

THE ALLAN P. KIRBY, JR.  
CENTER FOR CONSTITUTIONAL STUDIES & CITIZENSHIP  
HILLSDALE COLLEGE

*announces*

## “REVIVING THE CONSTITUTION”

AN ONLINE TOWN HALL FROM CHANTILLY, VIRGINIA

**JANUARY 30, 2010**

**9:00 A.M. - 3:00 P.M.**

# TOWN HALL READER

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SPEAKERS INCLUDE:

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**Dr. Larry Arnn**

*President, Hillsdale College*

**Dr. David Bobb**

*Director, Kirby Center for Constitutional Studies and Citizenship, Hillsdale College*

**Dr. Paul Moreno**

*William and Berniece Grewcock Chair in Constitutional History  
and Associate Professor of History, Hillsdale College*

**Dr. Ronald Pestritto**

*Charles and Lucia Shipley Chair in the American Constitution  
and Associate Professor of Political Science, Hillsdale College*

**Dr. Matthew Spalding**

*Director, Simon Center for American Studies, Heritage Foundation*



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**Session I: “America’s Foundational Principles”**

Dr. David J. Bobb

## The Declaration of Independence

4 July 1776

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN  
GENERAL CONGRESS ASSEMBLED.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

For Quartering large bodies of armed troops among us:

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

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

For imposing Taxes on us without our Consent:

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

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

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

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

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

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

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

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

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

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

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

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

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

[New Hampshire]

Josiah Bartlett

Wm. Whipple

Matthew Thornton

[Massachusetts Bay]

Saml. Adams

John Adams

Robt. Treat Paine

Elbridge Gerry

[Rhode Island]

Step. Hopkins

William Ellery

[Connecticut]

Roger Sherman

Sam'el Huntington

Wm. Williams

Oliver Wolcott

[New York]

Wm. Floyd

Phil. Livingston

Frans. Lewis

Lewis Morris

[New Jersey]

Richd. Stockton

Jno. Witherspoon

Fras. Hopkinson

John Hart

Abra. Clark

## [Pennsylvania]

Robt. Morris  
Benjamin Rush  
Benja. Franklin  
John Morton  
Geo. Clymer  
Jas. Smith  
Geo. Taylor  
James Wilson  
Geo. Ross  
John Hancock

## [Delaware]

Caesar Rodney  
Geo. Read  
Tho. M'Kean

## [Maryland]

Samuel Chase  
Wm. Paca  
Thos. Stone  
Charles Carroll  
of Carrollton

## [Virginia]

George Wythe  
Richard Henry Lee  
Th. Jefferson  
Benja. Harrison  
Thos. Nelson, Jr.  
Francis Lightfoot Lee  
Carter Braxton

## [North Carolina]

Wm. Hooper  
Joseph Hewes  
John Penn

## [South Carolina]

Edward Rutledge  
Thos. Heyward, Junr.  
Thomas Lynch, Junr.  
Arthur Middleton

## [Georgia]

Button Gwinnett

Lyman Hall  
Geo. Walton

# The Constitution of the United States

1787

## Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

## Article I.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the

Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return in which Case it shall not be a Law.



Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## Article II.

Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain

two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

### Article III.

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be

convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

#### Article IV.

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

#### Article V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds

of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

#### Article VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

#### Article VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

Go. Washington—  
Presidt. and deputy from Virginia

Delaware	George Read
	Gunning Bedford, Jr.
	John Dickinson
	Richard Bassett
	Jacob Broom

Maryland	James McHenry Dan of St Thos. Jenifer Daniel Carroll
Virginia	John Blair— James Madison, Jr.
North Carolina	William Blount Richard Dobbs Spaight Hugh Williamson
South Carolina	John Rutledge Charles Cotesworth Pinckney Charles Pinckney Pierce Butler
Georgia	William Few Abraham Baldwin
New Hampshire	John Langdon Nicholas Gilman
Massachusetts	Nathaniel Gorham Rufus King
Connecticut	William Samuel Johnson Roger Sherman
New York	Alexander Hamilton
New Jersey	William Livingston David Brearley William Paterson Jonathon Dayton
Pennsylvania	Benjamin Franklin Thomas Mifflin Robert Morris George Clymer Thomas FitzSimons Jared Ingersoll James Wilson Gouverneur Morris



Amendments to the Constitution of the United States of America

1791-1992

Amendment I

*Ratified December 15, 1791*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

*Ratified December 15, 1791*

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

*Ratified December 15, 1791*

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

*Ratified December 15, 1791*

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

*Ratified December 15, 1791*

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

*Ratified December 15, 1791*

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII  
*Ratified December 15, 1791*

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII  
*Ratified December 15, 1791*

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX  
*Ratified December 15, 1791*

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X  
*Ratified December 15, 1791*

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.

Amendment XI  
*Ratified February 7, 1795*

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amendment XII  
*Ratified June 15, 1804*

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in

distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death or other constitutional disability of the President. —The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment XIII  
*Ratified December 6, 1865*

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV  
*Ratified July 9, 1868*

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for

President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV  
*Ratified February 3, 1870*

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Amendment XVI  
*Ratified February 3, 1913*

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Amendment XVII  
*Ratified April 8, 1913*

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment XVIII  
*Ratified January 16, 1919*

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment XIX  
*Ratified August 18, 1920*

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Amendment XX  
*Ratified January 23, 1933*

Section 1. The terms of the President and the Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Amendment XXI  
*Ratified December 5, 1933*

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment XXII  
*Ratified February 27, 1951*

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two

years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Amendment XXIII  
*Ratified March 29, 1961*

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXIV  
*Ratified January 23, 1964*

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXV  
*Ratified February 10, 1967*

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment XXVI  
*Ratified July 1, 1971*

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXVII  
*Ratified May 7, 1992*

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of representatives shall have intervened.



### Fragment on the Constitution and Union

Abraham Lincoln

c. January 1861

“All this is not the result of accident. It has a philosophical cause. Without the Constitution and the Union, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of “Liberty to all”—the principle that clears the path for all—gives hope to all—and, by consequence, enterprize, and industry to all.

The expression of that principle, in our Declaration of Independence, was most happy, and fortunate. Without this, as well as with it, we could have declared our independence of Great Britain; but without it, we could not, I think, have secured our free government, and consequent prosperity. No oppressed, people will fight, and endure, as our fathers did, without the promise of something better, than a mere change of masters.

The assertion of that principle, at that time, was the word, “fitly spoken” which has proved an “apple of gold” to us. The Union, and the Constitution, are the picture of silver, subsequently framed around it. The picture was made, not to conceal, or destroy the apple; but to adorn, and preserve it. The picture was made for the apple—not the apple for the picture.

So let us act, that neither picture, or apple shall ever be blurred, or bruised or broken. That we may so act, we must study, and understand the points of danger.”

## Federalist No. 51

The Structure of the Government Must Furnish the Proper Checks and Balances  
Between the Different Departments

James Madison

TO WHAT expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is that, as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention.

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another. Perhaps such a plan of constructing the several departments would be less difficult in practice than it may in contemplation appear. Some difficulties, however, and some additional expense would attend the execution of it. Some deviations, therefore, from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them.

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal.

But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man

must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other—that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State.

But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department?

If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion to the several State constitutions, and to the federal Constitution, it will be found that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test.

There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view.

*First.* In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence, a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.

*Second.* It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government, the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government, since it shows that, in exact proportion as the territory of the Union may be formed into more circumscribed Confederacies or States, oppressive combinations of a majority will be facilitated; the best security, under the republican forms, for the rights of every class of citizens, will be diminished; and, consequently, the stability and independence of some member of the government, the only other security, must be proportionately increased. Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted that if the State of Rhode Island was

separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practical sphere, the more duly capable it will be of self-government. And happily for the *republican cause*, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the *federal principle*.

*PUBLIUS*

## On Property

James Madison

29 March 1792

This term, in its particular application, means "that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual."

In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and *which leaves to every one else the like advantage*.

In the former sense, a man's land, or merchandize, or money is called his property.

In the latter sense, a man has a property in his opinions and the free communication of them.

He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them.

He has a property very dear to him in the safety and liberty of his person.

He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.

In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.

Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions.

Where there is an excess of liberty, the effect is the same, tho' from an opposite cause.

Government is instituted to protect property of every sort; as well that which lies in the various rights of individuals, as that which the term particularly expresses. This being the end of government, that alone is a *just* government, which *impartially* secures to every man, whatever is his *own*.

According to this standard of merit, the praise of affording a just securing to property, should be sparingly bestowed on a government, which, however scrupulously guarding the possessions of individuals, does not protect them in the enjoyment and communication of their opinions, in which they have an equal, and in the estimation of some, a more valuable property.

More sparingly should this praise be allowed to a government, where a man's religious rights are violated by penalties, or fettered by tests, or taxed by a hierarchy. Conscience is

the most sacred of all property; other property depending in part on positive law, the exercise of that, being a natural and unalienable right. To guard a man's house as his castle, to pay public and enforce private debts with the most exact faith, can give no title to invade a man's conscience, which is more sacred than his castle, or to withhold from it that debt of protection, for which the public faith is pledged, by the very nature and original conditions of the social pact.

That is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty, is violated by arbitrary seizures of one class of citizens for the service of the rest. A magistrate issuing his warrants to a press gang, would be in his proper functions in Turkey or Indostan, under appellations proverbial of the most compleat despotism.

That is not a just government, nor is property secure under it, where arbitrary restrictions, exemptions, and monopolies deny to part of its citizens that free use of their faculties, and free choice of their occupations, which not only constitute their property in the general sense of the word; but are the means of acquiring property strictly so called. What must be the spirit of legislation where a manufacturer of linen cloth is forbidden to bury his own child in a linen shroud, in order to favour his neighbour who manufactures woolen cloth; where the manufacturer and wearer of woolen cloth are again forbidden the economical use of buttons of that material, in favor of the manufacturer of buttons of other materials!

A just security to property is not afforded by that government, under which unequal taxes oppress one species of property and reward another species: where arbitrary taxes invade the domestic sanctuaries of the rich, and excessive taxes grind the faces of the poor; where the keenness and competitions of want are deemed an insufficient spur to labor, and taxes are again applied, by an unfeeling policy, as another spur; in violation of that sacred property, which Heaven, in decreeing man to earn his bread by the sweat of his brow, kindly reserved to him, in the small repose that could be spared from the supply of his necessities.

If there be a government then, which prides itself in maintaining the inviolability of property; which provides that none shall be taken *directly*, even for public use, without indemnification to the owner, and yet *directly* violates the property which individuals have in their opinions, their religion, their persons, and their faculties; nay more, which *indirectly* violates their property, in their actual possessions, in the labor that acquires their daily subsistence, and in the hallowed remnant of time which ought to relieve their fatigues and soothe their cares, the influence will have been anticipated, that such a government is not a pattern for the United States.

If the United States mean to obtain or deserve the full praise due to wise and just governments, they will equally respect the rights of property, and the property in rights: they will rival the government that most sacredly guards the former; and by repelling its example in violating the latter, will make themselves a pattern to that and all other governments.

## The Inspiration of the Declaration of Independence

Calvin Coolidge

July 5, 1926

We meet to celebrate the birthday of America. The coming of a new life always excites our interest. Although we know in the case of the individual that it has been an infinite repetition reaching back beyond our vision, that only makes it the more wonderful. But how our interest and wonder increase when we behold the miracle of the birth of a new nation. It is to pay our tribute of reverence and respect to those who participated in such a mighty event that we annually observe the fourth day of July. Whatever may have been the impression created by the news which went out from this city on that summer day in 1776, there can be no doubt as to the estimate which is now placed upon it. At the end of 150 years the four corners of the earth unite in coming to Philadelphia as to a holy shrine in grateful acknowledgment of a service so great, which a few inspired men here rendered to humanity, that it is still the preeminent support of free government throughout the world.

Although a century and a half measured in comparison with the length of human experience is but a short time, yet measured in the life of governments and nations it ranks as a very respectable period. Certainly enough time has elapsed to demonstrate with a great deal of thoroughness the value of our institutions and their dependability as rules for the regulation of human conduct and the advancement of civilization. They have been in existence long enough to become very well seasoned. They have met, and met successfully, the test of experience.

It is not so much then for the purpose of undertaking to proclaim new theories and principles that this annual celebration is maintained, but rather to reaffirm and reestablish those old theories and principles which time and the unerring logic of events have demonstrated to be sound. Amid all the clash of conflicting interests, amid all the welter of partisan politics, every American can turn for solace and consolation to the Declaration of independence and the Constitution of the United States with the assurance and confidence that those two great charters of freedom and justice remain firm and unshaken. Whatever perils appear, whatever dangers threaten, the Nation remains secure in the knowledge that the ultimate application of the law of the land will provide an adequate defense and protection.

It is little wonder that people at home and abroad consider Independence Hall as hallowed ground and revere the Liberty Bell as a sacred relic. That pile of bricks and mortar, that mass of metal, might appear to the uninstructed as only the outgrown meeting place and the shattered bell of a former time, useless now because of more modern conveniences, but to those who know they have become consecrated by the use which men have made of them. They have long been identified with a great cause. They are the framework of a spiritual event. The world looks upon them, because of their associations of one hundred and fifty years ago, as it looks upon the Holy Land because of what took place there nineteen hundred years ago. Through use for a righteous purpose they have become sanctified.

It is not here necessary to examine in detail the causes which led to the American Revolution. In their immediate occasion they were largely economic. The colonists objected to the navigation laws which interfered with their trade, they denied the power of Parliament to impose taxes which they were obliged to pay, and they therefore resisted the royal governors and the royal forces which were sent to secure obedience to these laws. But the conviction is inescapable that a new civilization had come, a new spirit



had arisen on this side of the Atlantic more advanced and more developed in its regard for the rights of the individual than that which characterized the Old World. Life in a new and open country had aspirations which could not be realized in any subordinate position. A separate establishment was ultimately inevitable. It had been decreed by the very laws of human nature. Man everywhere has an unconquerable desire to be the master of his own destiny.

We are obliged to conclude that the Declaration of Independence represented the movement of a people. It was not, of course, a movement from the top. Revolutions do not come from that direction. It was not without the support of many of the most respectable people in the Colonies, who were entitled to all the consideration that is given to breeding, education, and possessions. It had the support of another element of great significance and importance to which I shall later refer. But the preponderance of all those who occupied a position which took on the aspect of aristocracy did not approve of the Revolution and held toward it an attitude either of neutrality or open hostility. It was in no sense a rising of the oppressed and downtrodden. It brought no scum to the surface, for the reason that colonial society had developed no scum. The great body of the people were accustomed to privations, but they were free from depravity. If they had poverty, it was not of the hopeless kind that afflicts great cities, but the inspiring kind that marks the spirit of the pioneer. The American Revolution represented the informed and mature convictions of a great mass of independent, liberty-loving, God-fearing people who knew their rights, and possessed the courage to dare to maintain them. The Continental Congress was not only composed of great men, but it represented a great people. While its members did not fail to exercise a remarkable leadership, they were equally observant of their representative capacity. They were industrious in encouraging their constituents to instruct them to support independence. But until such instructions were given they were inclined to withhold action.

While North Carolina has the honor of first authorizing its delegates to concur with other Colonies in declaring independence, it was quickly followed by South Carolina and Georgia, which also gave general instructions broad enough to include such action. But the first instructions which unconditionally directed its delegates to declare for independence came from the great Commonwealth of Virginia. These were immediately followed by Rhode Island and Massachusetts, while the other Colonies, with the exception of New York, soon adopted a like course.

This obedience of the delegates to the wishes of their constituents, which in some cases caused them to modify their previous positions, is a matter of great significance. It reveals an orderly process of government in the first place; but more than that, it demonstrates that the Declaration of Independence was the result of the seasoned and deliberate thought of the dominant portion of the people of the Colonies. Adopted after long discussion and as the result of the duly authorized expression of the preponderance of public opinion, it did not partake of dark intrigue or hidden conspiracy. It was well advised. It had about it nothing of the lawless and disordered nature of a riotous insurrection. It was maintained on a plane which rises above the ordinary conception of rebellion. It was in no sense a radical movement but took on the dignity of a resistance to illegal usurpations. It was conservative and represented the action of the colonists to maintain their constitutional rights which from time immemorial had been guaranteed to them under the law of the land.

When we come to examine the action of the Continental Congress in adopting the Declaration of Independence in the light of what was set out in that great document and in the light of succeeding events, we can not escape the conclusion that it had a much broader and deeper significance than a mere

secession of territory and the establishment of a new nation. Events of that nature have been taking place since the dawn of history. One empire after another has arisen, only to crumble away as its constituent parts separated from each other and set up independent governments of their own. Such actions long ago became commonplace. They have occurred too often to hold the attention of the world and command the admiration and reverence of humanity. There is something beyond the establishment of a new nation, great as that event would be, in the Declaration of Independence which has ever since caused it to be regarded as one of the great charters that not only was to liberate America but was everywhere to ennoble humanity.

It was not because it was proposed to establish a new nation, but because it was proposed to establish a nation on new principles, that July 4, 1776, has come to be regarded as one of the greatest days in history. Great ideas do not burst upon the world unannounced. They are reached by a gradual development over a length of time usually proportionate to their importance. This is especially true of the principles laid down in the Declaration of Independence. Three very definite propositions were set out in its preamble regarding the nature of mankind and therefore of government. These were the doctrine that all men are created equal, that they are endowed with certain inalienable rights, and that therefore the source of the just powers of government must be derived from the consent of the governed.

If no one is to be accounted as born into a superior station, if there is to be no ruling class, and if all possess rights which can neither be bartered away nor taken from them by any earthly power, it follows as a matter of course that the practical authority of the Government has to rest on the consent of the governed. While these principles were not altogether new in political action, and were very far from new in political speculation, they had never been assembled before and declared in such a combination. But remarkable as this may be, it is not the chief distinction of the Declaration of Independence. The importance of political speculation is not to be under-estimated, as I shall presently disclose. Until the idea is developed and the plan made there can be no action.

