



The First Principles of The Constitution of the United States

“All human constitutions are subject to corruption, and must perish, unless they are timely renewed, and reduced to their first principles.”¹

The Constitution of the United States was the collaborative result of the thoughts and ideas of many great minds, the wisdom of ancient political philosophers (such as Plato, Montesquieu, Locke, and Sidney), the application of certain timeless principles, as well as many years of experience and months of deliberation. Speaking of the Constitutional Convention and its great assemblage of wise men, the representatives of the people, James Madison (known as the Father of the Constitution, and who was the author of the Virginia Plan which formed its core concepts), stated: “I feel it a duty to express my profound and solemn conviction, derived from my intimate opportunities of observing and appreciating the views of the convention, collectively and individually, that there never was an assembly of men, charged with a great and arduous trust, who were more pure in their motives, or more exclusively or anxiously devoted to the object committed to them.”² Benjamin Franklin said, “When you assemble a number of men to have the advantage over their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does.”³ Describing these statesmen, the constitutional scholar J. Reuben Clark, Jr. said:

“The Framers of our Constitution . . . were trained and experienced in the Common Law. They remembered the barons and King John at Runnymede. They were thoroughly indoctrinated in the principle that true sovereignty rested in the people. . . . Deeply read in history, steeped in the lore of the past in human government, and experienced in the approaches of despotism which they had, themselves, suffered at the hands of George the Third, these patriots, assembled in solemn convention, planned for the establishment of a government that would ensure to them the blessings they described in the Preamble.”⁴

The Hand of Providence

A significant number of the Constitutional Convention’s delegates acknowledged divine assistance in its creation. James Madison stated, “It is impossible for the man of pious reflection not to perceive in [the Constitution] a finger of that Almighty hand which has been so frequently

Author: J. David Gowdy, © 2010 The Washington, Jefferson & Madison Institute, Charlottesville, Virginia.

¹ Algernon Sidney, *Discourses Concerning Government* (A. Millar, London, 1751), II:13:117.

² William Cabell Rives, *History of the Life and Times of James Madison* (Little, Brown & Company, Boston, 1870), 2:309.

³ James Madison, *Notes of the Debates in the Federal Convention of 1787* (W. W. Norton & Company, New York, 1987), Monday, September 17, 1787, p. 653.

⁴ J. Reuben Clark, Jr., *Stand Fast by Our Constitution* (Deseret Book Company, Salt Lake City, 1973), pp. 145, 147 (cited as “Clark”).

and signally extended to our relief in the critical stages of the revolution.”⁵ One year after its adoption, George Washington wrote to Lafayette, “It appears to me, then, little short of a miracle, that the delegates from so many different states (which states you know are also different from each other in their manners, circumstances, and prejudices) should unite in forming a system of national Government, so little liable to well-founded objections.”⁶ Another signer who was a leader in the debates, Charles Pinckney, said: “Nothing less than the superintending Hand of Providence, that so miraculously carried us through the war . . . could have brought it [the Constitution] about so complete, upon the whole.”⁷ And, Thomas Jefferson (who was in France in 1787) ten years after its adoption exclaimed, “Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God?”⁸ Like life itself, one cannot fully comprehend or appreciate liberty, or the Constitution, without reference to inspired principles.

The Declaration of Independence

The great herald of the Constitution was the Declaration of Independence, which states: “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...” Abraham Lincoln said that “[these] principles . . . are the definitions and axioms of a free society.”⁹ He concluded that that in the Declaration, Jefferson introduced “an abstract truth, applicable to all men and all times . . .” and affirmed that “The [Constitution] was made, not to *conceal*, or *destroy* the [Declaration of Independence]; but to *adorn* and *preserve* it. The [Constitution] was made for the [Declaration] -- *not* the [opposite].”¹⁰ The first charter serves as the foundation for the last. As Lincoln states, the Constitution was designed to uphold and protect our God-given rights of life and liberty as set forth in the Declaration.

