarter there is no cause of fear: you may sleep in safety forever for them. . . .

Consider our situation, sir: go to the poor man, and ask him what he does. He will inform you that he enjoys the fruits of his labor, under his own fig-tree, with his wife and children around him, in peace and security. Go to every other member of society,—you will find the same tranquil ease and content; you will find no alarms or disturbances. Why, then, tell us of danger, to terrify us into an adoption of this new form of government? And yet who knows the dangers that this new system may produce? They are out of the sight of the common people: they cannot foresee latent consequences. I dread the operation of it on the middling and lower classes of people: it is for them I fear the adoption of this system. . . .

In this scheme of energetic government, the people will find two sets of tax-gatherers—the state and the federal sheriffs. This, it seems to me, will produce such dreadful oppression as the people cannot possibly bear. The federal sheriff may commit what oppression, make what distresses, he pleases, and ruin you with impunity; for how are you to tie his hands? Have you any sufficiently decided means of preventing him from sucking your blood by speculations, commissions, and fees? Thus thousands of your people will be most shamefully robbed: our state sheriffs, those unfeeling blood-suckers have, under the watchful eye of our legislature, committed the most horrid and barbarous ravages on our people. It has required the most constant vigilance of the legislature to keep them from totally ruining the people; a repeated succession of laws has been made to suppress their iniquitous speculations and cruel extortions; and as often has their nefarious ingenuity devised methods of evading the force of those laws: in the struggle they have generally triumphed over the legislature. . . .

Your President may easily become king. Your Senate is so imperfectly constructed that your dearest rights may be sacrificed by what may be a small minority; and a very small minority may continue forever unchangeably this government, although horridly defective. Where are your checks in this government? Your strongholds will be in the hands of your enemies. It is on a supposition that your American governors shall be honest, that all the good qualities of this government are founded; but its defective and imperfect construction puts it in their power to perpetrate the worst of mischiefs, should they be bad men; and, sir, would not all the world, from the eastern to the western hemisphere, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a

consequent loss of liberty! I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt.

If your American chief be a man of ambition and abilities, how easy is it for him to render himself absolute! The army is in his hands, and if he be a man of address, it will be attached to him, and it will be the subject of long meditation with him to seize the first auspicious moment to accomplish his design; and, sir, will the American spirit solely relieve you when this happens? I would rather infinitely—and I am sure most of this Convention are of the same opinion—have a king, lords, and commons, than a government so replete with such insupportable evils. If we make a king, we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them; but the President, in the field, at the head of his army, can prescribe the terms on which he shall reign master, so far that it will puzzle any American ever to get his neck from under the galling yoke. I cannot with patience think of this idea. . . .

This, sir, is my great objection to the Constitution, that there is no true responsibility—and that the preservation of our liberty depends on the single chance of men being virtuous enough to make laws to punish themselves. . . .

The Religious Roots of Freedom

M. Stanton Evans (1995)

M. Stanton Evans had a distinguished career in journalism. He was managing editor of Human Events, associate editor of National Review, and editor of the Indianapolis Star. He also worked as a political columnist and authored several books. Evans presented this lecture at Hillsdale College in 1995. He died in 2015.

As the renewed debate over prayer in the public schools suggests, the cultural conflict of the modern era finds vivid and enduring focus in the legal dispute about the place of religion in the civic order. Here the battle is overt, relentless, and pervasive—with traditional belief and custom retreating before a secularist onslaught in our courts and other public institutions.

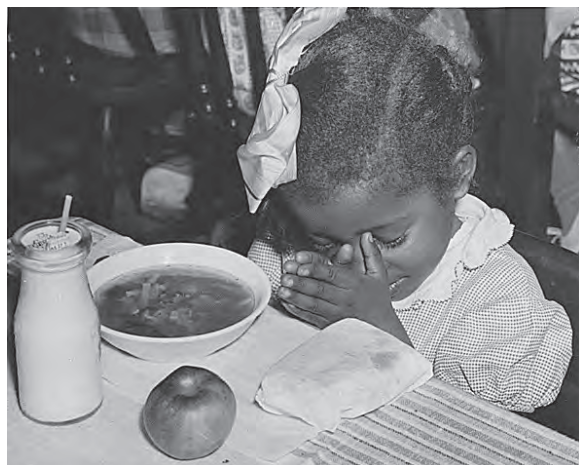
During the past three decades, the U.S. Supreme Court has handed down a series of rulings that decree a “wall of separation” between affairs of state and the precepts of religion. In the most controverted of these cases, in 1962, the Court said an officially sponsored prayer recited in the New York public schools was an abridgement of our freedoms. This prayer read, in its entirety: “Almighty God, we acknowledge our dependence on Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country.” In the Court’s opinion, this supplication triggered the First Amendment ban against an “establishment of religion,” logic that was later extended to reading the Bible and reciting the Lord’s Prayer in the classroom.