It was the fact that our Declaration of Independence containing these immortal truths was the political action of a duly authorized and constituted representative public body in its sovereign capacity, supported by the force of general opinion and by the armies of Washington already in the field, which makes it the most important civil document in the world. It was not only the principles declared, but the fact that there with a new nation was born which was to be founded upon those principles and which from that time forth in its development has actually maintained those principles, that make this pronouncement an incomparable event in the history of government. It was an assertion that a people had arisen determined to make every necessary sacrifice for the support of these truths and by their practical application bring the War of Independence to a successful conclusion and adopt the Constitution of the United States with all that it has meant to civilization.

The idea that the people have a right to choose their own rulers was not new in political history. It was the foundation of every popular attempt to depose an undesirable king. This right was set out with a good deal of detail by the Dutch when as early as July 26, 1581, they declared their independence of Philip of Spain. In their long struggle with the Stuarts the British people asserted the same principles, which finally culminated in the Bill of Rights deposing the last of that house and placing William and Mary on the throne. In each of these cases sovereignty through divine right was displaced by sovereignty through the consent of the people. Running through the same documents, though expressed in different terms, is the clear inference of inalienable rights. But we should search these charters in vain for an assertion of the

doctrine of equality. This principle had not before appeared as an official political declaration of any nation. It was profoundly revolutionary. It is one of the corner stones of American institutions.

But if these truths to which the declaration refers have not before been adopted in their combined entirety by national authority, it is a fact that they had been long pondered and often expressed in political speculation. It is generally assumed that French thought had some effect upon our public mind during Revolutionary days. This may have been true. But the principles of our declaration had been under discussion in the Colonies for nearly two generations before the advent of the French political philosophy that characterized the middle of the eighteenth century. In fact, they come from an earlier date. A very positive echo of what the Dutch had done in 1581, and what the English were preparing to do, appears in the assertion of the Rev. Thomas Hooker of Connecticut as early as 1638, when he said in a sermon before the General Court that:

The foundation of authority is laid in the free consent of the people

The choice of public magistrates belongs unto the people by God's own allowance.

This doctrine found wide acceptance among the nonconformist clergy who later made up the Congregational Church. The great apostle of this movement was the Rev. John Wise, of Massachusetts. He was one of the leaders of the revolt against the royal governor Andros in 1687, for which he suffered imprisonment. He was a liberal in ecclesiastical controversies. He appears to have been familiar with the writings of the political scientist, Samuel Pufendorf, who was born in Saxony in 1632. Wise published a treatise, entitled "The Church's Quarrel Espoused," in 1710 which was amplified in another publication in 1717. In it he dealt with the principles of civil government. His works were reprinted in 1772 and have been declared to have been nothing less than a textbook of liberty for our Revolutionary fathers.

While the written word was the foundation, it is apparent that the spoken word was the vehicle for convincing the people. This came with great force and wide range from the successors of Hooker and Wise. It was carried on with a missionary spirit which did not fail to reach the Scotch Irish of North Carolina, showing its influence by significantly making that Colony the first to give instructions to its delegates looking to independence. This preaching reached the neighborhood of Thomas Jefferson, who acknowledged that his "best ideas of democracy" had been secured at church meetings.

That these ideas were prevalent in Virginia is further revealed by the Declaration of Rights, which was prepared by George Mason and presented to the general assembly on May 27, 1776. This document asserted popular sovereignty and inherent natural rights, but confined the doctrine of equality to the assertion that "All men are created equally free and independent". It can scarcely be imagined that Jefferson was unacquainted with what had been done in his own Commonwealth of Virginia when he took up the task of drafting the Declaration of Independence. But these thoughts can very largely be traced back to what John Wise was writing in 1710. He said, "Every man must be acknowledged equal to every man". Again, "The end of all good government is to cultivate humanity and promote the happiness of all and the good of every man in all his rights, his life, liberty, estate, honor, and so forth . . .". And again, "For as they have a power every man in his natural state, so upon combination they can and do bequeath this power to others and settle it according as their united discretion shall determine". And still again, "Democracy is Christ's government in church and state". Here was the doctrine of equality, popular sovereignty, and the substance of the theory of inalienable rights clearly asserted by Wise at the opening of the eighteenth century, just as we have the principle of the consent of the governed stated by Hooker as early as 1638.

When we take all these circumstances into consideration, it is but natural that the first paragraph of the Declaration of Independence should open with a reference to Nature's God and should close in the final paragraphs with an appeal to the Supreme Judge of the world and an assertion of a firm reliance on Divine Providence. Coming from these sources, having as it did this background, it is no wonder that Samuel Adams could say "The people seem to recognize this resolution as though it were a decree promulgated from heaven."

No one can examine this record and escape the conclusion that in the great outline of its principles the Declaration was the result of the religious teachings of the preceding period. The profound philosophy which Jonathan Edwards applied to theology, the popular preaching of George Whitefield, had aroused the thought and stirred the people of the Colonies in preparation for this great event. No doubt the speculations which had been going on in England, and especially on the Continent, lent their influence to the general sentiment of the times. Of course, the world is always influenced by all the experience and all the thought of the past. But when we come to a contemplation of the immediate conception of the principles of human relationship which went into the Declaration of Independence we are not required to extend our search beyond our own shores. They are found in the texts, the sermons, and the writings of the early colonial clergy who were earnestly undertaking to instruct their congregations in the great mystery of how to live. They preached equality because they believed in the fatherhood of God and the brotherhood of man. They justified freedom by the text that we are all created in the divine image, all partakers of the divine spirit.

Placing every man on a plane where he acknowledged no superiors, where no one possessed any right to rule over him, he must inevitably choose his own rulers through a system of self-government. This was their theory of democracy. In those days such doctrines would scarcely have been permitted to flourish and spread in any other country. This was the purpose which the fathers cherished. In order that they might have freedom to express these thoughts and opportunity to put them into action, whole congregations with their pastors had migrated to the colonies. These great truths were in the air that our people breathed. Whatever else we may say of it, the Declaration of Independence was profoundly American.

If this apprehension of the facts be correct, and the documentary evidence would appear to verify it, then certain conclusions are bound to follow. A spring will cease to flow if its source be dried up; a tree will wither if its roots be destroyed. In its main features the Declaration of Independence is a great spiritual document. It is a declaration not of material but of spiritual conceptions. Equality, liberty, popular sovereignty, the rights of man these are not elements which we can see and touch. They are ideals. They have their source and their roots in the religious convictions. They belong to the unseen world. Unless the faith of the American people in these religious convictions is to endure, the principles of our Declaration will perish. We can not continue to enjoy the result if we neglect and abandon the cause.

We are too prone to overlook another conclusion. Governments do not make ideals, but ideals make governments. This is both historically and logically true. Of course the government can help to sustain ideals and can create institutions through which they can be the better observed, but their source by their very nature is in the people. The people have to bear their own responsibilities. There is no method by which that burden can be shifted to the government. It is not the enactment, but the observance of laws, that creates the character of a nation.

About the Declaration there is a finality that is exceedingly restful. It is often asserted that the world has made a great deal of progress since 1776, that we have had new thoughts and new experiences which have given us a great advance over the people of that day, and that we may therefore very well discard their conclusions for something more modern. But that reasoning can not be applied to this great charter. If all men are created equal, that is final. If they are endowed with inalienable rights, that is final. If governments derive their just powers from the consent of the governed, that is final. No advance, no progress can be made beyond these propositions. If anyone wishes to deny their truth or their soundness, the only direction in which he can proceed historically is not forward, but backward toward the time when there was no equality, no rights of the individual, no rule of the people. Those who wish to proceed in that direction can not lay claim to progress. They are reactionary. Their ideas are not more modern, but more ancient, than those of the Revolutionary fathers.

In the development of its institutions America can fairly claim that it has remained true to the principles which were declared 150 years ago. In all the essentials we have achieved an equality which was never possessed by any other people. Even in the less important matter of material possessions we have secured a wider and wider distribution of wealth. The rights of the individual are held sacred and protected by constitutional guaranties, which even the Government itself is bound not to violate. If there is any one thing among us that is established beyond question, it is self government; the right of the people to rule. If there is any failure in respect to any of these principles, it is because there is a failure on the part of individuals to observe them. We hold that the duly authorized expression of the will of the people has a divine sanction. But even in that we come back to the theory of John Wise that "Democracy is Christ's government". The ultimate sanction of law rests on the righteous authority of the Almighty.

On an occasion like this a great temptation exists to present evidence of the practical success of our form of democratic republic at home and the ever broadening acceptance it is securing abroad. Although these things are well known, their frequent consideration is an encouragement and an inspiration. But it is not results and effects so much as sources and causes that I believe it is even more necessary constantly to contemplate. Ours is a government of the people. It represents their will. Its officers may sometimes go astray, but that is not a reason for criticizing the principles of our institutions. The real heart of the American Government depends upon the heart of the people. It is from that source that we must look for all genuine reform. It is to that cause that we must ascribe all our results.

It was in the contemplation of these truths that the fathers made their declaration and adopted their Constitution. It was to establish a free government, which must not be permitted to degenerate into the unrestrained authority of a mere majority or the unbridled weight of a mere influential few. They undertook the balance these interests against each other and provide the three separate independent branches, the executive, the legislative, and the judicial departments of the Government, with checks against each other in order that neither one might encroach upon the other. These are our guaranties of liberty. As a result of these methods enterprise has been duly protected from confiscation, the people have been free from oppression, and there has been an ever broadening and deepening of the humanities of life.

Under a system of popular government there will always be those who will seek for political preferment by clamoring for reform. While there is very little of this which is not sincere, there is a large portion that is not well informed. In my opinion very little of just criticism can attach to the theories and principles of our institutions. There is far more danger of harm than there is hope of good in any radical changes. We

do need a better understanding and comprehension of them and a better knowledge of the foundations of government in general. Our forefathers came to certain conclusions and decided upon certain courses of action which have been a great blessing to the world. Before we can understand their conclusions we must go back and review the course which they followed. We must think the thoughts which they thought. Their intellectual life centered around the meeting-house. They were intent upon religious worship. While there were always among them men of deep learning, and later those who had comparatively large possessions, the mind of the people was not so much engrossed in how much they knew, or how much they had, as in how they were going to live. While scantily provided with other literature, there was a wide acquaintance with the Scriptures. Over a period as great as that which measures the existence of our independence they were subject to this discipline not only in their religious life and educational training, but also in their political thought. They were a people who came under the influence of a great spiritual development and acquired a great moral power.

No other theory is adequate to explain or comprehend the Declaration of Independence. It is the product of the spiritual insight of the people. We live in an age of science and of abounding accumulation of material things. These did not create our Declaration. Our Declaration created them. The things of the spirit come first. Unless we cling to that, all our material prosperity, overwhelming though it may appear, will turn to a barren scepter in our grasp. If we are to maintain the great heritage which has been bequeathed to us, we must be like minded as the fathers who created it. We must not sink into a pagan materialism. We must cultivate the reverence which they had for the things that are holy. We must follow the spiritual and moral leadership which they showed. We must keep replenished, that they may glow with a more compelling flame, the altar fires before which they worshipped

Franklin D. Roosevelt, "Message on the State of the Union" in Peter Augustine Lawler and Robert Martin Schaefer, eds., *American Political Rhetoric*, fourth edition (Lanham: Rowman & Littlefield Publishers, Inc., 2001): 186-189.

FRANKLIN D. ROOSEVELT, MESSAGE ON THE STATE OF THE UNION (1944)

*President Roosevelt used this occasion to articulate a new understanding of rights for Americans, one that connects, freedom with economic security.*

. . . It is our duty now to begin to lay the plans and determine the strategy for the winning of a lasting peace and the establishment of an American standard of living higher than ever before known. We cannot be content, no matter how high that general standard of living may be, if some fraction of our people—whether it be one-third or one-fifth or one-tenth—is ill-fed, ill-clothed, ill-housed, and insecure.

This Republic had its beginning, and grew to its present strength, under the protection of certain inalienable political rights—among them the right of free speech, free press, free worship, trial by jury, freedom from unreasonable searches and seizures. They were our rights to life and liberty.

As our Nation has grown in size and stature, however—as our industrial economy expanded—these political rights proved inadequate to assure us equality in the pursuit of happiness.

We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. "Necessitous men are not free men." People who are hungry and out of a job are the stuff of which dictatorships are made.

In our day these economic truths have become accepted as self-evident. We have accepted, so to speak, a second Bill of Rights under which a new basis of security and prosperity can be established for all—regardless of station, race, or creed.

Among these are:

The right to a useful and remunerative job in the industries or shops or farms or mines of the Nation;

The right to earn enough to provide adequate food and clothing and recreation;

The right of every farmer to raise and sell his products at a return which will give him and his family a decent living;

The right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies at home or abroad;

The right of every family to a decent home;

The right to adequate medical care and the opportunity to achieve and enjoy good health;

The right to adequate protection from the economic fears of old age, sickness, accident, and unemployment;

The right to a good education.

All of these rights spell security. . . . And after this war is won we must be prepared to move forward, in the implementation of these rights, to new goals of human happiness and well-being. . . .

America's own rightful place in the world depends in large part upon how fully these and similar rights have been carried into practice for our citizens. For unless there is security here at home there cannot be lasting peace in the world.

One of the great American industrialists of our day—a man who has rendered yeoman service to his country in this crisis—recently emphasized the grave dangers of “rightist reaction” in this Nation. All clear-thinking businessmen share his concern. Indeed, if such reaction should develop—if history were to repeat itself and we were to return to the so-called “normalcy” of the 1920's—then it is certain that even though we shall have conquered our enemies on the battlefields abroad, we shall have yielded to the spirit of Fascism here at home. I ask the Congress to explore the means for implementing this economic bill of rights—for it is definitely the responsibility of the Congress so to do. Many of these problems are already before committees of the Congress in the form of proposed legislation. I shall from time to time communicate with the Congress with respect to these and further proposals. In the event that no adequate program of progress is evolved, I am certain that the Nation will be conscious of the fact.

Our fighting men abroad—and their families at home—expect such a program and have the right to insist upon it. It is to their demands that this Government should pay heed rather than to the whining demands of selfish pressure groups who seek to feather their nests while young Americans are dying.

The foreign policy that we have been following—the policy that guided us at Moscow, Cairo, and Teheran—is based on the common sense principle which was best expressed by Benjamin Franklin on July 4, 1776: “We must all hang together, or assuredly we shall all hang separately.”

I have often said that there are no two fronts for America in this war. There is only one front. There is one line of unity which extends from the hearts of the people at home to the men of our attacking forces in our farthest outposts. When we speak of our total effort, we speak of the factory and the field, and the mine as well as of the battleground—we speak of the soldier and the civilian, the citizen and his Government.

Each and every one of us has a solemn obligation under God to serve this Nation in its most critical hour—to keep this Nation great—to make this Nation greater in a better world.



**Session II: “The Founders’ Constitution”**

Dr. Matthew Spalding

## The Rights of the British Colonies Asserted and Proved

James Otis

1764

Let no Man think I am about to commence advocate for despotism, because I affirm that government is founded on the necessity of our natures; and that an original supreme Sovereign, absolute, and uncontrollable, *earthly* power *must* exist in and preside over every society; from whose final decisions there can be no appeal but directly to Heaven. It is therefore *originally* and *ultimately* in the people. I say this supreme absolute power is originally and ultimately in the people; and they never did in fact *freely*, nor can they *rightfully* make an absolute, unlimited renunciation of this divine right. It is ever in the nature of the thing given in *trust*, and on a condition, the performance of which no mortal can dispense with; namely, that the person or persons on whom the sovereignty is conferred by the people, shall incessantly consult their good. Tyranny of all kinds is to be abhorred, whether it be in the hands of one, or of the few, or of the man.—And though “in the last age a generation of men sprung up that would flatter Princes with an opinion that they have a divine right to absolute power;” yet, “slavery is so vile and miserable an estate of man, and so directly opposite to the generous temper and courage of our nation, that it is hard to be conceived that an *Englishman*, much less a *gentleman*, should plead for it”: Especially at a time when the finest writers of the most polite nations on the continent of Europe, are enraptured with the beauties of the civil constitution of Great-Britain; and envy her, no less for the *freedom* of her sons, than for her immense *wealth* and *military* glory.

But let the *origin* of government be placed where it may, the *end* of it is manifestly the good of *the whole*: *Salus populi suprema lex esto*, is of the law of nature, and part of that grand charter given the human race (though too many of them are afraid to assert it) by the only monarch in the universe, who has a clear and indisputable right to *absolute* power; because he is the *only* ONE who is *omniscient* as well as *omnipotent*. . . .

The British constitution in theory and in the present administration of it, in general comes nearest the idea of perfection, of any that has been reduced to practice; and if the principles of it are adhered to, it will, according to the infallible prediction of Harrington, always keep the Britons uppermost in Europe, ‘till their *only* rival nation shall either embrace that perfect model of a commonwealth given us by that author, or come as near it as Great-Britain is. Then indeed, and not till then, will that rival and our nation either be eternal confederates, or contend in greater earnest than they have every yet done, till one of them shall sink under the power of the other, and rise no more. . . .

Every British Subject born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of Parliament, (exclusive of all charters from the Crown) entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great-Britain. Among those rights are the following, which it is humbly conceived no man or body of men, not

excepting the Parliament, justly, equitably and consistently with their own rights and the constitution, can take away.

1st. That the supreme and subordinate powers of legislation should be free and sacred in the hands where the community have once rightfully placed them.

2dly. The supreme national legislative cannot be altered justly till the commonwealth is dissolved, nor a subordinate legislative taken away without forfeiture or other good cause. Nor then can the subjects in the subordinate government be reduced to a state of slavery, and subject to the despotic rule of others. A state has no right to make slaves of the conquered. Even when the subordinate right of legislature is forfeited, and so declared, this cannot effect the natural persons either of those who were invested with it, or the inhabitants, so far as to deprive them of the rights of subjects and of men.—The colonists will have an equitable right, notwithstanding any such forfeiture of charter, to be represented in Parliament, or to have some new subordinate legislature among themselves. It would be best if they had both. Deprived, however, of their common rights as subjects, they cannot lawfully be, while they remain such. A representation in Parliament from the several colonies, since they are become so large and numerous, as to be called on not only to maintain provincial government, civil and military, among themselves, for this they have cheerfully done, but to contribute towards the support of a national standing army, by reason of the heavy national debt, when they themselves owe a large one, contracted in the common cause, cannot be thought an unreasonable thing, nor if asked, could it be called an immodest request. *Qui sentit commodum sentire debet et onus*, has been thought a maxim of equity. But that a man should bear a burthen for other people, as well as himself, without a return, never long found a place in any law-book or decrees, but those of the most despotic princes. Besides the equity of an American representation in Parliament, a thousand advantages would result from it. It would be the most effectual means of giving those of both countries a thorough knowledge of each others interests; as well as that of the whole, which are inseparable.