The Consent of the Governed

In order to understand the Constitution, one must first understand the principles of individual sovereignty and natural rights. The Founders were not only in accord with the principle that the sovereign power of self-government resides in the people, but as next stated in the Declaration of Independence, that “Governments are instituted among Men, deriving their just powers from the consent of the governed.” Their convictions taught them that (as Jefferson wrote in his first draft of the Declaration), it is “sacred and undeniable that all men are created equal and independent.”¹¹ This restated an earlier version found in his *Rights of British America*: “Under the law of nature, all men are born free . . .”¹² These principles of inherent liberty and divine rights are known as “natural rights,” and are found in the writings of Locke and Sidney.¹³

⁵ Alexander Hamilton, James Madison and John Jay, *The Federalist Papers* (Glazier, Masters & Co., Hallowell, 1831), No. 37, p. 179 (cited as the “*Federalist*”).

⁶ George Washington to Lafayette, February 7, 1788. Philander D. Chase, ed., *The Papers of George Washington*, Confederation Series (University of Virginia Press, Charlottesville, 1992) 6:95-97.

⁷ Paul Leicester Ford, ed., *Essays on the Constitution of the United States* (Historical Printing Club, Brooklyn, 1892), p. 412.

⁸ Thomas Jefferson to James Monroe, 1797. Andrew Lipscomb and Albert Bergh, ed., *The Writings of Thomas Jefferson* (Washington, D.C.: 1903-1904), 9:422 (Memorial Edition, cited as “ME”).

⁹ Abraham Lincoln to H. L. Pierce, April 6, 1859, Roy P. Basler, ed., *The Collected Works of Abraham Lincoln* (Rutgers University Press, New Brunswick, New Jersey, 1953), 3:375-76.

¹⁰ *Id.*, 4:168 (italics in original).

¹¹ ME 1:23.

¹² Thomas Jefferson, *Rights of British America*, 1774. ME 1:209.

¹³ Thomas Jefferson, Minutes of the Board of Visitors, University of Virginia, March 4, 1825. ME 19:460-61.

In this regard, John Jay (author of several of the Federalist Papers, and the first Chief Justice of the Supreme Court), stated: “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.”¹⁴ Jefferson agreed, stating, “Our rulers can have authority over such natural rights only as we have submitted to them.”¹⁵ And Thomas Paine stated, “A constitution is not the act of a government, but of a people constituting a government; and government without a constitution is power without a right. All power exercised over a nation, must have some beginning. It must be either delegated, or assumed. There are not other sources. All delegated power is trust, and all assumed power is usurpation. Time does not alter the nature and quality of either.”¹⁶ The Constitution’s preamble proclaims: “We the people of the United States ... do ordain and establish this Constitution.” Clearly, our national charter is based upon delegated power.

Separation of Powers

In order to guard and maintain individual liberty, the Founders of our Republic acknowledged that the outward purpose of the Constitution was to establish a federal government of not only limited, delegated powers, but one divided into three distinct branches. J. Reuben Clark, Jr. firmly believed that the keystone of limited government under the Constitution lies in its provision for the separation of powers. He believed, as did Locke and Montesquieu, that “a combination of legislative, executive and judicial power in one person or body was destructive of all freedom and justice.”¹⁷ This concept was key in the Founders’ minds in providing in the Constitution for a “government in which these three branches were distinct and wholly independent the one from the other.”¹⁸ Clark said, “It is this union of independence and dependence of these branches -- legislative, executive and judicial -- and of the governmental functions possessed by each of them, that constitutes the marvelous genius of this unrivalled document. The Framers had no direct guide in this work, no historical governmental precedent upon which to rely. As I see it, it was here that the divine inspiration came. It was truly a miracle.”¹⁹ The union of the states with three, separate branches of federal government defines our unique Republic.