In adopting the First Amendment, according to the Court, the Founders meant to sever all connection between religious faith and government, requiring that religion be a purely private matter. As Justice Hugo Black put it in an oft-quoted statement: “The ‘establishment of religion’ clause of the First Amendment means at least this: Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion,

aid all religions, or prefer one religion over another. . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion.”

This doctrine has been affirmed and amplified in many rulings since. In support of it, Black and his successors (most recently Justice David Souter) have offered a reading of our history that supposedly shows the intentions of the people who devised the First Amendment. In a nutshell, this tells us that the Founders chiefly responsible for the

Young girl prays before eating school lunch (1936).



Constitution's religion clauses were Madison and Jefferson; that they held views intensely hostile toward any governmental backing for religion; and that the amendment was a triumph for their separationist position.

Of Whole Cloth

The First Amendment depicted by Justice Black and other liberal jurists is, unfortunately, a fabrication. The Supreme Court's alleged history is a prime example of picking and choosing elements from the past to suit the ideological fashions of the present. If we consult the history of the nation's founding, we find that the Court and its supporters have misstated the material facts about the issue in every possible fashion. To begin with, state papers, legal arrangements, and political comment of the founding generation show that American culture in that period was suffused with religious doctrine. The point is made by the very concept of an "establishment of religion." This term had a definite meaning in England and the colonies that is critical to understanding the debate about the First Amendment. It signified an official church that occupied a privileged position with the state, was vested with certain powers denied to others, and was supported from the public treasury. Such was the Church of England in Great Britain, and such also were numerous churches in the colonies at the beginning of our revolution.

The States' Churches

In 1775, no fewer than nine colonies had such arrangements. Massachusetts, Connecticut, and New Hampshire had systems of local church establishment in favor of the Congregationalists. In the South, from Maryland on down, the establishments were Episcopal. In New York, there was a system of locally supported Protestant clergy. Because of growing religious diversity within the states, pressure mounted to disestablish these official churches. In particular, increasingly numerous Baptists and Presbyterians made headway against the Anglican position, which was further weakened by the identification of many Episcopal ministers with the English.

Even so, at the time of the Constitutional Convention, the three New England states still had their Congregational establishments. In other states, there remained a network of official sanctions for religious belief, principally the requirement that one profess a certain kind of Christian doctrine to hold public office or enjoy other legal privilege. With local variations, these generally tended in the same direction, and they make instructive reading alongside the statements of Justices Black and Souter about the supposed history of our institutions.

In South Carolina, for example, the Constitution of 1778 said that "the Christian Protestant religion shall be deemed . . . the established religion of the state." It further said that no religious society could be considered a church unless it agreed "that there is one eternal God and a future state of rewards and punishment; that the Christian religion is the true religion; that that Holy Scriptures of the Old and New Testaments are of divine

inspiration.” South Carolina also asserted that “no person who denies the existence of a Supreme Being shall hold any office under this Constitution.”

Similar statements can be gleaned from other state enactments of the period. The Maryland Constitution of 1776 decreed, for instance, “a general and equal tax for the support of the Christian religion.” New Jersey that year expressed its idea of toleration by saying that “no Protestant inhabitant of this colony shall be denied the enjoyment of any civil right.” Massachusetts, in 1780, authorized a special levy to support “public Protestant teachers of piety, religion, and morality”—a formula adopted verbatim by New Hampshire.

Official support for religious faith and state religious requirements for public office persisted well after adoption of the First Amendment. The established church of Massachusetts was not abolished until 1833. In New Hampshire, the requirement that one had to be Protestant to serve in the legislature was continued until 1877. In New Jersey, Roman Catholics were not permitted to hold office until 1844. In Maryland, the stipulation that one had to be a Christian lasted until 1826. As late as 1835, one had to be a Protestant to take office in North Carolina; until 1868, the requirement was that one had to be a Christian; thereafter that one had to profess a belief in God.

The official sanction for religious belief provided by the states was equally apparent at the federal level, during and after the Revolution. Appeals for divine assistance, days of prayer and fasting, and other religious observance were common in the Continental Congress. Among its first items of business, in 1774, the Congress decided to appoint a chaplain and open its proceedings with a prayer. When it was objected that this might be a problem because of diversity in religious doctrine, Sam Adams answered: “I am not a bigot. I can hear a prayer from a man of piety and virtue, who is at the same time a friend of his country.”

Dan Coughlin (center) served as Chaplain of the House of Representatives from 2000 to 2011. He was the first Roman Catholic to hold that position. Upon his retirement, House Speaker John Boehner and Minority Leader Nancy Pelosi presented Coughlin with a flag flown over the U.S. Capitol.