Were this representation allowed; instead of the scandalous memorials and depositions that have been sometimes, in days of old, privately cooked up in an inquisitorial manner, by persons of bad minds and wicked views, and sent from America to the several boards, persons of the first reputation among their countrymen, might be on the spot, from the several colonies, truly to represent them. Future ministers need not, like some of their predecessors, have recourse for information in American affairs, to every vagabond stroller, that has run or rid post through America, from his creditors, or to people of no kind of reputation from the colonies; some of whom, at the time of administering their sage advice, have been as ignorant of the state of this country, as of the regions in Jupiter and Saturn.

No representation of the colonies in Parliament alone, would, however, be equivalent to a subordinate legislative among themselves; nor so well answer the ends of increasing their prosperity and the commerce of Great-Britain. It would be impossible for the parliament to judge so well of their abilities to bear taxes, impositions on trade, and other duties and burthens, or of the local laws that might be really needful, as a legislative here.

3dly. No legislative, supreme or subordinate, has a right to make itself arbitrary.

It would be a most manifest contradiction, for a free legislative, like that of Great-Britain, to make itself arbitrary.

4thly. The supreme legislative cannot justly assume a power of ruling by extempore arbitrary decrees, but is bound to dispense justice by known settled rules, and by duly authorized independent judges.

5thly. The supreme power cannot take from any man any part of his property, without his consent in person or by representation.

6thly. The legislative cannot transfer the power of making laws to any other hands.

These are their bounds, which by God and nature are fixed, hitherto have they a right to come, and no further.

1. To govern by stated laws.
2. Those laws should have no other end ultimately, but the good of the people.
3. Taxes are not to be laid on the people, but by their consent in person, or by deputation.
4. Their whole power is not transferable.

These are the first principles of law and justice, and the great barriers of a free state, and of the British constitution in particular. I ask, I want no more—Now let it be shewn how it is reconcileable with these principles, or to many other fundamental maxims of the British constitution, as well as the natural and civil rights, which by the laws of their country, all British subjects are entitled to, as their best inheritance and birth-right, that all the northern colonies, who are without one representative in the House of Commons, should be taxed by the British Parliament.

That the colonists, black and white, born here, are free born British subjects, and entitled to all the essential civil rights of such, is a truth not only manifest from the provincial charters, from the principles of the common law, and acts of Parliament; but from the British constitution which was re-established at the revolution, with a professed design to secure the liberties of all the subjects to all generations.

In the 12 and 13 of Wm. cited above, the liberties of the subject are spoken of as their best birth-rights—No one ever dreamed, surely, that these liberties were confined to the realm. At that rate, no British subjects in the dominions could, without a manifest contradiction, be declared entitled to all the privileges of subjects born within the realm, to all intents and purposes, which are rightly given foreigners, by Parliament, after residing seven years. These expressions of Parliament, as well as of the charters, must be vain and empty sounds, unless we are allowed the essential rights of our fellow-subjects in Great-Britain.

Now can there be any liberty, where property is taken away without consent? Can it with any colour of truth, justice or equity, be affirmed, that the northern colonies are represented in Parliament? Has this whole continent, of near three thousand miles in length, and in which, and his other American dominions, His Majesty has, or very soon will have, some millions of as good, loyal and useful subjects, white and black, as any in the three kingdoms, the election of one member of the House of Commons?

Is there the least difference, as to the consent of the colonists, whether taxes and impositions are laid on their trade, and other property, by the Crown alone, or by the Parliament? As it is agreed on all hands, the Crown alone cannot impose them, we should be justifiable in refusing to pay them, but must and ought to yield obedience to an act of Parliament, though erroneous, till repealed.

I can see no reason to doubt, but that the imposition of taxes, whether on trade, or on land, or houses, or ships, on real or personal, fixed or floating property, in the colonies, is absolutely irreconcilable with the rights of the colonists, as British subjects, and as men. I say men, for in a state of nature, no man can take my property from me, without my consent: If he does, he deprives me of my liberty, and makes me a slave. If such a proceeding is a breach of the law of nature, no law of society can make it just.—The very act of taxing, exercised over those who are not represented, appears to me to be depriving them of one of their most essential rights, as freemen; and if continued, seems to be in effect an entire disfranchisement of every civil right. For what one civil right is worth a rush, after a man's property is subject to be taken from him at pleasure, without his consent? If a man is not his *own assessor* in person, or by deputy, his liberty is gone, or lays entirely at the mercy of others.

I think I have heard it said, that when the Dutch are asked why they enslave their colonies, their answer is, that the liberty of Dutchmen is confined to Holland; and that it was never intended for provincials in America, or any where else. A sentiment this, very worthy of modern Dutchmen; but if their brave and worthy ancestors had entertained such narrow ideas of liberty, seven poor and distressed provinces would never have asserted their rights against the whole Spanish monarchy, of which the present is but a shadow. It is to be hoped, none of our fellow subjects of Britain, great or small, have borrowed this Dutch maxim of plantation politics; if they have, they had better return it from whence it came; indeed, they had. Modern Dutch or French maxims of state, never will suit with a British constitution. It is a maxim, that the king can do no wrong; and every good subject is bound to believe his king is not inclined to do any. We are blessed with a Prince who has given abundant demonstrations, that in all his actions, he studies the good of his people, and the true glory of his crown, which are inseparable. It would, therefore, be the highest degree of impudence and disloyalty to imagine that the King, at the head of his Parliament, could have any, but the most pure and perfect intentions of justice, goodness and truth, that human nature is capable of. All this I say and believe of the King and Parliament, in all their acts; even in that which so nearly affects the interest of the colonists; and that a most perfect and ready obedience is to be yielded to it, while it remains in force. I will go further, and really admit, that the intention of the ministry was not only to promote the public good, by this act, but that Mr. Chancellor of the Exchequer

had therein a particular view to the “ease, the quiet, and the good will of the Colonies,” he having made this declaration more than once. Yet, I hold that it is possible he may have erred in his kind intentions towards the colonies, and taken away our fish, and given us a stone. With regard to the Parliament, as infallibility belongs not to mortals, it is possible *they* may have been misinformed and deceived. The power of Parliament is uncontrollable, but by themselves, and we must obey. They only can repeal their own acts. There would be an end of all governments, if one or a number of subjects or subordinate provinces should take upon them so far to judge of the justice of an act of Parliament, as to refuse obedience to it. If there was nothing else to restrain such a step, prudence ought to do it, for forcibly resisting the Parliament and the King’s laws, is high treason. Therefore, let the Parliament lay what burthens they please on us, we must, it is our duty to submit and patiently bear them, till they will be pleased to relieve us. And it is to be presumed, the wisdom and justice of that august assembly, always will afford us relief by repealing such acts, as through mistake, or other human infirmities, have been suffered to pass, if they can be convinced that their proceedings are not constitutional, or not for the common good. . . .

Every subject has a right to give his sentiments to the public, of the utility or in-utility of any act whatsoever, even after it is passed, as well as while it is pending.—The equity and justice of a bill may be questioned, with perfect submission to the legislature. Reasons may be given, why an act ought to be repealed, and yet obedience must be yielded to it till that repeal takes place. If the reasons that can be given against an act, are such as plainly demonstrate that it is against *natural* equity, the executive courts will adjudge such acts void. It may be questioned by some, though I make no doubt of it, whether they are not obliged by their oaths to adjudge such acts void. If there is not a right of private judgment to be exercised, so far at least as to petition for repeal, or to determine the expediency of risking a trial at law, the Parliament might make itself arbitrary, which it is conceived it cannot by the constitution.—I think every man has a right to examine as freely into the origin, spring and foundation of every power and measure in a commonwealth, as into a piece of curious machinery, or a remarkable phenomenon in nature; and that it ought to give no more offence to say, the Parliament have erred, or are mistaken, in a matter of fact, or of right, than to say it of a private man, if it is true of both. If the assertion can be proved with regard to either, it is a kindness done them to shew them the truth. With regard to the public, it is the duty of every good citizen to point out what he thinks erroneous in the commonwealth. . . .

To say the Parliament is absolute and arbitrary, is a contradiction. The Parliament cannot make two and two, five: Omnipotency cannot do it. The supreme power in a state, is *jus dicere* only:—*jus dare*, strictly speaking, belongs alone to God. Parliaments are in all cases to *declare* what is for the good of the whole; but it is not the *declaration* of Parliament that makes it so: There must be in every instance, a higher authority, *viz.* GOD. Should an act of Parliament be against any of *his* natural laws, which are immutably true, *their* declaration would be contrary to eternal truth, equity and justice, and consequently void: and so it would be adjudged by the parliament itself, when convinced of their mistake. Upon this great principle, parliaments repeal such acts, as soon as they find they have been mistaken, in having declared them to be for the public good, when in fact they

were not so. When such a mistake is evident and palpable, as in the instances in the appendix, the judges of the executive courts have declared the act “of a whole parliament void.” See here the grandeur of the British constitution! See the wisdom of our ancestors! The supreme legislative, and the supreme executive, are a perpetual check and balance to each other. If the supreme executive errs, it is informed by the supreme legislative in Parliament: if the supreme legislative errs, it is informed by the supreme executive in the King’s courts of law. Here, the King appears, as represented by his judges, in the highest luster and majesty, as supreme executor of the commonwealth; and he never shines brighter, but on his throne, at the head of the supreme legislative. This is government! This is a constitution! To preserve which, either from foreign or domestic foes, has cost oceans of blood and treasure in every age; and the blood and the treasure have upon the whole been well spent. British America, hath been bleeding in this cause from its settlement: we have spent all we could raise, and more; for notwithstanding the parliamentary reimbursements of part, we still remain much in debt. The province of the Massachusetts, I believe, has expended more men and money in war since the year 1620, when a few families first landed at Plymouth, in proportion to their ability, than the three Kingdoms together. The same, I believe, may be truly affirmed, of many of the other colonies; though the Massachusetts has undoubtedly had the heaviest burthen. This may be thought incredible: but materials are collecting; and though some are lost, enough may remain, to demonstrate it to the world. I have reason to hope at least, that the public will soon see such proofs exhibited, as will shew, that I do not speak quite at random. . . .

The sum of my argument, is, That civil government is of God: that the administrators of it were originally the whole people: that they might have devolved it on whom they pleased: that this devolution is fiduciary, for the good of the whole: that by the British constitution, this devolution is on the King, Lords and Commons, the supreme, sacred and uncontrollable legislative power, not only in the realm, but through the dominions: that by the Abdication, the original compact was broken to pieces: that by the Revolution, it was renewed, and more firmly established, and the rights and liberties of the subject in all parts of the dominions, more fully explained and confirmed: that in consequence of this establishment and the acts of succession and union, His Majesty George III is rightful King and Sovereign, and with his Parliament, the supreme legislative of Great-Britain, France and Ireland, and the dominions thereunto belonging: that this constitution is the most free one, and by far the best, now existing on earth: that by this constitution, every man in the dominions is a free man: that no parts of His Majesty’s dominions can be taxed without their consent: that every part has a right to be represented in the supreme or some subordinate legislature: that the refusal of this, would seem to be a contradiction in practice to the theory of the constitution: that the colonies are subordinate dominions, and are now in such a state, as to make it best for the good of the whole, that they should not only be continued in the enjoyment of subordinate legislation, but be also represented in some proportion to their number and estates in the grand legislation of the nation: that this would firmly unite all parts of the British empire, in the greatest peace and prosperity; and render it invulnerable and perpetual.

## Articles of Confederation

1 March 1781

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

Whereas the Delegates of the United States of America, in Congress assembled, did, on the 15th day of November, in the Year of Our Lord One Thousand Seven Hundred and Seventy-Seven, and in the Second Year of the Independence of America, agree to certain articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia in the words following, viz. "Articles of Confederation and perpetual Union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

Article I. The Stile of this Confederacy shall be "The United States of America."

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

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

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

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall, upon



demand of the Governor or executive power, of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

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

Article V. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state, to 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 by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

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

In determining 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 and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

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

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

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

No vessels of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the United States in Congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

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

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

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

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

Article IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of

any species of goods or commodities, whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise, between two or more States concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the State, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward:" provided also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the

petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States—fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated—establishing or regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expences of the said office—appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expences—to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted, —to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding, and thereupon the legislature of each State shall appoint the regimental officers, raise the men and cloath, arm, and equip them in a soldier-like manner, at the expence of the United States; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: But if the United States in Congress assembled shall, on consideration of circumstances judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

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

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

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

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

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

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

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

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

On the part and behalf of the State of New Hampshire:

Josiah Bartlett

John Wentworth, Junr, August 8th, 1778

On the part and behalf of the State of Massachusetts Bay:

John Hancock

Samuel Adams

Elbridge Gerry

Francis Dana

James Lovell

Samuel Holten

On the part and behalf of the State of Rhode Island and Providence Plantations:

Willam Ellery

Henry Marchant

John Collins

On the part and behalf of the State of Connecticut:

Roger Sherman

Samuel Huntington

Oliver Wolcott

Titus Hosmer

Andrew Adams

On the part and behalf of the State of New York:

Jas. Duane

Fra. Lewis

Wm. Duer

Gouv. Morris

On the part and behalf of the State of New Jersey, November 26, 1778:

Jno. Witherspoon

Nathl. Scudder

On the part and behalf of the State of Pennsylvania:

Robert Morris

Daniel Roberdeau

Jon. Bayard Smith

William Clingan

Joseph Reed, July 22, 1778

On the part and behalf of the State of Delaware:

Tho. McKean, February 12, 1779

John Dickinson, May 5, 1779

Nicholas Van Dyke

On the part and behalf of the State of Maryland:

John Hanson, March 1, 1781

Daniel Carroll

On the part and behalf of the State of Virginia:

Richard Henry Lee

John Banister

Thomas Adams

Jno. Harvie

Francis Lightfoot Lee

On the part and behalf of the State of North Carolina:

John Penn, July 21, 1778

Corns. Harnett

Jno. Williams

On the part and behalf of the State of South Carolina:

Henry Laurens

William Henry Drayton

Jno. Mathews

Richd. Hutson

Thos. Heyward, Junr.

On the part and behalf of the State of Georgia:

Jno. Walton, July 24, 1778

Edwd. Telfair

Edwd. Langworthy

## Federalist No. 10

## The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection

James Madison

AMONG the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence, of known facts will not permit us to deny that they are in some degree true. It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. These must be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administrations.

By a faction, I understand a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischief of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the



same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy, that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of the government.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large

bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? Are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good? The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number, is a shilling saved to their own pockets.

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. Enlightened statesmen will not always be at the helm. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole.

The inference to which we are brought is that the *causes* of faction cannot be removed, and that relief is only to be sought in the means of controlling its *effects*.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests, of the people. The question resulting is, whether small or extensive republics are more favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations:

In the first place, it is to be remarked that, however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that, however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the two constituents, and being proportionally greater in the small republic, it follows that, if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre in men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representatives too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of republican than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic,—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security? Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States. A religious sect

may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

*PUBLIUS*

## **The Federalist No. 45**

### **Alleged Danger From the Powers of the Union to the State Governments Considered**

*Independent Journal*, Saturday, January 26, 1788

**James Madison**

To the People of the State of New York:

Having shown that no one of the powers transferred to the federal government is unnecessary or improper, the next question to be considered is, whether the whole mass of them will be dangerous to the portion of authority left in the several States.

The adversaries to the plan of the convention, instead of considering in the first place what degree of power was absolutely necessary for the purposes of the federal government, have exhausted themselves in a secondary inquiry into the possible consequences of the proposed degree of power to the governments of the particular States. But if the Union, as has been shown, be essential to the security of the people of America against foreign danger; if it be essential to their security against contentions and wars among the different States; if it be essential to guard them against those violent and oppressive factions which embitter the blessings of liberty, and against those military establishments which must gradually poison its very fountain; if, in a word, the Union be essential to the happiness of the people of America, is it not preposterous, to urge as an objection to a government, without which the objects of the Union cannot be attained, that such a government may derogate from the importance of the governments of the individual States? Was, then, the American Revolution effected, was the American Confederacy formed, was the precious blood of thousands spilt, and the hard-earned substance of millions lavished, not that the people of America should enjoy peace, liberty, and safety, but that the government of the individual States, that particular municipal establishments, might enjoy a certain extent of power, and be arrayed with certain dignities and attributes of sovereignty? We have heard of the impious doctrine in the Old World, that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the New, in another shape that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form? It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people, is the supreme object to be pursued; and that no form of government whatever has any other value than as it may be fitted for the attainment of this object. Were the plan of the convention adverse to the public happiness, my voice would be, Reject the plan. Were the Union itself inconsistent with the public happiness, it would be, Abolish the Union. In like manner, as far as the sovereignty of the States cannot be reconciled to the happiness of the people, the voice of every good citizen must be, Let the former be sacrificed to the latter. How far the sacrifice is necessary, has been shown. How far the unsacrificed residue will be endangered, is the question before us.

Several important considerations have been touched in the course of these papers, which discountenance the supposition that the operation of the federal government will by degrees prove fatal to the State governments. The more I revolve the subject, the more fully I am

persuaded that the balance is much more likely to be disturbed by the preponderancy of the last than of the first scale.

We have seen, in all the examples of ancient and modern confederacies, the strongest tendency continually betraying itself in the members, to despoil the general government of its authorities, with a very ineffectual capacity in the latter to defend itself against the encroachments. Although, in most of these examples, the system has been so dissimilar from that under consideration as greatly to weaken any inference concerning the latter from the fate of the former, yet, as the States will retain, under the proposed Constitution, a very extensive portion of active sovereignty, the inference ought not to be wholly disregarded. In the Achaean league it is probable that the federal head had a degree and species of power, which gave it a considerable likeness to the government framed by the convention. The Lycian Confederacy, as far as its principles and form are transmitted, must have borne a still greater analogy to it. Yet history does not inform us that either of them ever degenerated, or tended to degenerate, into one consolidated government. On the contrary, we know that the ruin of one of them proceeded from the incapacity of the federal authority to prevent the dissensions, and finally the disunion, of the subordinate authorities. These cases are the more worthy of our attention, as the external causes by which the component parts were pressed together were much more numerous and powerful than in our case; and consequently less powerful ligaments within would be sufficient to bind the members to the head, and to each other.