Federalism and the Tenth Amendment

Under federalism power is shared between the national government and the state governments. The federal government’s powers are restricted to those explicitly stated in the Constitution, being known as “enumerated powers.” The Tenth Amendment to the Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Thus, any power asserted by the federal government which is not entrusted to it by the people under the Constitution (either expressly or clearly implied as “necessary and proper”) is either non-existent, or is usurped. This constitutes the difference between liberty and tyranny.

¹⁴ *Federalist*, No. 2, p. 11.

¹⁵ Thomas Jefferson: *Notes on Virginia* Q.XVII, 1782. ME 2:221.

¹⁶ Thomas Paine, *Rights of Man* (Watts & Co., London, 1906), p. 97.

¹⁷ Martin B. Hickman, “J. Reuben Clark, Jr.: *The Great Fundamentals*,” *BYU Studies* 13:3 (Brigham Young University, Provo, 1973), p. 263.

¹⁸ *Id.*

¹⁹ *Id.*, p. 265.

As a prelude to the adoption of the Tenth Amendment (as part of the Bill of Rights), and in connection with the principle of enumerated powers in the Constitution, James Madison in the *Federalist* stated, “The powers delegated by the proposed Constitution to the Federal Government, are *few and defined*. Those which are to remain in the State Governments are *numerous and indefinite*. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce ...The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people”²⁰ Madison also stated, “The government of the United States is a definite government, *confined to specified objects*. It is not like the state governments, whose powers are *more general*. Charity is no part of the legislative duty of the [federal] government.”²¹ Thus, pursuant to the precepts of the Constitution and the Bill of Rights, the federal government was intended to have less power than the states, with federal powers being “few and defined” and “confined to specific objects.” For example, other than its powers under Article I. Section 8 to “regulate Commerce” and to “suppress Insurrections and repel Invasions,” nowhere in the federal Constitution is Congress given authority to legislate over local and state matters concerning the health, safety, and education of citizens. How far have we strayed from these original standards of our Republic?

Public Virtue

To our Founding Fathers it was obvious, or “self-evident,” that self-government, or a democratic republic, could only be perpetuated by the self-governed. Reflecting these precepts, a contemporary German writer to the Founders, J. W. von Goethe, stated: “What is the best government? -- That which teaches us to govern ourselves.”²² And, a later, prominent 19th Century minister, Henry Ward Beecher, simply said: “There is no liberty to men who know not how to govern themselves.”²³ Self-governance consists of self-regulation of our behavior, ambitions and passions. To this end, the Founders fundamentally believed that the ability to govern ourselves rests with our individual and collective virtue (or character).

John Adams stated it this way, “*Public virtue cannot exist in a Nation without private Virtue, and public Virtue is the only Foundation of Republics.*”²⁴ In this regard, the revolutionary war was as much a battle against “the corruption of 18th century British high society,”²⁵ as it was against financial oppression. While the Founders and American colonists were very concerned with their civil liberty and economic freedom, demanding “no taxation without representation,” they were more concerned with their religious liberty, particularly in preserving their rights of individual conscience and public morality.²⁶ With respect to the vital need for virtue in order to establish and maintain a republic, the Founders were in complete harmony:

²⁰ *Federalist* No. 45 (emphasis added).

²¹ James Madison, Speech in the House of Representatives, January 10, 1794; Lance Banning, ed., *Liberty and Order* (Liberty Fund, Indianapolis, 2004), p. 158 (emphasis added).

²² Johann Wolfgang von Goethe, *The Maxims and Reflections of Goethe*, translated by Bailey Saunders (MacMillan & Co., New York, 1906), Maxim No. 225.

²³ William Drysdale, ed., *Proverbs from Plymouth Pulpit*, Selected from the Writings and Sayings of Henry Ward Beecher (D. Appleton & Co., New York, 1887), p. 72.

²⁴ John Adams to Mercy Otis Warren, April 16, 1776. A. Koch and W. Peden, eds., *The Selected Writings of John and John Quincy Adams* (Knopf, New York, 1946), p. 57.

²⁵ Marvin Olasky, *Fighting for Liberty and Virtue* (Regnery Publishing, Washington D.C., 1996) p. 142.