On June 12, 1775, the Congress called for “a day of public humiliation, fasting, and prayer,” wherein “[we] offer up our joint supplications to the all-wise, omnipotent, and merciful disposer of all events.” In observance of this fast day, Congress attended an Anglican service in the morning and a Presbyterian service in the afternoon.

During the Revolutionary War, Congress made provision for military chaplains, recommended that officers and men attend religious service, and threatened court martial for anyone who misbehaved on such occasions. It also adopted the Northwest Ordinance, stressing the need for “religion and morality,” appropriated money for the Christian education of Indians and

encouraged the printing of a Bible. The Northwest Ordinance and the measures regarding chaplains, official prayer, and education of the Indians were re-adopted by the first Congress under the new Constitution and maintained for many years thereafter.

Crumbling Wall

Such was the body of doctrine and official practice that surrounded the First Amendment—immediately predating it, adopted while it was being discussed and voted on, and enduring long after it was on the books. The resulting picture is very different from any notion of America as a country run by secularists and Deists. Nor does it look very much like a country in which the governing powers were intent on creating a “wall of separation” between church and state, denying official support to the precepts of religion.

This was the background to Madison’s motion on June 8, 1789, introducing a set of amendments to the Constitution, culled from the proposals of [the state ratifying] conventions. Among the measures that he offered was this pertaining to an establishment of religion: “The civil rights of none shall be abridged on account of religious belief, nor shall any national religion be established . . .” In view of the weight that has been given to Madison’s personal opinions on the subject, his comments on this occasion are of special interest. For example, challenged by Roger Sherman as to why such guarantees were needed, given the doctrine of “enumerated powers,” Madison said:

he apprehended the meaning of the words to be that Congress shall not establish a religion and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. Whether the words are necessary or not, he did not mean to say, but they have been required by some of the state conventions, who seemed to entertain an opinion that [under the “necessary and proper” clause] . . . Congress . . . might infringe the rights of conscience and establish a national religion; to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of language would admit. [Italics added.]

In this and other exchanges, the House debate made two things clear about the Bill of Rights and its religion clauses: (1) Madison was introducing the amendments not because he thought they were needed but because others did, and because he had promised to act according to their wishes; (2) the aim was to prevent Congress from establishing a “national” religion that would threaten the religious diversity of the states. Given the varied practices we have noted, ranging from establishments and doctrinal requirements for public office to relative toleration, any “national” religion would have been a source of angry discord.

Against that backdrop, the meaning of the establishment clause as it came out of conference should be crystal clear: “Congress shall make no law respecting an

establishment of religion.” The agency prohibited from acting is the national legislature; what it is prevented from doing is passing any law “respecting” an establishment of religion. In other words, Congress was forbidden to legislate at all concerning church establishment—either for or against. It was prevented from setting up a national established church; equally to the point, *it was prevented from interfering with the established churches in the states.*

Shield Becomes Sword

Though this history is blurred or ignored, it is no secret, and its general features are sometimes acknowledged by liberal spokesmen. It may be conceded, for example, that the First Amendment was intended to be a prohibition against the *federal* government. But that guarantee was supposedly broadened by the Fourteenth Amendment, which “applied” the Bill of Rights against the states. Thus what was once prohibited only to the federal government is now also prohibited to the states.

Here we meet the Orwellian concept of “applying” a protection *of* the states *as a weapon against them*—using the First Amendment to achieve the very thing it was intended to prevent. The legitimacy of this reversal has been convincingly challenged by such constitutional scholars as Raoul Berger, Lino Graglia, and James McClellan. But for present purposes, let us simply assume the First Amendment restrictions on Congress were “applied” against the states. What then? What did this prohibit?

One thing we know for sure is that it *did not prohibit officially sponsored prayer*. As we have seen, Congress itself engaged in officially sponsored, tax-supported prayer, complete with paid official chaplains, from the very outset—and continues to do so to this day. Indeed, in one of the greatest ironies of this historical record, we see the practice closely linked with passage of the First Amendment—supplying a refutation of the Court’s position that is as definitive as could be wished.

The language that had been debated off and on throughout the summer and then hammered out in conference finally passed the House of Representatives on September 24, 1789. *On the very next day*, the self-same House of Representatives passed a resolution calling for *a day of national prayer and thanksgiving*. Here is the language the House adopted: “We acknowledge with grateful hearts the many single favors of Almighty God, especially by affording them an opportunity peacefully to establish a constitutional government for their safety and happiness.”

The House accordingly called on President Washington to issue a proclamation designating a national day of prayer and thanksgiving (the origin of our current legal holiday). This was Washington’s response:

It is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor. . . . That great and glorious Being who is the beneficent author of all the good that was, that is, or that ever will be, that we may then

unite in rendering unto Him our sincere and humble thanks for His kind care and protection of the people.