In the feudal system, we have seen a similar propensity exemplified. Notwithstanding the want of proper sympathy in every instance between the local sovereigns and the people, and the sympathy in some instances between the general sovereign and the latter, it usually happened that the local sovereigns prevailed in the rivalry for encroachments. Had no external dangers enforced internal harmony and subordination, and particularly, had the local sovereigns possessed the affections of the people, the great kingdoms in Europe would at this time consist of as many independent princes as there were formerly feudatory barons.

The State governments will have the advantage of the Federal government, whether we compare them in respect to the immediate dependence of the one on the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them; to the predilection and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other.

The State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former. Without the intervention of the State legislatures, the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment, and will, perhaps, in most cases, of themselves determine it. The Senate will be elected absolutely and exclusively by the State legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men, whose influence over the people obtains for themselves an election into the State legislatures. Thus, each of the principal branches of the federal government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious than too overbearing towards them. On the other side, the

component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the federal government, and very little, if at all, to the local influence of its members.

The number of individuals employed under the Constitution of the United States will be much smaller than the number employed under the particular States. There will consequently be less of personal influence on the side of the former than of the latter. The members of the legislative, executive, and judiciary departments of thirteen and more States, the justices of peace, officers of militia, ministerial officers of justice, with all the county, corporation, and town officers, for three millions and more of people, intermixed, and having particular acquaintance with every class and circle of people, must exceed, beyond all proportion, both in number and influence, those of every description who will be employed in the administration of the federal system. Compare the members of the three great departments of the thirteen States, excluding from the judiciary department the justices of peace, with the members of the corresponding departments of the single government of the Union; compare the militia officers of three millions of people with the military and marine officers of any establishment which is within the compass of probability, or, I may add, of possibility, and in this view alone, we may pronounce the advantage of the States to be decisive. If the federal government is to have collectors of revenue, the State governments will have theirs also. And as those of the former will be principally on the seacoast, and not very numerous, whilst those of the latter will be spread over the face of the country, and will be very numerous, the advantage in this view also lies on the same side. It is true, that the Confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States; but it is probable that this power will not be resorted to, except for supplemental purposes of revenue; that an option will then be given to the States to supply their quotas by previous collections of their own; and that the eventual collection, under the immediate authority of the Union, will generally be made by the officers, and according to the rules, appointed by the several States. Indeed it is extremely probable, that in other instances, particularly in the organization of the judicial power, the officers of the States will be clothed with the correspondent authority of the Union. Should it happen, however, that separate collectors of internal revenue should be appointed under the federal government, the influence of the whole number would not bear a comparison with that of the multitude of State officers in the opposite scale. Within every district to which a federal collector would be allotted, there would not be less than thirty or forty, or even more, officers of different descriptions, and many of them persons of character and weight, whose influence would lie on the side of the State.

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; with which last the power of taxation will, for the most part, be connected. 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, and the internal order, improvement, and prosperity of the State.

The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another



advantage over the federal government. The more adequate, indeed, the federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of new powers to the Union, than in the invigoration of its original powers. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose, and from which no apprehensions are entertained. The powers relating to war and peace, armies and fleets, treaties and finance, with the other more considerable powers, are all vested in the existing Congress by the articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effectual mode of administering them. The change relating to taxation may be regarded as the most important; and yet the present Congress have as complete authority to require of the States indefinite supplies of money for the common defense and general welfare, as the future Congress will have to require them of individual citizens; and the latter will be no more bound than the States themselves have been, to pay the quotas respectively taxed on them. Had the States complied punctually with the articles of Confederation, or could their compliance have been enforced by as peaceable means as may be used with success towards single persons, our past experience is very far from countenancing an opinion, that the State governments would have lost their constitutional powers, and have gradually undergone an entire consolidation. To maintain that such an event would have ensued, would be to say at once, that the existence of the State governments is incompatible with any system whatever that accomplishes the essential purposes of the Union.

*PUBLIUS*

I will not fear to repeat again for a final time what I have already said or indicated in several places in this book:\* one must beware of confusing the fact of equality itself with the revolution that serves to introduce it into the social state and the laws; it is there [in that confusion] that the reason is found for almost all the phenomena that astonish us.

All the old political powers of Europe, the greatest as well as the least, were founded in centuries of aristocracy, and they more or less represented or defended the principle of inequality and privilege. To make prevail in government the new needs and interests suggested by the growing equality, it was therefore necessary that men of our day overturn or constrain the old powers. That led them to make revolutions and inspired in many of them the savage taste for disorder and independence that all revolutions, whatever their object may be, always give birth to.

I do not believe that there is a single land in Europe where the development of equality was not preceded or followed by some violent changes in the state of property and of persons, and almost all these changes have been accompanied by much anarchy and license because they were made by the least well-ordered portion of the nation against that which was the most.

From there have emerged the two contrary tendencies that I previously showed. In the heat of the democratic revolution, men occupied with destroying the old aristocratic powers that were in combat against it showed they were animated by a great spirit of independence; and as the victory of equality became more complete, they abandoned themselves little by little to the natural instincts to which this same equality gives birth, and they re-enforced and centralized the social power. They had wanted to be free so as to be able to make themselves equal, and as equality, with the aid of freedom, established itself, it made freedom more difficult for them.

These two states did not always come in succession. Our fathers displayed just how a people could organize an immense tyranny within itself at the very moment when it was escaping the authority of the nobles and defying the power of all kings, teaching the world the way to win its independence and to lose it at the same time.

Men of our time perceive that the old powers are collapsing on all sides; they see all the old influences dying, all the old barriers falling down; this clouds the judgment of the cleverest; they only pay attention to the prodigious revolution that is at work before their eyes, and they believe that the human race is going to fall into anarchy forever. If they pondered the final consequences of this revolution, perhaps they would conceive other fears.

As for me, I confess I do not trust the spirit of freedom that seems to

\* DA I Intro.; I 1.5; I 2.10; II 1.1, 10; II 2.3; II 3.5, 11, 19, 23; II 4.4.

animate my contemporaries; I see well that the nations of our day are turbulent; but I do not clearly find that they are liberal, and I fear that sovereigns, at the end of these agitations that make all thrones tremble, will be found more powerful than ever.

Alexis de Tocqueville, *Democracy in America*, trans. Harvey Mansfield + Delba Vinthrop

## Chapter 6 WHAT KIND OF DESPOTISM DEMOCRATIC NATIONS HAVE TO FEAR

During my stay in the United States I had remarked that a democratic social state like that of the Americans could singularly facilitate the establishment of despotism, and I had seen on my return to Europe how most of our princes had already made use of the ideas, sentiments, and needs to which this same social state had given birth to extend the sphere of their power.

That led me to believe that Christian nations would perhaps in the end come under an oppression similar to that which formerly weighed on several of the peoples of antiquity.

A more detailed examination of the subject and five years of new meditations have not diminished my fears, but they have changed their object.

In past centuries, one never saw a sovereign so absolute and so powerful that it undertook to administer all the parts of a great empire by itself without the assistance of secondary powers; there was none who attempted to subjugate all its subjects without distinction to the details of a uniform rule, nor one that descended to the side of each of them to lord it over him and lead him. The idea of such an undertaking had never presented itself to the human mind, and if any man had happened to conceive of it, the insufficiency of enlightenment, the imperfection of administrative proceedings, and above all the natural obstacles that inequality of conditions gave rise to would soon have stopped him in the execution of such a vast design.

One sees that in the time of the greatest power of the Caesars, the different peoples who inhabited the Roman world still preserved diverse customs and mores: although subject to the same monarch, most of the provinces were administered separately; they were filled with powerful and active municipalities, and although all the government of the empire was concentrated in the hands of the emperor alone and he always remained the arbitrator of all things in case of need, the details of social life and of individual existence ordinarily escaped his control.

It is true that the emperors possessed an immense power without counterweight, which permitted them to indulge the outlandishness of their penchants freely and to employ the entire force of the state in satisfying them; they often came to abuse this power so as to deprive a citizen of his goods or life arbitrarily: their tyranny weighed enormously on some, but it did not extend over many; it applied itself to a few great principal objects and neglected the rest; it was violent and restricted.

It seems that if despotism came to be established in the democratic nations of our day, it would have other characteristics: it would be more extensive and milder, and it would degrade men without tormenting them.\*

I do not doubt that in centuries of enlightenment and equality like ours, sovereigns will come more easily to gather all public powers in their hands alone and to penetrate the sphere of private interests more habitually and more deeply than any of those in antiquity was ever able to do. But the same equality that facilitates despotism tempers it; we have seen how, as men are more alike and more equal, public mores become more humane and milder; when no citizen has either great power or great wealth, tyranny in a way lacks an occasion and a stage. All fortunes being mediocre, passions are naturally contained, imagination bounded, pleasures simple. This universal moderation moderates the sovereign itself and holds the disordered sparks of its desires within certain limits.

Independently of these reasons drawn from the very nature of the social state, I could add many others that I would take from outside my subject, but I want to stay within the bounds I have set for myself.

Democratic governments can become violent and even cruel at certain moments of great excitement and great peril; but these crises will be rare and transient.

When I think of the small passions of men of our day, the softness of their mores, the extent of their enlightenment, the purity of their religion, the mildness of their morality, their laborious and steady habits, the restraint that almost all preserve in vice as in virtue, I do not fear that in their chiefs they will find tyrants, but rather schoolmasters.

I think therefore that the kind of oppression with which democratic peoples are threatened will resemble nothing that has preceded it in the world; our contemporaries would not find its image in their memories. I myself seek in vain an expression that exactly reproduces the idea that I form of it for myself and that contains it; the old words despotism and tyranny are not suitable. The thing is new, therefore I must try to define it, since I cannot name it.

\* See AT's note XXVI, page 703.

I want to imagine with what new features despotism could be produced in the world: I see an innumerable crowd of like and equal men who revolve on themselves without repose, procuring the small and vulgar pleasures with which they fill their souls. Each of them, withdrawn and apart, is like a stranger to the destiny of all the others: his children and his particular friends form the whole human species for him; as for dwelling with his fellow citizens, he is beside them, but he does not see them; he touches them and does not feel them; he exists only in himself and for himself alone, and if a family still remains for him, one can at least say that he no longer has a native country.

Above these an immense tutelary power is elevated, which alone takes charge of assuring their enjoyments and watching over their fate. It is absolute, detailed, regular, far-seeing, and mild. It would resemble paternal power if, like that, it had for its object to prepare men for manhood; but on the contrary, it seeks only to keep them fixed irrevocably in childhood; it likes citizens to enjoy themselves provided that they think only of enjoying themselves. It willingly works for their happiness; but it wants to be the unique agent and sole arbiter of that; it provides for their security, foresees and secures their needs, facilitates their pleasures, conducts their principal affairs, directs their industry, regulates their estates, divides their inheritances; can it not take away from them entirely the trouble of thinking and the pain of living?

So it is that every day it renders the employment of free will less useful and more rare; it confines the action of the will in a smaller space and little by little steals the very use of free will from each citizen. Equality has prepared men for all these things: it has disposed them to tolerate them and often even to regard them as a benefit.

Thus, after taking each individual by turns in its powerful hands and kneading him as it likes, the sovereign extends its arms over society as a whole; it covers its surface with a network of small, complicated, painstaking, uniform rules through which the most original minds and the most vigorous souls cannot clear a way to surpass the crowd; it does not break wills, but it softens them, bends them, and directs them; it rarely forces one to act, but it constantly opposes itself to one's acting; it does not destroy, it prevents things from being born; it does not tyrannize, it hinders, compromises, enervates, extinguishes, dazes, and finally reduces each nation to being nothing more than a herd of timid and industrious animals of which the government is the shepherd.

I have always believed that this sort of regulated, mild, and peaceful servitude, whose picture I have just painted, could be combined better than one imagines with some of the external forms of freedom, and that it would not

be impossible for it to be established in the very shadow of the sovereignty of the people.

Our contemporaries are incessantly racked by two inimical passions: they feel the need to be led and the wish to remain free. Not being able to destroy either one of these contrary instincts, they strive to satisfy both at the same time. They imagine a unique power, tutelary, all powerful, but elected by citizens. They combine centralization and the sovereignty of the people. That gives them some respite. They console themselves for being in tutelage by thinking that they themselves have chosen their schoolmasters. Each individual allows himself to be attached because he sees that it is not a man or a class but the people themselves that hold the end of the chain.

In this system citizens leave their dependence for a moment to indicate their master, and then reenter it.

In our day there are many people who accommodate themselves very easily to this kind of compromise between administrative despotism and the sovereignty of the people, and who think they have guaranteed the freedom of individuals well enough when they deliver it to the national power. That does not suffice for me. The nature of the master is much less important to me than the obedience.

Nevertheless I shall not deny that such a constitution is infinitely preferable to one which, after having concentrated all powers, would deposit them in the hands of an irresponsible man or body. Of all the different forms that democratic despotism could take, this would surely be the worst.

When the sovereign is elected or closely overseen by a really elected and independent legislature, the oppression it makes individuals undergo is sometimes greater; but it is always less degrading, because each citizen, while he is hindered and reduced to impotence, can still fancy that in obeying he submits only to himself and that it is to one of his wills that he sacrifices all the others.

I understand as well that when the sovereign represents the nation and depends on it, the strength and rights that are taken away from each citizen serve not only the head of state but profit the state itself, and that particular persons get some fruit from the sacrifice of their independence that they have made to the public.

To create a national representation in a very centralized country is therefore to diminish the evil that extreme centralization can produce, but not to destroy it.

I see very well that in this manner one preserves individual intervention in the most important affairs; but one does not suppress it any less in small and particular ones. One forgets that it is above all in details that it is dangerous to enslave men. For my part, I would be brought to believe freedom less

necessary in great things than in lesser ones if I thought that one could ever be assured of the one without possessing the other.

Subjection in small affairs manifests itself every day and makes itself felt without distinction by all citizens. It does not make them desperate; but it constantly thwarts them and brings them to renounce the use of their wills. Thus little by little, it extinguishes their spirits and enervates their souls, whereas obedience, which is due only in a few very grave but very rare circumstances, shows servitude only now and then and makes it weigh only on certain men. In vain will you charge these same citizens, whom you have rendered so dependent on the central power, with choosing the representatives of this power from time to time; that use of their free will, so important but so brief and so rare, will not prevent them from losing little by little the faculty of thinking, feeling, and acting by themselves, and thus from gradually falling below the level of humanity.

I add that they will soon become incapable of exercising the great, unique privilege that remains to them. Democratic peoples who have introduced freedom into the political sphere at the same time that they have increased despotism in the administrative sphere have been led to very strange oddities. If one must conduct small affairs in which simple good sense can suffice, they determine that citizens are incapable of it; if it is a question of the government of the whole state, they entrust immense prerogatives in these citizens; they make them alternatively the playthings of the sovereign and its masters, more than kings and less than men. After exhausting all the different systems of election without finding one that suits them, they are astonished and seek again, as if the evil they notice were not due much more to the constitution of the country than to that of the electoral body.

It is in fact difficult to conceive how men who have entirely renounced the habit of directing themselves could succeed at choosing well those who will lead them; and one will not make anyone believe that a liberal, energetic, and wise government can ever issue from the suffrage of a people of servants.

A constitution that was republican at the head and ultramonarchical in all other parts has always seemed to me to be an ephemeral monster. The vices of those who govern and the imbecility of the governed would not be slow to bring it to ruin; and the people, tired of their representatives and of themselves, would create freer institutions or soon return to lying at the feet of a single master.\*

\*See AT's note XXVII, page 704.

**Session III: “The Constitution and the Civil War”**

Dr. Paul Moreno

**Speech on the Kansas-Nebraska Act**  
**Abraham Lincoln**  
**October 16, 1854**

It is argued that slavery will not go to Kansas and Nebraska, in any event. This is a palliation--a lullaby. I have some hope that it will not; but let us not be too confident. As to climate, a glance at the map shows that there are five slave States--Delaware, Maryland, Virginia, Kentucky, and Missouri--and also the District of Columbia, all north of the Missouri compromise line. The census returns of 1850 show that, within these, there are 867,276 slaves--being more than one-fourth of all the slaves in the nation.

It is not climate, then, that will keep slavery out of these territories. Is there any thing in the peculiar nature of the country? Missouri adjoins these territories, by her entire western boundary, and slavery is already within every one of her western counties. I have even heard it said that there are more slaves, in proportion to whites, in the north western county of Missouri, than within any county of the State. Slavery pressed entirely up to the old western boundary of the State, and when, rather recently, a part of that boundary, at the north-west was, moved out a little farther west, slavery followed on quite up to the new line. Now, when the restriction is removed, what is to prevent it from going still further? Climate will not. No peculiarity of the country will--nothing in nature will. Will the disposition of the people prevent it? Those nearest the scene, are all in favor of the extension. The yankees, who are opposed to it may be more numerous; but in military phrase, the battle-field is too far from their base of operations.

But it is said, there now is no law in Nebraska on the subject of slavery; and that, in such case, taking a slave there, operates his freedom. That is good book-law; but is not the rule of actual practice. Wherever slavery is, it has been first introduced without law. The oldest laws we find concerning it, are not laws introducing it; but regulating it, as an already existing thing. A white man takes his slave to Nebraska now; who will inform the Negro that he is free? Who will take him before court to test the question of his freedom? In ignorance of his legal emancipation, he is kept chopping, splitting and plowing. Others are brought, and move on in the same track. At last, if ever the time for voting comes, on the question of slavery, the institution already in fact exists in the country, and cannot well be removed. The facts of its presence, and the difficulty of its removal will carry the vote in its favor. Keep it out until a vote is taken, and a vote in favor of it, cannot be got in any population of forty thousand, on earth, who have been drawn together by the ordinary motives of emigration and settlement. To get slaves into the country simultaneously with the whites, in the incipient stages of settlement, is the precise stake played for, and won in this Nebraska measure.