²⁶ See, e.g., Id., Olasky, *Fighting for Liberty and Virtue*; Richard Vetterli and Gary Bryner, *In Search of the Republic: Public Virtue and the Roots of American Government* (Rowman & Littlefield, New Jersey, 1987).

George Washington said: “Virtue or morality is a necessary spring of popular government,”²⁷ and “Human rights can only be assured among a virtuous people.”²⁸

Benjamin Franklin said: “Only a virtuous people are capable of freedom.”²⁹

James Madison stated: “To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical [imaginary] idea.”³⁰

Thomas Jefferson wrote, “No government can continue good but under the control of the people; and ... their minds are to be informed by education what is right and what wrong; to be encouraged in habits of virtue and to be deterred from those of vice ... These are the inculcations necessary to render the people a sure basis for the structure and order of government.”³¹

Samuel Adams said: “Neither the wisest constitution nor the wisest laws will secure the liberty and happiness of a people whose manners are universally corrupt. He therefore is the truest friend of the liberty of his country who tries most to promote its virtue.”³²

Patrick Henry stated that: “A vitiated [impure] state of morals, a corrupted public conscience, is incompatible with freedom.”³³

John Adams stated: “We have no government armed with power capable of contending with human passions unbridled by morality and religion. Avarice, ambition, revenge, or gallantry would break the strongest cords of our constitution as a whale goes through a net. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”³⁴

Virtue ennobles individual character and lifts society as a whole. Virtuous principles eschew prejudice and discrimination, confirming that “all men are created equal.” Virtue encompasses characteristics of goodwill, patience, tolerance, kindness, respect, humility, gratitude, courage, honor, industry, honesty, chastity and fidelity. These precepts serve as the cornerstones for both individual and societal governance.

Religion and Morality

In his Farewell Address, George Washington was very clear and direct in teaching us that we cannot expect public virtue without religion. He stated, “Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In

²⁷ Victor Hugo Paltsits, *Washington's Farewell Address* (The New York Public Library, 1935), p. 124.

²⁸ Washington to Marquis De Lafayette, February 7, 1788, John C. Fitzpatrick, ed., *The Writings of George Washington*, (U. S. Government Printing Office, Washington D. C., 1939), 29:410.

²⁹ Jared Sparks, ed., *The Writings of Benjamin Franklin*, (Tappan, Whittemore and Mason, Boston, 1840), 10:297.

³⁰ Speech in the Virginia Ratifying Convention, June 20, 1788. Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* (J. B. Lippincott Company, Philadelphia, 1891) 3:536.

³¹ Thomas Jefferson to John Adams, 1819. ME 15:234.

³² William V. Wells, *The Life and Public Service of Samuel Adams* (Little, Brown, & Co., Boston, 1865), 1:22.

³³ Tryon Edwards, D.D., *The New Dictionary of Thoughts - A Cyclopaedia of Quotations* (Hanover House, Garden City, NY, 1852; revised and enlarged by C.H. Catrevas, Ralph Emerson Browns and Jonathan Edwards, 1891; The Standard Book Company, New York, 1955, 1963), p. 337.

³⁴ John Adams, October 11, 1798, letter to the officers of the First Brigade of the Third Division of the Militia of Massachusetts. Charles Francis Adams, ed., *The Works of John Adams, Second President of the United States*, (Little, Brown, and Co., Boston, 1854), 9:229.

vain would that man claim the tribute of Patriotism who should labor to subvert these great Pillars of human happiness -these firmest props of the duties of Men and citizens. The mere Politician, equally with the pious man, ought to respect and to cherish them.”³⁵ Then he said, “... let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle.”³⁶

As Washington states, America’s political prosperity is supported and based upon the “dispositions and habits” of religion and morality. They are the roots and foundation to what Washington termed the “great Pillars of human happiness.” And (as he stated) no matter how educated minds may denounce or differ, America’s greatest virtue, national morality, cannot “prevail in exclusion of religious principle.” In this regard, may we expect justice without mercy, brotherly kindness without charity, or freedom without responsibility? The fruits of the Constitution are individual rights and privileges, including safety, justice, security, freedom of worship, and the “pursuit of happiness.” We cannot expect to partake of the fruit of the tree without nourishing and protecting the roots.