Such were the official sentiments of Congress and the President immediately after the adoption of the First Amendment. These statements are far more doctrinal and emphatic than the modest prayer schoolchildren are forbidden to recite because it allegedly violates the First Amendment. If we accept the reasoning of the modern Court, as Robert Cord observes, *both Congress and George Washington violated the intended meaning of the First Amendment from its inception.*

The more logical conclusion, of course, is that Congress knew much better what it meant by the language adopted the preceding day than does our self-consciously evolving Court two centuries later. And in the view of Congress, there was nothing either in law or in logic to bar it from engaging in officially sponsored, tax-supported prayer, then or ever. It follows that the amendment can't possibly bar the states from doing likewise.

Madison and Jefferson

To all this the liberal answer is, essentially: James Madison. Whatever the legislative history, we are informed, Madison in his subsequent writings took doctrinaire positions on church-state separation, and these should be read into the First Amendment. This, however, gets the matter topsy-turvy. Clearly, if the Congress that passed the First Amendment and the states that ratified it didn't agree with Madison's more stringent private notions, as they surely didn't, then these were not enacted. It is the common understanding of the relevant parties, not the ideas of a single individual, especially those expressed in other settings, that defines the purpose of a law or constitutional proviso.

Furthermore, the Court's obsession with the individual views of Madison is highly suspect. It contrasts strangely with judicial treatment of his disclaimers in the House debate, and of his opinions on other constitutional matters. Madison held strict-constructionist views on the extent of federal power, arguing that the Constitution reserved undelegated authority to the states. These views of Madison are

Trinity Church, built in Brooklyn, Connecticut, in 1771, is the oldest surviving Anglican church in the state.





South Quay Baptist Church was founded in Suffolk, Virginia, in 1775. During this period, when the Anglican Church was the established state church, some Baptist ministers endured imprisonment.

dismissed entirely by the Court. Thus we get a curious inversion: Madison becomes the Court's authority on the First Amendment, even though the notions he later voiced about this subject were not endorsed by others involved in its adoption. On the other hand, he isn't cited on the residual powers of the states, even though his statements on this topic were fully endorsed by other supporters of the Constitution and relied on by the people who voted its approval. It is hard to find a thread of consistency in this—beyond the obvious one of serving liberal ideology.

As peculiar as the Court's selective use of Madison is its resort to Jefferson. The anomaly here is that Jefferson was not a member of the

Constitutional Convention, or of the Congress that considered the Bill of Rights, or of the Virginia ratifying convention. But he had strongly separationist views (up to a point) and had worked with Madison for disestablishment and religious freedom in Virginia. For the Court, this proves the First Amendment embodied Jefferson's statement in 1802 in a letter to the Baptists of Connecticut, about a "wall of separation."

Again we pass over the Lewis Carroll logic—in this case deducing the intent of an amendment adopted in 1789 from a letter written 13 years later by a person who had no official role in its adoption. Rather than dwelling on this oddity, we shall simply go to the record and see what Jefferson actually said about the First Amendment and its religion clauses. In his second inaugural address, for example, he said:

In matter of religion, I have considered that its free exercise is placed by the Constitution independent of the powers of the general government. I have therefore undertaken on no occasion to prescribe the religious exercises suited to it. But I have left them as the Constitution found them, under the direction or discipline of state or church authorities acknowledged by the several religious societies.

Jefferson made the same point a few years later to a Presbyterian clergyman, who inquired about his attitude toward Thanksgiving proclamations:

I consider the government of the United States as interdicted from intermeddling with religious institutions, their doctrines, discipline, or exercises. This results from the provision that no law shall be made respecting the establishment of religion or the free exercise thereof, but also from that

which reserves to the states the powers not delegated to the United States. Certainly no power over religious discipline has been delegated to the general government. It must thus rest with the states as far as it can be in any human authority.

The irresistible conclusion is that there was no wall of separation between religious affirmation and civil government in the several states, nor could the First Amendment, with or without the Fourteenth Amendment, have been intended to create one. The wall of separation, instead, was between *the federal government and the states* and was meant to make sure the central authority didn't meddle with the customs of local jurisdictions.

As a matter of constitutional law, the Court's position in these religion cases is an intellectual shambles—results-oriented jurisprudence at its most flagrant. An even greater scandal is the extent to which the Justices have rewritten the official record to support a preconceived conclusion: a performance worthy of regimes in which history is tailored to the interests of the ruling powers. In point of fact, America's constitutional settlement—up to and including the First Amendment—was the work of people who believed in God, and who expressed their faith as a matter of course in public prayer and other governmental practice.

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