The question is asked us, "If slaves will go in, notwithstanding the general principle of law liberates them, why would they not equally go in against positive statute law?--going, even if the Missouri restriction were maintained?" I answer, because it takes a much bolder man to venture in, with his property, in the latter case, than in the former--because the positive congressional enactment is known to, and respected by all, or nearly all; whereas the negative principle that no law is free law, is not much known except among lawyers. We have some experience of this practical difference. In spite of the Ordinance of '87, a few Negroes were brought into Illinois, and held in a state of quasi slavery; not enough, however to carry a vote of the people in favor of the institution when they came to form a constitution. But in the adjoining Missouri country, where there was no ordinance of '87--was no restriction--they were carried ten times, nay a hundred times, as fast, and actually made a slave State. This is fact--naked fact.

Another lullaby argument is, that taking slaves to new countries does not increase their number—alms not make any one slave who otherwise would be free. There is some truth in this, and I am glad of it, but it [is] not wholly true. The African slave trade is not yet effectually suppressed; and if we make a reasonable deduction for the white people amongst us, who are foreigners, and the descendants of foreigners, arriving here since 1808, we shall find the increase of the black population out-running that of the white, to an extent unaccountable, except by supposing that some of them too, have been coming from Africa. If this be so, the opening of new countries to the institution, increases the demand for, and augments the price of slaves, and so does, in fact, make slaves of freemen by causing them to be brought from Africa, and sold into bondage.

But, however this may be, we know the opening of new countries to slavery, tends to the perpetuation of the institution, and so does keep men in slavery who otherwise would be free. This result we do not feel like favoring, and we are under no legal obligation to suppress our feelings in this respect.

Equal justice to the south, it is said, requires us to consent to the extending of slavery to new countries. That is to say, inasmuch as you do not object to my taking my hog to Nebraska, therefore I must not object to you taking your slave. Now, I admit this is perfectly logical, if there is no difference between hogs and Negroes. But while you thus require me to deny the humanity of the Negro, I wish to ask whether you of the south yourselves, have ever been willing to do as much? It is kindly provided that of all those who come into the world, only a small percentage are natural tyrants. That percentage is no larger in the slave States than in the free. The great majority, south as well as north, have human sympathies, of which they can no more divest themselves than they can of their sensibility to physical pain. These sympathies in the bosoms of the southern people, manifest in many ways, their sense of the wrong of slavery, and their consciousness that, after all, there is humanity in the Negro. If they deny this, let me address them a few plain questions. In 1820 you joined the north, almost unanimously, in declaring the African slave trade piracy, and in annexing to it the punishment of death. Why did you do this? If you did not feel that it was wrong, why did you join in providing that men should be hung for it? The practice was no more than bringing wild Negroes from Africa, to sell to such as would buy them. But you never thought of hanging men for catching and selling wild horses, wild buffaloes or wild bears.

Again, you have amongst you, a sneaking individual, of the class of native tyrants, known as the "slave-dealer." He watches your necessities, and crawls up to buy your slave, at a speculating price. If you cannot help it, you sell to him; but if you can help it, you drive him from your door. You despise him utterly. You do not recognize him as a friend, or even as an honest man. Your children must not play with his; they may rollick freely with the little Negroes, but not with the "slave-dealers" children. If you are obliged to deal with him, you try to get through the job without so much as touching him. It is common with you to join hands with the men you meet; but with the slave dealer you avoid the ceremony—instinctively shrinking from the snaky contact. If he grows rich and retires from business, you still remember him, and still keep up the ban of non-intercourse upon him and his family. Now why is this? You do not so treat the man who deals in corn, cattle or tobacco.

And yet again; there are in the United States and territories, including the District of Columbia, 433,643 free blacks. At \$500 per head they are worth over two hundred millions of dollars. How comes this vast amount of property to be running about without owners? We do not see free horses or free cattle running at large. How is this? All these free blacks are the descendants of slaves, or have been slaves themselves, and they would be slaves now, but for something which has operated on their white owners, inducing

them, at vast pecuniary sacrifices, to liberate them. What is that something? Is there any mistaking it? In all these cases it is your sense of justice, and human sympathy, continually telling you, that the poor Negro has some natural right to himself--that those who deny it, and make mere merchandise of him, deserve kickings, contempt and death.

And now, why will you ask us to deny the humanity of the slave and estimate him only as the equal of the hog? Why ask us to do what you will not do yourselves? Why ask us to do for nothing, what two hundred million of dollars could not induce you to do?

But one great argument in the support of the repeal of the Missouri Compromise, is still to come. That argument is "the sacred right of self government." It seems our distinguished Senator has found great difficulty in getting his antagonists, even in the Senate to meet him fairly on this argument--some poet has said: "Fools rush in where angels fear to tread." At the hazard of being thought one of the fools of this quotation, I meet that argument--I rush in, I take that bull by the horns.

I trust I understand, and truly estimate the right of self-government. My faith in the proposition that each man should do precisely as he pleases with all which is exclusively his own, lies at the foundation of the sense of justice there is in me. I extend the principles to communities of men, as well as to individuals. I so extend it, because it is politically wise, as well as naturally just: politically wise, in saving us from broils about matters which do not concern us. Here, or at Washington, I would not trouble myself with the oyster laws of Virginia, or the cranberry laws of Indiana.

The doctrine of self government is right--absolutely and eternally right--but it has no just application, as here attempted. Or perhaps I should rather say that whether it has such just application depends upon whether a Negro is not or is a man. If he is not a man, why in that case, he who is a man may, as a matter of self-government, do just as he pleases with him. But if the Negro is a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern himself? When the white man governs himself, and also governs another man, that is more than self-government--that is despotism. If the Negro is a man, why then my ancient faith teaches me that "all men are created equal;" and that there can be no moral right in connection with one man's making a slave of another.

Judge Douglas frequently, with bitter irony and sarcasm, paraphrases our argument by saying "The white people of Nebraska are good enough to govern themselves, but they are not good enough to govern a few miserable Negroes!!"

Well I doubt not that the people of Nebraska are, and will continue to be as good as the average of people elsewhere. I do not say the contrary. What I do say is, that no man is good enough to govern another man, without the other's consent. I say this is the leading principle--the sheet anchor of American republicanism. Our Declaration of Independence says:

"We hold these truths to be self evident: that all men are created equal; that they are endowed by their Creator with certain inalienable 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."

I have quoted so much at this time merely to show that according to our ancient faith, the just powers of governments are derived from the consent of the governed. Now the relation of masters and slaves is, pro



tanto, a total violation of this principle. The master not only governs the slave without his consent; but he governs him by a set of rules altogether different from those which he prescribes for himself. Allow ALL the governed an equal voice in the government, and that, and that only is self-government.

Let it not be said I am contending for the establishment of political and social equality between the whites and blacks. I have already said the contrary. I am not now combating the argument of necessity, arising from the fact that the blacks are already amongst us; but I am combating what is set up as moral argument for allowing them to be taken where they have never yet been--arguing against the extension of a bad thing, which where it already exists, we must of necessity, manage as we best can.

In support of his application of the doctrine of self-government, Senator Douglas has sought to bring to his aid the opinions and examples of our revolutionary fathers. I am glad he has done this. I love the sentiments of those old-time men; and shall be most happy to abide by their opinions. He shows us that when it was in contemplation for the colonies to break off from Great Britain, and set up a new government for themselves, several of the states instructed their delegates to go for the measure provided each state should be allowed to regulate its domestic concerns in its own way. I do not quote; but this in substance. This was right. I see nothing objectionable in it. I also think it probable that it had some reference to the existence of slavery amongst them. I will not deny that it had. But had it, in any reference to the carrying of slavery into new countries? That is the question; and we will let the fathers themselves answer it.

This same generation of men, and mostly the same individuals of the generation, who declared this principle--who declared independence--who fought the war of the revolution through--who afterwards made the constitution under which we still live--these same men passed the ordinance of '87, declaring that slavery should never go to the north-west territory. I have no doubt Judge Douglas thinks they were very inconsistent in this. It is a question of discrimination between them and him. But there is not an inch of ground left for his claiming that their opinions--their example--their authority-- are on his side in this controversy.

Again, is not Nebraska, while a territory, a part of us? Do we not own the country? And if we surrender the control of it, do we not surrender the right of self-government? It is part of ourselves. If you say we shall not control it because it is only part, the same is true of every other part; and when all the parts are gone, what has become of the whole? What is then left of us? What use for the general government, when there is nothing left for it [to] govern?

But you say this question should be left to the people of Nebraska, because they are more particularly interested. If this be the rule, you must leave it to each individual to say for himself whether he will have slaves. What better moral right have thirty-one citizens of Nebraska to say, that the thirty-second shall not hold slaves, than the people of the thirty-one State have to say that slavery shall not go into the thirty-second State at all?

But if it is a sacred right for the people of Nebraska to take and hold slaves there, it is equally their sacred right to buy them where they can buy them cheapest; and that undoubtedly will be on the coast of Africa; provided you will consent to not hang them for going there to buy them. You must remove this restriction too, from the sacred right of self-government. I am aware you say that taking slaves from the States to Nebraska, does not make slaves of freemen; but the African slave-trader can say just as much. He does not

catch free Negroes and bring them here. He finds them already slaves in the hands of their black captors, and he honestly buys them at the rate of about a red cotton handkerchief a head. This is very cheap, and it is a great abridgement of the sacred right of self-government to hang men for engaging in this profitable trade!

Another important objection to this application of the right of self-government, is that it enables the first few, to deprive the succeeding many, of a free exercise of the right of self-government. The first few may get slavery in, and the subsequent many cannot easily get it out. How common is the remark now in the slave States-- "If we were only clear of our slaves, how much better it would be for us." They are actually deprived of the privilege of governing themselves as they would, by the action of a very few, in the beginning. The same thing was true of the whole nation at the time our constitution was formed.

Whether slavery shall go into Nebraska, or other new territories, is not a matter of exclusive concern to the people who may go there. The whole nation is interested that the best use shall be made of these territories. We want them for the homes of free white people. This they cannot be, to any considerable extent, if slavery shall be planted within them. Slave States are places for poor white people to remove from; not to remove to. New free States are the places for poor people to go to and better their condition. For this use, the nation needs these territories.

Still further; there are constitutional relations between the slave and free States, which are degrading to the latter. We are under legal obligations to catch and return their runaway slaves to them--a sort of dirty, disagreeable job, which I believe, as a general rule the slave-holders will not perform for one another. Then again, in the control of the government the management of the partnership affairs--they have greatly the advantage of us. By the constitution, each State has two Senators--each has a number of Representatives; in proportion to the number of its people--and each has a number of presidential electors, equal to the whole number of its Senators and Representatives together. But in ascertaining the number of the people, for this purpose, five slaves are counted as being equal to three whites. The slaves do not vote; they are only counted and so used, as to swell the influence of the white people's votes. The practical effect of this is more aptly shown by a comparison of the States of South Carolina and Maine. South Carolina has six representatives, and so has Maine; South Carolina has eight presidential electors, and so has Maine. This is precise equality so far; and, of course they are equal in Senators, each having two. Thus in the control of the government, the two States are equals precisely. But how are they in the number of their white people? Maine has 581,813-- while South Carolina has 274,567. Maine has twice as many as South Carolina, and 32,679 over. Thus each white man in South Carolina is more than the double of any man in Maine. This is all because South Carolina, besides her free people, has 384,984 slaves. The South Carolinian has precisely the same advantage over the white man in every other free State, as well as in Maine. He is more than the double of any one of us in this crowd. The same advantage, but not to the same extent, is held by all the citizens of the slave States, over those of the free; and it is an absolute truth, without an exception, that there is no voter in any slave State, but who has more legal power in the government, than any voter in any free State. There is no instance of exact equality; and the disadvantage is against us the whole chapter through. This principle, in the aggregate, gives the slave States, in the present Congress, twenty additional representatives--being seven more than the whole majority by which they passed the Nebraska bill.

Now all this is manifestly unfair; yet I do not mention it to complain of it, in so far as it is already settled.

It is in the constitution; and I do not, for that cause, or any other cause, propose to destroy, or alter, or disregard the constitution. I stand to it, fairly, fully, and firmly.

But when I am told I must leave it altogether to other people to say whether new partners are to be bred up and brought into the firm, on the same degrading terms against me, I respectfully demur. I insist, that whether I shall be a whole man, or only, the half of one, in comparison with others, is a question in which I am somewhat concerned; and one which no other man can have a sacred right of deciding for me. If I am wrong in this--if it really be a sacred right of self-government, in the man who shall go to Nebraska, to decide whether he will be the equal of me or the double of me, then after he shall have exercised that right, and thereby shall have reduced me to a still smaller fraction of a man than I already am, I should like for some gentleman deeply skilled in the mysteries of sacred rights, to provide himself with a microscope, and peep about, and find out, if he can, what has become of my sacred rights! They will surely be too small for detection with the naked eye.

Finally, I insist, that if there is anything which it is the duty of the whole people to never entrust to any hands but their own, that thing is the preservation and perpetuity, of their own liberties, and institutions. And if they shall think, as I do, that the extension of slavery endangers them, more than any, or all other causes, how recreant to themselves, if they submit the question, and with it, the fate of their country, to a mere hand-full of men, bent only on temporary self-interest. If this question of slavery extension were an insignificant one having no power to do harm--it might be shuffled aside in this way. But being, as it is, the great Behemoth of danger, shall the strong gripe of the nation be loosened upon him, to entrust him to the hands of such feeble keepers?

### The Republican Party Platform (1856)

*The new Republican Party, accused of being a sectional rather than national organization by the Democrats, held its convention in Philadelphia. The party's emphasis on the containment of slavery, as well as the composition of its membership, did give some validity to the charge. Many of its members had been Whigs, and their influence was seen in the economic planks that advocated internal improvements financed by the federal government. Abolitionists and Free Soilers, coming from the Whig and Democratic parties, also influenced the creation of the party's platform and the nomination of candidates. The Republicans elected John Fremont of California, formerly a Free Soil Democrat, as their presidential candidate and William Dayton of New Jersey, a former Whig, as his running mate.*

This convention of delegates, assembled in pursuance of a call addressed to the people of the United States, without regard to past political differences or divisions, who are opposed to the repeal of the Missouri Compromise, to the policy of the present administration, to the extension of slavery into free territory; in favor of admitting Kansas as a free state, of restoring the action of the Federal government to the principles of Washington and Jefferson; and who purpose to unite in presenting candidates for the offices of President and Vice-President, do resolve as follows:

*Resolved*, That the maintenance of the principles promulgated in the Declaration of Independence, and embodied in the federal constitution, is essential to the preservation of our Republican institutions, and that the federal constitution, the rights of the states, and the union of the states, shall be preserved.

*Resolved*, That with our republican fathers we hold it to be a self-evident truth that all men are endowed with the inalienable rights to life, liberty, and the pursuit of happiness, and that the primary object and ulterior design of our Federal government were, to secure these rights to all persons within its exclusive jurisdiction; that as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person should be deprived of life, liberty, or property, without due process of law, it becomes our duty to maintain this provision of the constitution against all attempts to violate it for the purpose of establishing slavery in any territory of the United States, by positive legislation, prohibiting its existence or extension therein. That we deny the authority of Congress, of a territorial legislature, of any individual or association of individuals, to give legal existence to slavery in any territory of the United States, while the present constitution shall be maintained.

*Resolved*, That the constitution confers upon Congress sovereign power over the territories of the United States for their government, and that in the exercise of this power it is both the right and the imperative duty of Congress to prohibit in the territories those twin relics of barbarism—polygamy and slavery.

*Resolved*, That while the constitution of the United States was ordained and established, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty, and contains ample provisions for the protection of the life, liberty, and property of every citizen, the dearest constitutional rights of the people of Kansas have been fraudulently and violently taken from them; their territory has been invaded by an armed force; spurious and pretended legislative, judicial, and executive officers have been set over them, by whose usurped authority, sustained by the military power of the government, tyrannical and

unconstitutional laws have been enacted and enforced; the rights of the people to keep and bear arms have been infringed; test oaths of an extraordinary and entangling nature have been imposed, as a condition of exercising the right of suffrage and holding office; the right of an accused person to a speedy and public trial by an impartial jury has been denied; the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, has been violated; they have been deprived of life, liberty, and property without due process of law; that the freedom of speech and of the press has been abridged; the right to choose their representatives has been made of no effect; murders, robberies, and arsons have been instigated or encouraged, and the offenders have been allowed to go unpunished; that all these things have been done with the knowledge, sanction, and procurement of the present national administration; and that for this high crime against the constitution, the Union, and humanity, we arraign the administration, the President, his advisers, agents, supporters, apologists, and accessories, either before or after the facts, before the country and before the world; and that it is our fixed purpose to bring the actual perpetrators of these atrocious outrages, and their accomplices, to a sure and condign punishment hereafter.

*Resolved*, That Kansas should be immediately admitted as a state of the Union with her present free constitution, as at once the most effectual way of securing to her citizens the enjoyment of the rights and privileges to which they are entitled, and of ending the civil strife now raging in her territory.

*Resolved*, That the highwayman's plea that "might makes right," embodied in the Ostend circular, was in every respect unworthy of American diplomacy, and would bring shame and dishonor upon any government or people that gave it their sanction.

*Resolved*, That a railroad to the Pacific ocean, by the most central and practicable route, is imperatively demanded by the interests of the whole country, and that the Federal government ought to render immediate and efficient aid in its construction, and, as an auxiliary thereto, the immediate construction of an emigrant route on the line of the railroad.

*Resolved*, That appropriations of Congress for the improvement of rivers and harbors of a national character, required for the accommodation and security of our existing commerce, are authorized by the constitution, and justified by the obligation of government to protect the lives and property of its citizens.

*Resolved*, That we invite the affiliation and cooperation of the men of all parties, however differing from us in other respects, in support of the principles herein declared; and believing that the spirit of our institutions, as well as the constitution of our country, guarantees liberty of conscience and equality of rights among citizens, we oppose all proscriptive legislation affecting their security.