Loyalty to the Constitution

A “moral and religious people” may be defined as a humble people of faith and goodwill, possessed with kindness, mutual respect and tolerance. Such citizens seek the public good, or the good of their neighbors and fellow citizens equally with, or ahead of, their own. But virtue and religion are not enough; we must also be loyal to the Constitution itself. John Adams wrote: “Moral ... and political virtue, cannot be too much beloved, practiced, or rewarded; but to place liberty on that foundation only would not be safe ... that form of government which unites all the virtue, honor, and fear of the citizens, in a reverence and obedience to the [Constitution and] laws, is the only one in which liberty can be secure, and all orders, and ranks, and parties, compelled to prefer the public good before their own; that is the government for which we plead.”³⁷ A loyal veneration for the Constitution is the last and most important requirement for its maintenance. Abraham Lincoln addressed this very subject in his Address titled, “The Perpetuation of Our Political Institutions.” Regarding this speech, one historian has written, “If ever Abraham Lincoln addressed the requirements for a successful republic, and therewith any relevance of religion to self-government, he did so in [this] speech....”³⁸ In emphasizing our individual obligation to the cause of liberty, Lincoln appeals to every American to “pledge his life, his property, and his sacred honor” in support of the Constitution:

“I know the American People are much attached to their Government; —I know they would suffer much for its sake;—I know they would endure evils long and patiently, before they would ever think of exchanging it for another. Yet, notwithstanding all this, if the laws be continually despised and disregarded, if their rights to be secure in their persons and property, are held by no better tenure than the caprice of a mob, the alienation of their affections from the Government is the natural consequence; and to that, sooner or later, it must come.

³⁵ Paltsits, *Washington’s Farewell Address*, p. 124.

³⁶ *Id.* (emphasis added).

³⁷ George W. Carey, ed., *The Political Writings of John Adams* (Regnery Publishing, Washington, 2000) p. 296.

³⁸ Lucas E. Morel, *Lincoln’s Sacred Effort: Defining Religion’s Role in American Self-Government* (Lexington Books, Oxford, 2000), p. 23.

Here then, is one point at which danger may be expected.

The question recurs "how shall we fortify against it?" The answer is simple. Let every American, every lover of liberty, every well wisher to his posterity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others. As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and Laws, let every American pledge his life, his property, and his sacred honor;—let every man remember that to violate the law, is to trample on the blood of his father, and to tear the character of his own, and his children's liberty. Let reverence for the [Constitution and] laws, be breathed by every American mother, to the lisping babe, that prattles on her lap—let it be taught in schools, in seminaries, and in colleges;—let it be written in Primers, spelling books, and in Almanacs;—let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions, sacrifice unceasingly upon its altars."³⁹

As with Lincoln, our loyalty to the Constitution should be placed above politics, parties or personalities.

Thus, may we conclude that the real genius and ultimate influence and authority of the Constitution lies not just in its remarkable separation of powers, or in its enumerated powers, or in the hallowed freedoms of the First Amendment and the Bill of Rights, but in its underlying principles; and that in order to uphold and maintain the Constitution "We the People" must seek the "Blessings of Liberty" by studying and learning those principles, being virtuous, and reverencing the Constitution itself. Only in this manner may our rights and privileges be truly secure. As Judge Learned Hand stated, "*Liberty lies in the hearts of men and women. When it dies there, no constitution, no law, no court can save it.*"⁴⁰

³⁹ Id., pp. 25-26 (speech given on January 27, 1838, to the Young Men's Lyceum of Springfield, Illinois).

⁴⁰ Irving Dilliard, ed., *The Spirit of Liberty*, 3d ed., (Knopf, New York, 1960), p. 190.