## Speech on the Dred Scott Decision

Abraham Lincoln  
Speech at Springfield, Illinois  
June 26, 1857

Fellow citizens:—I am here to-night, partly by the invitation of some of you, and partly by my own inclination. Two weeks ago Judge Douglas spoke here on the several subjects of Kansas, the Dred Scott decision, and Utah. I listened to the speech at the time, and have read the report of it since. It was intended to controvert opinions which I think just, and to assail (politically, not personally,) those men who, in common with me, entertain those opinions. For this reason I wished then, and still wish, to make some answer to it, which I now take the opportunity of doing.

I begin with Utah. If it prove to be true, as is probable, that the people of Utah are in open rebellion to the United States, then Judge Douglas is in favor of repealing their territorial organization, and attaching them to the adjoining States for judicial purposes. I say, too, if they are in rebellion, they ought to be somehow coerced to obedience; and I am not now prepared to admit or deny that the Judge's mode of coercing them is not as good as any. The Republicans can fall in with it without taking back anything they have ever said. To be sure, it would be a considerable backing down by Judge Douglas from his much vaunted doctrine of self-government for the territories; but this is only additional proof of what was very plain from the beginning, that that doctrine was a mere deceitful pretense for the benefit of slavery. Those who could not see that much in the Nebraska act itself, which forced Governors, and Secretaries, and Judges on the people of the territories, without their choice or consent, could not be made to see, though one should rise from the dead to testify.

But in all this, it is very plain the Judge evades the only question the Republicans have ever pressed upon the Democracy in regard to Utah. That question the Judge well knows to be this: "If the people of Utah shall peacefully form a State Constitution tolerating polygamy, will the Democracy admit them into the Union?" There is nothing in the United States Constitution or law against polygamy; and why is it not a part of the Judge's "sacred right of self-government" for that people to have it, or rather to keep it, if they choose? These questions, so far as I know, the Judge never answers. It might involve the Democracy to answer them either way, and they go unanswered.

As to Kansas. The substance of the Judge's speech on Kansas is an effort to put the free State men in the wrong for not voting at the election of delegates to the Constitutional Convention. He says: "There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every bona fide inhabitant the free and quiet exercise of the elective franchise."

It appears extraordinary that Judge Douglas should make such a statement. He knows that, by the law, no one can vote who has not been registered; and he knows that the free State men place their refusal to vote on the ground that but few of them have been registered. It is possible this is not true, but Judge Douglas knows it is asserted to be true in letters, newspapers and public speeches, and borne by every mail, and blown by every breeze to the eyes and ears of the world. He knows it is boldly declared that the people of many whole counties, and many whole neighborhoods in others, are left unregistered; yet, he does not venture to contradict the declaration, nor to point out how they can vote without being registered; but he just slips along, not seeming to know there is any such question of fact, and complacently declares: "There

is every reason to hope and believe that the law will be fairly and impartially executed, so as to insure to every bona fide inhabitant the free and quiet exercise of the elective franchise."

I readily agree that if all had a chance to vote, they ought to have voted. If, on the contrary, as they allege, and Judge Douglas ventures not to particularly contradict, few only of the free State men had a chance to vote, they were perfectly right in staying from the polls in a body.

By the way since the Judge spoke, the Kansas election has come off. The Judge expressed his confidence that all the Democrats in Kansas would do their duty—including "free state Democrats" of course. The returns received here as yet are very incomplete; but so far as they go, they indicate that only about one sixth of the registered voters, have really voted; and this too, when not more, perhaps, than one half of the rightful voters have been registered, thus showing the thing to have been altogether the most exquisite farce ever enacted. I am watching with considerable interest, to ascertain what figure "the free state Democrats" cut in the concern. Of course they voted—all democrats do their duty—and of course they did not vote for slave-state candidates. We soon shall know how many delegates they elected, how many candidates they had, pledged for a free state; and how many votes were cast for them.

Allow me to barely whisper my suspicion that there were no such things in Kansas "as free state Democrats"—that they were altogether mythical, good only to figure in newspapers and speeches in the free states. If there should prove to be one real living free state Democrat in Kansas, I suggest that it might be well to catch him, and stuff and preserve his skin, as an interesting specimen of that soon to be extinct variety of the genus, Democrat.

And now as to the Dred Scott decision. That decision declares two propositions—first, that a negro cannot sue in the U.S. Courts; and secondly, that Congress cannot prohibit slavery in the Territories. It was made by a divided court—dividing differently on the different points. Judge Douglas does not discuss the merits of the decision; and, in that respect, I shall follow his example, believing I could no more improve on McLean and Curtis, than he could on Taney.

He denounces all who question the correctness of that decision, as offering violent resistance to it. But who resists it? Who has, in spite of the decision, declared Dred Scott free, and resisted the authority of his master over him?

Judicial decisions have two uses—first, to absolutely determine the case decided, and secondly, to indicate to the public how other similar cases will be decided when they arise. For the latter use, they are called "precedents" and "authorities."

We believe, as much as Judge Douglas, (perhaps more) in obedience to, and respect for the judicial department of government. We think its decisions on Constitutional questions, when fully settled, should control, not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would be revolution. But we think the Dred Scott decision is erroneous. We know the court that made it, has often over-ruled its own decisions, and we shall do what we can to have it to over-rule this. We offer no resistance to it.

Judicial decisions are of greater or less authority as precedents, according to circumstances. That this should be so, accords both with common sense, and the customary understanding of the legal profession. If this important decision had been made by the unanimous concurrence of the judges, and without any apparent partisan bias, and in accordance with legal public expectation, and with the steady practice of the departments throughout our history, and had been in no part, based on assumed historical facts which are not really true; or, if wanting in some of these, it had been before the court more than once, and had there been affirmed and re-affirmed through a course of years, it then might be, perhaps would be, factious, nay, even revolutionary, to not acquiesce in it as a precedent.

But when, as it is true we find it wanting in all these claims to the public confidence, it is not resistance, it is not factious, it is not even disrespectful, to treat it as not having yet quite established a settled doctrine for the country—But Judge Douglas considers this view awful. Hear him:

"The courts are the tribunals prescribed by the Constitution and created by the authority of the people to determine, expound and enforce the law. Hence, whoever resists the final decision of the highest judicial tribunal, aims a deadly blow to our whole Republican system of government—a blow, which if successful would place all our rights and liberties at the mercy of passion, anarchy and violence. I repeat, therefore, that if resistance to the decisions of the Supreme Court of the United States, in a matter like the points decided in the Dred Scott case, clearly within their jurisdiction as defined by the Constitution, shall be forced upon the country as a political issue, it will become a distinct and naked issue between the friends and the enemies of the Constitution—the friends and the enemies of the supremacy of the laws."

Why this same Supreme court once decided a national bank to be constitutional; but Gen. Jackson, as President of the United States, disregarded the decision, and vetoed a bill for a re-charter, partly on constitutional ground, declaring that each public functionary must support the Constitution, "as he understands it." But hear the General's own words. Here they are, taken from his veto message:

"It is maintained by the advocates of the bank, that its constitutionality, in all its features, ought to be considered as settled by precedent, and by the decision of the Supreme Court. To this conclusion I cannot assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress in 1791, decided in favor of a bank; another in 1811, decided against it. One Congress in 1815 decided against a bank; another in 1816 decided in its favor. Prior to the present Congress, therefore the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial and executive opinions against the bank have been probably to those in its favor as four to one. There is nothing in precedent, therefore, which if its authority were admitted, ought to weigh in favor of the act before me."

I drop the quotations merely to remark that all there ever was, in the way of precedent up to the Dred Scott decision, on the points therein decided, had been against that decision. But hear Gen. Jackson further—



"If the opinion of the Supreme court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this Government. The Congress, the executive and the court, must each for itself be guided by its own opinion of the Constitution. Each public officer, who takes an oath to support the Constitution, swears that he will support it as he understands it, and not as it is understood by others."

Again and again have I heard Judge Douglas denounce that bank decision, and applaud Gen. Jackson for disregarding it. It would be interesting for him to look over his recent speech, and see how exactly his fierce philippics against us for resisting Supreme Court decisions, fall upon his own head. It will call to his mind a long and fierce political war in this country, upon an issue which, in his own language, and, of course, in his own changeless estimation, was "a distinct and naked issue between the friends and the enemies of the Constitution," and in which war he fought in the ranks of the enemies of the Constitution. I have said, in substance, that the Dred Scott decision was, in part, based on assumed historical facts which were not really true; and I ought not to leave the subject without giving some reasons for saying this; I therefore give an instance or two, which I think fully sustain me. Chief Justice Taney, in delivering the opinion of the majority of the Court, insists at great length that negroes were no part of the people who made, or for whom was made, the Declaration of Independence, or the Constitution of the United States. On the contrary, Judge Curtis, in his dissenting opinion, shows that in five of the then thirteen states, to wit, New Hampshire, Massachusetts, New York, New Jersey and North Carolina, free negroes were voters, and, in proportion to their numbers, had the same part in making the Constitution that the white people had. He shows this with so much particularity as to leave no doubt of its truth; and, as a sort of conclusion on that point, holds the following language:

"The Constitution was ordained and established by the people of the United States, through the action, in each State, of those persons who were qualified by its laws to act thereon in behalf of themselves and all other citizens of the State. In some of the States, as we have seen, colored persons were among those qualified by law to act on the subject. These colored persons were not only included in the body of 'the people of the United States,' by whom the Constitution was ordained and established; but in at least five of the States they had the power to act, and, doubtless, did act, by their suffrages, upon the question of its adoption."

Again, Chief Justice Taney says: "It is difficult, at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted." And again, after quoting from the Declaration, he says: "The general words above quoted would seem to include the whole human family, and if they were used in a similar instrument at this day, would be so understood."

In these the Chief Justice does not directly assert, but plainly assumes, as a fact, that the public estimate of the black man is more favorable now than it was in the days of the Revolution. This assumption is a mistake. In some trifling particulars, the condition of that race has been ameliorated; but, as a whole, in this country, the change between then and now is decidedly the other way; and their ultimate destiny has never appeared so hopeless as in the last three or four years. In two of the five States—New Jersey and North Carolina—that then gave the free negro the right of voting, the right has since been taken away; and in a third—New York—it has been greatly abridged; while it has not been extended, so far as I know, to a single additional State, though the number of the States has more than doubled. In those days, as I

understand, masters could, at their own pleasure, emancipate their slaves; but since then, such legal restraints have been made upon emancipation, as to amount almost to prohibition. In those days, Legislatures held the unquestioned power to abolish slavery in their respective States; but now it is becoming quite fashionable for State Constitutions to withhold that power from the Legislatures. In those days, by common consent, the spread of the black man's bondage to new countries was prohibited; but now, Congress decides that it will not continue the prohibition, and the Supreme Court decides that it could not if it would. In those days, our Declaration of Independence was held sacred by all, and thought to include all; but now, to aid in making the bondage of the negro universal and eternal, it is assailed, and sneered at, and construed, and hawked at, and torn, till, if its framers could rise from their graves, they could not at all recognize it. All the powers of earth seem rapidly combining against him. Mammon is after him; ambition follows, and philosophy follows, and the Theology of the day is fast joining the cry. They have him in his prison house; they have searched his person, and left no prying instrument with him. One after another they have closed the heavy iron doors upon him, and now they have him, as it were, bolted in with a lock of a hundred keys, which can never be unlocked without the concurrence of every key; the keys in the hands of a hundred different men, and they scattered to a hundred different and distant places; and they stand musing as to what invention, in all the dominions of mind and matter, can be produced to make the impossibility of his escape more complete than it is.

It is grossly incorrect to say or assume, that the public estimate of the negro is more favorable now than it was at the origin of the government.

Three years and a half ago, Judge Douglas brought forward his famous Nebraska bill. The country was at once in a blaze. He scorned all opposition, and carried it through Congress. Since then he has seen himself superseded in a Presidential nomination, by one indorsing the general doctrine of his measure, but at the same time standing clear of the odium of its untimely agitation, and its gross breach of national faith; and he has seen that successful rival Constitutionally elected, not by the strength of friends, but by the division of adversaries, being in a popular minority of nearly four hundred thousand votes. He has seen his chief aids in his own State, Shields and Richardson, politically speaking, successively tried, convicted, and executed, for an offense not their own, but his. And now he sees his own case, standing next on the docket for trial.

There is a natural disgust in the minds of nearly all white people, to the idea of an indiscriminate amalgamation of the white and black races; and Judge Douglas evidently is basing his chief hope, upon the chances of being able to appropriate the benefit of this disgust to himself. If he can, by much drumming and repeating, fasten the odium of that idea upon his adversaries, he thinks he can struggle through the storm. He therefore clings to this hope, as a drowning man to the last plank. He makes an occasion for lugging it in from the opposition to the Dred Scott decision. He finds the Republicans insisting that the Declaration of Independence includes ALL men, black as well as white; and forth-with he boldly denies that it includes negroes at all, and proceeds to argue gravely that all who contend it does, do so only because they want to vote, and eat, and sleep, and marry with negroes! He will have it that they cannot be consistent else. Now I protest against that counterfeit logic which concludes that, because I do not want a black woman for a slave I must necessarily want her for a wife. I need not have her for either, I can just leave her alone. In some respects she certainly is not my equal; but in her natural right to eat the bread she earns with her own hands without asking leave of any one else, she is my equal, and the equal of all others.

Chief Justice Taney, in his opinion in the Dred Scott case, admits that the language of the Declaration is broad enough to include the whole human family, but he and Judge Douglas argue that the authors of that instrument did not intend to include negroes, by the fact that they did not at once, actually place them on an equality with the whites. Now this grave argument comes to just nothing at all, by the other fact, that they did not at once, or ever afterwards, actually place all white people on an equality with one or another. And this is the staple argument of both the Chief Justice and the Senator, for doing this obvious violence to the plain unmistakable language of the Declaration. I think the authors of that notable instrument intended to include all men, but they did not intend to declare all men equal in all respects. They did not mean to say all were equal in color, size, intellect, moral developments, or social capacity. They defined with tolerable distinctness, in what respects they did consider all men created equal—equal in "certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This they said, and this meant. They did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere. The assertion that "all men are created equal" was of no practical use in effecting our separation from Great Britain; and it was placed in the Declaration, nor for that, but for future use. Its authors meant it to be, thank God, it is now proving itself, a stumbling block to those who in after times might seek to turn a free people back into the hateful paths of despotism. They knew the proneness of prosperity to breed tyrants, and they meant when such should re-appear in this fair land and commence their vocation they should find left for them at least one hard nut to crack.

I have now briefly expressed my view of the meaning and objects of that part of the Declaration of Independence which declares that "all men are created equal."

Now let us hear Judge Douglas' view of the same subject, as I find it in the printed report of his late speech. Here it is:

"No man can vindicate the character, motives and conduct of the signers of the Declaration of Independence except upon the hypothesis that they referred to the white race alone, and not to the African, when they declared all men to have been created equal—that they were speaking of British subjects on this continent being equal to British subjects born and residing in Great Britain—that they were entitled to the same inalienable rights, and among them were enumerated life, liberty and the pursuit of happiness. The Declaration was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British crown, and dissolving their connection with the mother country."

My good friends, read that carefully over some leisure hour, and ponder well upon it—see what a mere wreck—mangled ruin—it makes of our once glorious Declaration.

"They were speaking of British subjects on this continent being equal to British subjects born and residing in Great Britain!" Why, according to this, not only negroes but white people outside of Great Britain and America are not spoken of in that instrument. The English, Irish and Scotch, along with white Americans,

were included to be sure, but the French, Germans and other white people of the world are all gone to pot along with the Judge's inferior races. I had thought the Declaration promised something better than the condition of British subjects; but no, it only meant that we should be equal to them in their own oppressed and unequal condition. According to that, it gave no promise that having kicked off the King and Lords of Great Britain, we should not at once be saddled with a King and Lords of our own.

I had thought the Declaration contemplated the progressive improvement in the condition of all men everywhere; but no, it merely "was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British crown, and dissolving their connection with the mother country." Why, that object having been effected some eighty years ago, the Declaration is of no practical use now—mere rubbish—old wadding left to rot on the battle-field after the victory is won. I understand you are preparing to celebrate the "Fourth," tomorrow week. What for? The doings of that day had no reference to the present; and quite half of you are not even descendants of those who were referred to at that day. But I suppose you will celebrate; and will even go so far as to read the Declaration. Suppose after you read it once in the old fashioned way, you read it once more with Judge Douglas' version. It will then run thus: "We hold these truths to be self-evident that all British subjects who were on this continent eighty-one years ago, were created equal to all British subjects born and then residing in Great Britain."

And now I appeal to all—to Democrats as well as others,—are you really willing that the Declaration shall be thus frittered away?—thus left no more at most, than an interesting memorial of the dead past? thus shorn of its vitality, and practical value; and left without the germ or even the suggestion of the individual rights of man in it?

But Judge Douglas is especially horrified at the thought of the mixing blood by the white and black races: agreed for once—a thousand times agreed. There are white men enough to marry all the white women, and black men enough to marry all the black women; and so let them be married. On this point we fully agree with the Judge; and when he shall show that his policy is better adapted to prevent amalgamation than ours we shall drop ours, and adopt his. Let us see. In 1850 there were in the United States, 405,751, mulattoes. Very few of these are the offspring of whites and free blacks; nearly all have sprung from black slaves and white masters. A separation of the races is the only perfect preventive of amalgamation but as an immediate separation is impossible the next best thing is to keep them apart where they are not already together. If white and black people never get together in Kansas, they will never mix blood in Kansas. That is at least one self-evident truth. A few free colored persons may get into the free States, in any event; but their number is too insignificant to amount to much in the way of mixing blood. In 1850 there were in the free states, 56,649 mulattoes; but for the most part they were not born there—they came from the slave States, ready made up. In the same year the slave States had 348,874 mulattoes all of home production. The proportion of free mulattoes to free blacks—the only colored classes in the free states—is much greater in the slave than in the free states. It is worthy of note too, that among the free states those which make the colored man the nearest to equal the white, have, proportionably the fewest mulattoes the least of amalgamation. In New Hampshire, the State which goes farthest towards equality between the races, there are just 184 Mulattoes while there are in Virginia—how many do you think? 79,775, being 23,126 more than in all the free States together. These statistics show that slavery is the greatest source of amalgamation; and next to it, not the elevation, but the degeneration of the free blacks. Yet Judge Douglas dreads the slightest restraints on the spread of slavery, and the slightest human recognition of the negro, as tending horribly to amalgamation.

This very Dred Scott case affords a strong test as to which party most favors amalgamation, the Republicans or the dear Union-saving Democracy. Dred Scott, his wife and two daughters were all involved in the suit. We desired the court to have held that they were citizens so far at least as to entitle them to a hearing as to whether they were free or not; and then, also, that they were in fact and in law really free. Could we have had our way, the chances of these black girls, ever mixing their blood with that of white people, would have been diminished at least to the extent that it could not have been without their consent. But Judge Douglas is delighted to have them decided to be slaves, and not human enough to have a hearing, even if they were free, and thus left subject to the forced concubinage of their masters, and liable to become the mothers of mulattoes in spite of themselves—the very state of case that produces nine tenths of all the mulattoes—all the mixing of blood in the nation.

Of course, I state this case as an illustration only, not meaning to say or intimate that the master of Dred Scott and his family, or any more than a percentage of masters generally, are inclined to exercise this particular power which they hold over their female slaves.

I have said that the separation of the races is the only perfect preventive of amalgamation. I have no right to say all the members of the Republican party are in favor of this, nor to say that as a party they are in favor of it. There is nothing in their platform directly on the subject. But I can say a very large proportion of its members are for it, and that the chief plank in their platform—opposition to the spread of slavery—is most favorable to that separation.

Such separation, if ever effected at all, must be effected by colonization; and no political party, as such, is now doing anything directly for colonization. Party operations at present only favor or retard colonization incidentally. The enterprise is a difficult one; but "when there is a will there is a way," and what colonization needs most is a hearty will. Will springs from the two elements of moral sense and self-interest. Let us be brought to believe it is morally right, and, at the same time, favorable to, or, at least, not against, our interest, to transfer the African to his native clime, and we shall find a way to do it, however great the task may be. The children of Israel, to such numbers as to include four hundred thousand fighting men, went out of Egyptian bondage in a body.

How differently the respective courses of the Democratic and Republican parties incidentally bear on the question of forming a will—a public sentiment—for colonization, is easy to see. The Republicans inculcate, with whatever of ability they can, that the negro is a man; that his bondage is cruelly wrong, and that the field of his oppression ought not to be enlarged. The Democrats deny his manhood; deny, or dwarf to insignificance, the wrong of his bondage; so far as possible, crush all sympathy for him, and cultivate and excite hatred and disgust against him; compliment themselves as Union-savers for doing so; and call the indefinite outspreading of his bondage "a sacred right of self-government."

The plainest print cannot be read through a gold eagle; and it will be ever hard to find many men who will send a slave to Liberia, and pay his passage while they can send him to a new country, Kansas for instance, and sell him for fifteen hundred dollars, and the rise.

## House Divided Speech

*Abraham Lincoln*

June 16, 1858

Speech before the Republican State Convention  
Springfield, Illinois

Mr. President, and gentlemen of the convention:

If we could first know where we are, and whither we are tending, we could better judge what to do, and how to do it. We are now far into the fifth year, since a policy was initiated with the avowed object, and confident promise, of putting an end to slavery agitation. Under the operation of that policy, that agitation has not only not ceased, but has constantly augmented. In my opinion, it will not cease, until a crisis shall have been reached and passed. "A house divided against itself cannot stand." I believe this government cannot endure permanently half slave and half free. I do not expect the Union to be dissolved—I do not expect the house to fall—but I do expect it will cease to be divided. It will become all one thing, or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction; or its advocates will push it forward, till it shall become alike lawful in all the States, old as well as new—North as well as South.

Have we no tendency to the latter condition?

Let any one who doubts, carefully contemplate that now almost complete legal combination—piece of machinery, so to speak—compounded of the Nebraska doctrine, and the Dred Scott decision. Let him consider not only what work the machinery is adapted to do, and how well adapted; but also, let him study the history of its construction, and trace, if he can, or rather fail, if he can, to trace the evidences of design, and concert of action, among its chief architects, from the beginning.

The new year of 1854 found slavery excluded from more than half the States by State Constitutions, and from most of the national territory by Congressional prohibition. Four days later, commenced the struggle which ended in repealing that Congressional prohibition. This opened all the national territory to slavery, and was the first point gained.

But, so far, Congress only had acted; and an endorsement by the people, real or apparent, was indispensable, to save the point already gained, and give chance for more.

This necessity had not been overlooked; but had been provided for, as well as might be, in the notable argument of "squatter sovereignty," otherwise called "sacred right of self-government," which latter phrase, though expressive of the only rightful basis of any government, was so perverted in this attempted use of it as to amount to just this: That if any one man choose to enslave another, no third man shall be allowed to object. That argument was incorporated into the Nebraska bill itself, in the language which follows: "It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it there from; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." Then

opened the roar of loose declamation in favor of "Squatter Sovereignty," and "sacred right of self-government." "But," said opposition members, "let us amend the bill so as to expressly declare that the people of the Territory may exclude slavery." "Not we," said the friends of the measure; and down they voted the amendment.

While the Nebraska bill was passing through Congress, a law case involving the question of a Negro's freedom, by reason of his owner having voluntarily taken him first into a free State and then into a Territory covered by the Congressional prohibition, and held him as a slave for a long time in each, was passing through the U. S. Circuit Court for the District of Missouri; and both Nebraska bill and law suit were brought to a decision in the same month of May, 1854. The Negro's name was "Dred Scott," which name now designates the decision finally made in the case. Before the then next Presidential election, the law case came to, and was argued in, the Supreme Court of the United States; but the decision of it was deferred until after the election. Still, before the election, Senator Trumbull, on the floor of the Senate, requested the leading advocate of the Nebraska bill to state his opinion whether the people of a Territory can constitutionally exclude slavery from their limits; and the latter answers: "That is a question for the Supreme Court."

The election came. Mr. Buchanan was elected, and the endorsement, such as it was, secured. That was the second point gained. The endorsement, however, fell short of a clear popular majority by nearly four hundred thousand votes, and so, perhaps, was not overwhelmingly reliable and satisfactory. The outgoing President, in his last annual message, as impressively as possible echoed back upon the people the weight and authority of the endorsement. The Supreme Court met again; did not announce their decision, but ordered a re-argument. The Presidential inauguration came, and still no decision of the court; but the incoming President in his inaugural address, fervently exhorted the people to abide by the forthcoming decision, whatever it might be. Then, in a few days, came the decision.

The reputed author of the Nebraska bill finds an early occasion to make a speech at this capital indorsing the Dred Scott decision, and vehemently denouncing all opposition to it. The new President, too, seizes the early occasion of the Silliman letter to indorse and strongly construe that decision, and to express his astonishment that any different view had ever been entertained!

At length a squabble springs up between the President and the author of the Nebraska bill, on the mere question of fact, whether the Lecompton Constitution was or was not, in any just sense, made by the people of Kansas; and in that quarrel the latter declares that all he wants is a fair vote for the people, and that he cares not whether slavery be voted down or voted up. I do not understand his declaration that he cares not whether slavery be voted down or voted up, to be intended by him other than as an apt definition of the policy he would impress upon the public mind—the principle for which he declares he has suffered so much, and is ready to suffer to the end. And well may he cling to that principle. If he has any parental feeling, well may he cling to it. That principle is the only shred left of his original Nebraska doctrine. Under the Dred Scott decision "squatter sovereignty" squatted out of existence, tumbled down like temporary scaffolding—like the mould at the foundry served through one blast and fell back into loose sand—helped to carry an election, and then was kicked to the winds. His late joint struggle with the Republicans, against the Lecompton Constitution, involves nothing of the original Nebraska doctrine. That struggle was made on a point—the right of a people to make their own constitution—upon which he and the Republicans have never differed.

The several points of the Dred Scott decision, in connection with Senator Douglas's "care not" policy, constitute the piece of machinery, in its present state of advancement. This was the third point gained. The working points of that machinery are:

First, That no negro slave, imported as such from Africa, and no descendant of such slave, can ever be a citizen of any State, in the sense of that term as used in the Constitution of the United States. This point is made in order to deprive the negro, in every possible event, of the benefit of that provision of the United States Constitution, which declares that "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Secondly, That "subject to the Constitution of the United States," neither Congress nor a Territorial Legislature can exclude slavery from any United States territory. This point is made in order that individual men may fill up the Territories with slaves, without danger of losing them as property, and thus to enhance the chances of permanency to the institution through all the future.

Thirdly, That whether the holding a Negro in actual slavery in a free State, makes him free, as against the holder, the United States courts will not decide, but will leave to be decided by the courts of any slave State the Negro may be forced into by the master. This point is made, not to be pressed immediately; but, if acquiesced in for awhile, and apparently indorsed by the people at an election, then to sustain the logical conclusion that what Dred Scott's master might lawfully do with Dred Scott, in the free State of Illinois, every other master may lawfully do with any other one, or one thousand slaves, in Illinois, or in any other free State.

Auxiliary to all this, and working hand in hand with it, the Nebraska doctrine, or what is left of it, is to educate and mould public opinion, at least Northern public opinion, not to care whether slavery is voted down or voted up. This shows exactly where we now are; and partially, also, whither we are tending. It will throw additional light on the latter, to go back, and run the mind over the string of historical facts already stated. Several things will now appear less dark and mysterious than they did when they were transpiring. The people were to be left "perfectly free," "subject only to the Constitution." What the Constitution had to do with it, outsiders could not then see. Plainly enough now, it was an exactly fitted niche, for the Dred Scott decision to afterward come in, and declare the perfect freedom of the people to be just no freedom at all. Why was the amendment, expressly declaring the right of the people, voted down? Plainly enough now: the adoption of it would have spoiled the niche for the Dred Scott decision. Why was the court decision held up? Why even a Senator's individual opinion withheld, till after the Presidential election? Plainly enough now: the speaking out then would have damaged the perfectly free argument upon which the election was to be carried. Why the outgoing President's felicitation on the indorsement? Why the delay of a reargument? Why the incoming President's advance exhortation in favor of the decision? These things look like the cautious patting and petting of a spirited horse, preparatory to mounting him, when it is dreaded that he may give the rider a fall. And why the hasty after indorsement of the decision by the President and others?

We cannot absolutely know that all these exact adaptations are the result of preconcert. But when we see a lot of framed timbers, different portions of which we know have been gotten out at different times and places and by different workmen—Stephen, Franklin, Roger and James, for instance—and when we see these timbers joined together, and see they exactly make the frame of a house or a mill, all the tendons and mortises exactly fitting, and all the lengths and proportions of the different pieces exactly adapted to their



respective places, and not a piece too many or too few—not omitting even scaffolding—or, if a single piece be lacking, we see the place in the frame exactly fitted and prepared yet to bring such a piece in—in such a case, we find it impossible not to believe that Stephen and Franklin and Roger and James all understood one another from the beginning, and all worked upon a common plan or draft drawn up before the first blow was struck.

It should not be overlooked that, by the Nebraska bill, the people of a State as well as Territory, were to be left "perfectly free," "subject only to the Constitution." Why mention a State? They were legislating for Territories, and not for or about States. Certainly the people of a State are and ought to be subject to the Constitution of the United States; but why is mention of this lugged into this merely Territorial law? Why are the people of a Territory and the people of a State therein lumped together, and their relation to the Constitution therein treated as being precisely the same?

While the opinion of the court, by Chief Justice Taney, in the Dred Scott case, and the separate opinions of all the concurring Judges, expressly declare that the Constitution of the United States neither permits Congress nor a Territorial Legislature to exclude slavery from any United States Territory, they all omit to declare whether or not the same Constitution permits a State, or the people of a State, to exclude it. Possibly, this is a mere omission; but who can be quite sure, if McLean or Curtis had sought to get into the opinion a declaration of unlimited power in the people of a State to exclude slavery from their limits, just as Chase and Mace sought to get such declaration, in behalf of the people of a Territory, into the Nebraska bill;—I ask, who can be quite sure that it would not have been voted down in the one case as it had been in the other? The nearest approach to the point of declaring the power of a State over slavery, is made by Judge Nelson. He approaches it more than once, using the precise idea, and almost the language, too, of the Nebraska act. On one occasion, his exact language is, "except in cases where the power is restrained by the Constitution of the United States, the law of the State is supreme over the subject of slavery within its jurisdiction."

In what cases the power of the States is so restrained by the United States Constitution, is left an open question, precisely as the same question, as to the restraint on the power of the Territories, was left open in the Nebraska act. Put this and that together, and we have another nice little niche, which we may, ere long, see filled with another Supreme Court decision, declaring that the Constitution of the United States does not permit a State to exclude slavery from its limits. And this may especially be expected if the doctrine of "care not whether slavery be voted down or voted up," shall gain upon the public mind sufficiently to give promise that such a decision can be maintained when made.

Such a decision is all that slavery now lacks of being alike lawful in all the States. Welcome, or unwelcome, such decision is probably coming, and will soon be upon us, unless the power of the present political dynasty shall be met and overthrown. We shall lie down pleasantly dreaming that the people of Missouri are on the verge of making their State free, and we shall awake to the reality instead, that the Supreme Court has made Illinois a slave State. To meet and overthrow the power of that dynasty, is the work now before all those who would prevent that consummation. That is what we have to do. How can we best do it?

There are those who denounce us openly to their own friends, and yet whisper us softly, that Senator Douglas is the aptest instrument there is with which to effect that object. They do not tell us, nor has he told us, that he wishes any such object to be effected. They wish us to infer all, from the fact that he now

has a little quarrel with the present head of the dynasty; and that he has regularly voted with us on a single point, upon which he and we have never differed.

They remind us that he is a great man, and that the largest of us are very small ones. Let this be granted. But "a living dog is better than a dead lion." Judge Douglas, if not a dead lion, for this work, is at least a caged and toothless one. How can he oppose the advances of slavery? He don't care anything about it. His avowed mission is impressing the "public heart" to care nothing about it.

A leading Douglas democratic newspaper thinks Douglas's superior talent will be needed to resist the revival of the African slave trade. Does Douglas believe an effort to revive that trade is approaching? He has not said so. Does he really think so? But if it is, how can he resist it? For years he has labored to prove it a sacred right of white men to take negro slaves into the new Territories. Can he possibly show that it is less a sacred right to buy them where they can be bought cheapest? And unquestionably they can be bought cheaper in Africa than in Virginia. He has done all in his power to reduce the whole question of slavery to one of a mere right of property; and as such, how can he oppose the foreign slave trade—how can he refuse that trade in that "property" shall be "perfectly free"—unless he does it as a protection to the home production? And as the home producers will probably not ask the protection, he will be wholly without a ground of opposition.

Senator Douglas holds, we know, that a man may rightfully be wiser to—day than he was yesterday—that he may rightfully change when he finds himself wrong. But can we, for that reason, run ahead, and infer that he will make any particular change, of which he, himself, has given no intimation? Can we safely base our action upon any such vague inference? Now, as ever, I wish not to misrepresent Judge Douglas's position, question his motives, or do aught that can be personally offensive to him. Whenever, if ever, he and we can come together on principle so that our cause may have assistance from his great ability, I hope to have interposed no adventitious obstacle. But clearly, he is not now with us—he does not pretend to be—he does not promise ever to be.

Our cause, then, must be entrusted to, and conducted by, its own undoubted friends—those whose hands are free, whose hearts are in the work—who do care for the result. Two years ago the Republicans of the nation mustered over thirteen hundred thousand strong. We did this under the single impulse of resistance to a common danger, with every external circumstance against us. Of strange, discordant, and even hostile elements, we gathered from the four winds, and formed and fought the battle through, under the constant hot fire of a disciplined, proud and pampered enemy. Did we brave all then, to falter now?—now, when that same enemy is wavering, dissevered and belligerent? The result is not doubtful. We shall not fail—if we stand firm, we shall not fail. Wise counsels may accelerate, or mistakes delay it, but, sooner or later, the victory is sure to come.

## Cornerstone Speech

*Alexander H. Stephens*

March 21, 1861

Savannah, Georgia

When perfect quiet is restored, I shall proceed. I cannot speak so long as there is any noise or confusion. I shall take my time I feel quite prepared to spend the night with you if necessary. I very much regret that everyone who desires cannot hear what I have to say. Not that I have any display to make, or anything very entertaining to present, but such views as I have to give, I wish all, not only in this city, but in this State, and throughout our Confederate Republic, could hear, who have a desire to hear them.

I was remarking that we are passing through one of the greatest revolutions in the annals of the world. Seven States have within the last three months thrown off an old government and formed a new. This revolution has been signally marked, up to this time, by the fact of its having been accomplished without the loss of a single drop of blood.

This new constitution, or form of government, constitutes the subject to which your attention will be partly invited. In reference to it, I make this first general remark: it amply secures all our ancient rights, franchises, and liberties. All the great principles of Magna Charta are retained in it. No citizen is deprived of life, liberty, or property, but by the judgment of his peers under the laws of the land. The great principle of religious liberty, which was the honor and pride of the old constitution, is still maintained and secured. All the essentials of the old constitution, which have endeared it to the hearts of the American people, have been preserved and perpetuated. Some changes have been made. Some of these I should have preferred not to have seen made; but other important changes do meet my cordial approbation. They form great improvements upon the old constitution. So, taking the whole new constitution, I have no hesitancy in giving it as my judgment that it is decidedly better than the old.

Allow me briefly to allude to some of these improvements. The question of building up class interests, or fostering one branch of industry to the prejudice of another under the exercise of the revenue power, which gave us so much trouble under the old constitution, is put at rest forever under the new. We allow the imposition of no duty with a view of giving advantage to one class of persons, in any trade or business, over those of another. All, under our system, stand upon the same broad principles of perfect equality. Honest labor and enterprise are left free and unrestricted in whatever pursuit they may be engaged. This old thorn of the tariff, which was the cause of so much irritation in the old body politic, is removed forever from the new.

Again, the subject of internal improvements, under the power of Congress to regulate commerce, is put at rest under our system. The power, claimed by construction under the old constitution, was at least a doubtful one; it rested solely upon construction. We of the South, generally apart from considerations of constitutional principles, opposed its exercise upon grounds of its inexpediency and injustice. Notwithstanding this opposition, millions of money, from the common treasury had been drawn for such purposes. Our opposition sprang from no hostility to commerce, or to all necessary aids for facilitating it. With us it was simply a question upon whom the burden should fall. In Georgia, for instance, we have done as much for the cause of internal improvements as any other portion of the country, according to population and means. We have stretched out lines of railroads from the seaboard to the mountains; dug

down the hills, and filled up the valleys at a cost of not less than \$25,000,000. All this was done to open an outlet for our products of the interior, and those to the west of us, to reach the marts of the world. No State was in greater need of such facilities than Georgia, but we did not ask that these works should be made by appropriations out of the common treasury. The cost of the grading, the superstructure, and the equipment of our roads was borne by those who had entered into the enterprise. Nay, more not only the cost of the iron no small item in the aggregate cost was borne in the same way, but we were compelled to pay into the common treasury several millions of dollars for the privilege of importing the iron, after the price was paid for it abroad. What justice was there in taking this money, which our people paid into the common treasury on the importation of our iron, and applying it to the improvement of rivers and harbors elsewhere? The true principle is to subject the commerce of every locality, to whatever burdens may be necessary to facilitate it. If Charleston harbor needs improvement, let the commerce of Charleston bear the burden. If the mouth of the Savannah river has to be cleared out, let the sea-going navigation which is benefited by it, bear the burden. So with the mouths of the Alabama and Mississippi river. Just as the products of the interior, our cotton, wheat, corn, and other articles, have to bear the necessary rates of freight over our railroads to reach the seas. This is again the broad principle of perfect equality and justice, and it is especially set forth and established in our new constitution.

Another feature to which I will allude is that the new constitution provides that cabinet ministers and heads of departments may have the privilege of seats upon the floor of the Senate and House of Representatives and may have the right to participate in the debates and discussions upon the various subjects of administration. I should have preferred that this provision should have gone further, and required the President to select his constitutional advisers from the Senate and House of Representatives. That would have conformed entirely to the practice in the British Parliament, which, in my judgment, is one of the wisest provisions in the British constitution. It is the only feature that saves that government. It is that which gives it stability in its facility to change its administration. Ours, as it is, is a great approximation to the right principle.

Under the old constitution, a secretary of the treasury for instance, had no opportunity, save by his annual reports, of presenting any scheme or plan of finance or other matter. He had no opportunity of explaining, expounding, enforcing, or defending his views of policy; his only resort was through the medium of an organ. In the British parliament, the premier brings in his budget and stands before the nation responsible for its every item. If it is indefensible, he falls before the attacks upon it, as he ought to. This will now be the case to a limited extent under our system. In the new constitution, provision has been made by which our heads of departments can speak for themselves and the administration, in behalf of its entire policy, without resorting to the indirect and highly objectionable medium of a newspaper. It is to be greatly hoped that under our system we shall never have what is known as a government organ.

Another change in the constitution relates to the length of the tenure of the presidential office. In the new constitution it is six years instead of four, and the President rendered ineligible for a re-election. This is certainly a decidedly conservative change. It will remove from the incumbent all temptation to use his office or exert the powers confided to him for any objects of personal ambition. The only incentive to that higher ambition which should move and actuate one holding such high trusts in his hands, will be the good of the people, the advancement, prosperity, happiness, safety, honor, and true glory of the confederacy.

But not to be tedious in enumerating the numerous changes for the better, allow me to allude to one other though last, not least. The new constitution has put at rest, forever, all the agitating questions relating to our peculiar institution African slavery as it exists amongst us the proper status of the negro in our form of civilization. This was the immediate cause of the late rupture and present revolution. Jefferson in his forecast, had anticipated this, as the "rock upon which the old Union would split." He was right. What was conjecture with him, is now a realized fact. But whether he fully comprehended the great truth upon which that rock stood and stands, may be doubted. The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old constitution, were that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically. It was an evil they knew not well how to deal with, but the general opinion of the men of that day was that, somehow or other in the order of Providence, the institution would be evanescent and pass away. This idea, though not incorporated in the constitution, was the prevailing idea at that time. The constitution, it is true, secured every essential guarantee to the institution while it should last, and hence no argument can be justly urged against the constitutional guarantees thus secured, because of the common sentiment of the day. Those ideas, however, were fundamentally wrong. They rested upon the assumption of the equality of races. This was an error. It was a sandy foundation, and the government built upon it fell when the "storm came and the wind blew."

Our new government is founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests, upon the great truth that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition. This, our new government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth. This truth has been slow in the process of its development, like all other truths in the various departments of science. It has been so even amongst us. Many who hear me, perhaps, can recollect well, that this truth was not generally admitted, even within their day. The errors of the past generation still clung to many as late as twenty years ago. Those at the North, who still cling to these errors, with a zeal above knowledge, we justly denominate fanatics. All fanaticism springs from an aberration of the mind from a defect in reasoning. It is a species of insanity. One of the most striking characteristics of insanity, in many instances, is forming correct conclusions from fancied or erroneous premises; so with the anti-slavery fanatics. Their conclusions are right if their premises were. They assume that the negro is equal, and hence conclude that he is entitled to equal privileges and rights with the white man. If their premises were correct, their conclusions would be logical and just but their premise being wrong, their whole argument fails. I recollect once of having heard a gentleman from one of the northern States, of great power and ability, announce in the House of Representatives, with imposing effect, that we of the South would be compelled, ultimately, to yield upon this subject of slavery, that it was as impossible to war successfully against a principle in politics, as it was in physics or mechanics. That the principle would ultimately prevail. That we, in maintaining slavery as it exists with us, were warring against a principle, a principle founded in nature, the principle of the equality of men. The reply I made to him was, that upon his own grounds, we should, ultimately, succeed, and that he and his associates, in this crusade against our institutions, would ultimately fail. The truth announced, that it was as impossible to war successfully against a principle in politics as it was in physics and mechanics, I admitted; but told him that it was he, and those acting with him, who were warring against a principle. They were attempting to make things equal which the Creator had made unequal.

In the conflict thus far, success has been on our side, complete throughout the length and breadth of the Confederate States. It is upon this, as I have stated, our social fabric is firmly planted; and I cannot permit

myself to doubt the ultimate success of a full recognition of this principle throughout the civilized and enlightened world.

As I have stated, the truth of this principle may be slow in development, as all truths are and ever have been, in the various branches of science. It was so with the principles announced by Galileo it was so with Adam Smith and his principles of political economy. It was so with Harvey, and his theory of the circulation of the blood. It is stated that not a single one of the medical profession, living at the time of the announcement of the truths made by him, admitted them. Now, they are universally acknowledged. May we not, therefore, look with confidence to the ultimate universal acknowledgment of the truths upon which our system rests? It is the first government ever instituted upon the principles in strict conformity to nature, and the ordination of Providence, in furnishing the materials of human society. Many governments have been founded upon the principle of the subordination and serfdom of certain classes of the same race; such were and are in violation of the laws of nature. Our system commits no such violation of nature's laws. With us, all of the white race, however high or low, rich or poor, are equal in the eye of the law. Not so with the negro. Subordination is his place. He, by nature, or by the curse against Canaan, is fitted for that condition which he occupies in our system. The architect, in the construction of buildings, lays the foundation with the proper material-the granite; then comes the brick or the marble. The substratum of our society is made of the material fitted by nature for it, and by experience we know that it is best, not only for the superior, but for the inferior race, that it should be so. It is, indeed, in conformity with the ordinance of the Creator. It is not for us to inquire into the wisdom of His ordinances, or to question them. For His own purposes, He has made one race to differ from another, as He has made "one star to differ from another star in glory." The great objects of humanity are best attained when there is conformity to His laws and decrees, in the formation of governments as well as in all things else. Our confederacy is founded upon principles in strict conformity with these laws. This stone which was rejected by the first builders "is become the chief of the corner" the real "corner-stone" in our new edifice. I have been asked, what of the future? It has been apprehended by some that we would have arrayed against us the civilized world. I care not who or how many they may be against us, when we stand upon the eternal principles of truth, if we are true to ourselves and the principles for which we contend, we are obliged to, and must triumph.

Thousands of people who begin to understand these truths are not yet completely out of the shell; they do not see them in their length and breadth. We hear much of the civilization and Christianization of the barbarous tribes of Africa. In my judgment, those ends will never be attained, but by first teaching them the lesson taught to Adam, that "in the sweat of his brow he should eat his bread," and teaching them to work, and feed, and clothe themselves.

But to pass on: Some have propounded the inquiry whether it is practicable for us to go on with the confederacy without further accessions? Have we the means and ability to maintain nationality among the powers of the earth? On this point I would barely say, that as anxiously as we all have been, and are, for the border States, with institutions similar to ours, to join us, still we are abundantly able to maintain our position, even if they should ultimately make up their minds not to cast their destiny with us. That they ultimately will join us be compelled to do it is my confident belief; but we can get on very well without them, even if they should not.

We have all the essential elements of a high national career. The idea has been given out at the North, and even in the border States, that we are too small and too weak to maintain a separate nationality. This is a

great mistake. In extent of territory we embrace five hundred and sixty-four thousand square miles and upward. This is upward of two hundred thousand square miles more than was included within the limits of the original thirteen States. It is an area of country more than double the territory of France or the Austrian empire. France, in round numbers, has but two hundred and twelve thousand square miles. Austria, in round numbers, has two hundred and forty-eight thousand square miles. Ours is greater than both combined. It is greater than all France, Spain, Portugal, and Great Britain, including England, Ireland, and Scotland, together. In population we have upward of five millions, according to the census of 1860; this includes white and black. The entire population, including white and black, of the original thirteen States, was less than four millions in 1790, and still less in 76, when the independence of our fathers was achieved. If they, with a less population, dared maintain their independence against the greatest power on earth, shall we have any apprehension of maintaining ours now?

In point of material wealth and resources, we are greatly in advance of them. The taxable property of the Confederate States cannot be less than twenty-two hundred millions of dollars! This, I think I venture but little in saying, may be considered as five times more than the colonies possessed at the time they achieved their independence. Georgia, alone, possessed last year, according to the report of our comptroller-general, six hundred and seventy-two millions of taxable property. The debts of the seven confederate States sum up in the aggregate less than eighteen millions, while the existing debts of the other of the late United States sum up in the aggregate the enormous amount of one hundred and seventy-four millions of dollars. This is without taking into account the heavy city debts, corporation debts, and railroad debts, which press, and will continue to press, as a heavy incubus upon the resources of those States. These debts, added to others, make a sum total not much under five hundred millions of dollars. With such an area of territory as we have-with such an amount of population-with a climate and soil unsurpassed by any on the face of the earth-with such resources already at our command-with productions which control the commerce of the world-who can entertain any apprehensions as to our ability to succeed, whether others join us or not?

It is true, I believe I state but the common sentiment, when I declare my earnest desire that the border States should join us. The differences of opinion that existed among us anterior to secession, related more to the policy in securing that result by co-operation than from any difference upon the ultimate security we all looked to in common.

These differences of opinion were more in reference to policy than principle, and as Mr. Jefferson said in his inaugural, in 1801, after the heated contest preceding his election, that there might be differences of opinion without differences on principle, and that all, to some extent, had been Federalists and all Republicans; so it may now be said of us, that whatever differences of opinion as to the best policy in having a co-operation with our border sister slave States, if the worst came to the worst, that as we were all co-operationists, we are now all for independence, whether they come or not.

In this connection I take this occasion to state, that I was not without grave and serious apprehensions, that if the worst came to the worst, and cutting loose from the old government should be the only remedy for our safety and security, it would be attended with much more serious ills than it has been as yet. Thus far we have seen none of those incidents which usually attend revolutions. No such material as such convulsions usually throw up has been seen. Wisdom, prudence, and patriotism, have marked every step of our progress thus far. This augurs well for the future, and it is a matter of sincere gratification to me, that I am enabled to make the declaration. Of the men I met in the Congress at Montgomery, I may be

pardoned for saying this, an abler, wiser, a more conservative, deliberate, determined, resolute, and patriotic body of men, I never met in my life. Their works speak for them; the provisional government speaks for them; the constitution of the permanent government will be a lasting monument of their worth, merit, and statesmanship.

But to return to the question of the future. What is to be the result of this revolution?

Will every thing, commenced so well, continue as it has begun? In reply to this anxious inquiry, I can only say it all depends upon ourselves. A young man starting out in life on his majority, with health, talent, and ability, under a favoring Providence, may be said to be the architect of his own fortunes. His destinies are in his own hands. He may make for himself a name, of honor or dishonor, according to his own acts. If he plants himself upon truth, integrity, honor and uprightness, with industry, patience and energy, he cannot fail of success. So it is with us. We are a young republic, just entering upon the arena of nations; we will be the architects of our own fortunes. Our destiny, under Providence, is in our own hands. With wisdom, prudence, and statesmanship on the part of our public men, and intelligence, virtue and patriotism on the part of the people, success, to the full measures of our most sanguine hopes, may be looked for. But if unwise counsels prevail if we become divided if schisms arise if dissensions spring up if factions are engendered if party spirit, nourished by unholy personal ambition shall rear its hydra head, I have no good to prophesy for you. Without intelligence, virtue, integrity, and patriotism on the part of the people, no republic or representative government can be durable or stable.

We have intelligence, and virtue, and patriotism. All that is required is to cultivate and perpetuate these. Intelligence will not do without virtue. France was a nation of philosophers. These philosophers become Jacobins. They lacked that virtue, that devotion to moral principle, and that patriotism which is essential to good government Organized upon principles of perfect justice and right-seeking amity and friendship with all other powers-I see no obstacle in the way of our upward and onward progress. Our growth, by accessions from other States, will depend greatly upon whether we present to the world, as I trust we shall, a better government than that to which neighboring States belong. If we do this, North Carolina, Tennessee, and Arkansas cannot hesitate long; neither can Virginia, Kentucky, and Missouri. They will necessarily gravitate to us by an imperious law. We made ample provision in our constitution for the admission of other States; it is more guarded, and wisely so, I think, than the old constitution on the same subject, but not too guarded to receive them as fast as it may be proper. Looking to the distant future, and, perhaps, not very far distant either, it is not beyond the range of possibility, and even probability, that all the great States of the north-west will gravitate this way, as well as Tennessee, Kentucky, Missouri, Arkansas, etc. Should they do so, our doors are wide enough to receive them, but not until they are ready to assimilate with us in principle.

The process of disintegration in the old Union may be expected to go on with almost absolute certainty if we pursue the right course. We are now the nucleus of a growing power which, if we are true to ourselves, our destiny, and high mission, will become the controlling power on this continent. To what extent accessions will go on in the process of time, or where it will end, the future will determine. So far as it concerns States of the old Union, this process will be upon no such principles of reconstruction as now spoken of, but upon reorganization and new assimilation. Such are some of the glimpses of the future as I catch them.



But at first we must necessarily meet with the inconveniences and difficulties and embarrassments incident to all changes of government. These will be felt in our postal affairs and changes in the channel of trade. These inconveniences, it is to be hoped, will be but temporary, and must be borne with patience and forbearance.

As to whether we shall have war with our late confederates, or whether all matters of differences between us shall be amicably settled, I can only say that the prospect for a peaceful adjustment is better, so far as I am informed, than it has been. The prospect of war is, at least, not so threatening as it has been. The idea of coercion, shadowed forth in President Lincoln's inaugural, seems not to be followed up thus far so vigorously as was expected. Fort Sumter, it is believed, will soon be evacuated. What course will be pursued toward Fort Pickens, and the other forts on the gulf, is not so well understood. It is to be greatly desired that all of them should be surrendered. Our object is peace, not only with the North, but with the world. All matters relating to the public property, public liabilities of the Union when we were members of it, we are ready and willing to adjust and settle upon the principles of right, equity, and good faith. War can be of no more benefit to the North than to us. Whether the intention of evacuating Fort Sumter is to be received as an evidence of a desire for a peaceful solution of our difficulties with the United States, or the result of necessity, I will not undertake to say. I would feign hope the former. Rumors are afloat, however, that it is the result of necessity. All I can say to you, therefore, on that point is, keep your armor bright and your powder dry.

The surest way to secure peace, is to show your ability to maintain your rights. The principles and position of the present administration of the United States the republican party present some puzzling questions. While it is a fixed principle with them never to allow the increase of a foot of slave territory, they seem to be equally determined not to part with an inch "of the accursed soil." Notwithstanding their clamor against the institution, they seemed to be equally opposed to getting more, or letting go what they have got. They were ready to fight on the accession of Texas, and are equally ready to fight now on her secession. Why is this? How can this strange paradox be accounted for? There seems to be but one rational solution and that is, notwithstanding their professions of humanity, they are disinclined to give up the benefits they derive from slave labor. Their philanthropy yields to their interest. The idea of enforcing the laws, has but one object, and that is a collection of the taxes, raised by slave labor to swell the fund necessary to meet their heavy appropriations. The spoils is what they are after though they come from the labor of the slave

That as the admission of States by Congress under the constitution was an act of legislation, and in the nature of a contract or compact between the States admitted and the others admitting, why should not this contract or compact be regarded as of like character with all other civil contracts liable to be rescinded by mutual agreement of both parties? The seceding States have rescinded it on their part, they have resumed their sovereignty. Why cannot the whole question be settled, if the north desire peace, simply by the Congress, in both branches, with the concurrence of the President, giving their consent to the separation, and a recognition of our independence?

Source: Henry Cleveland, *Alexander H. Stephens, in Public and Private: With Letters and Speeches, Before, During, and Since the War* (Philadelphia, 1886), pp. 717-729.

**Session: IV: “The Progressives’ Constitution”**

Dr. Ronald Pestritto

## The American Conception of Liberty\*

Frank Johnson Goodnow

Frank Johnson Goodnow (1859–1939) was the first president of the American Political Science Association. A student of John Burgess, he taught at Columbia University prior to his term as president of Johns Hopkins University. Most of Goodnow's work came in the field of administrative law, where he pioneered (along with Woodrow Wilson) a science of administration separated from the limits of constitutional government. His most comprehensive work in this regard was *Politics and Administration* (1900). In the following lecture, given at Brown University in 1916, Goodnow promotes this separation of politics and administration by way of critiquing the natural-rights theory of the Declaration of Independence and its influence on the practice of American government.

The end of the eighteenth century was marked by the formulation and general acceptance by thinking men in Europe of a political philosophy which laid great emphasis on individual private rights. Man was by this philosophy conceived of as endowed at the time of his birth with certain inalienable rights. Thus, Rousseau in his "Social Contract" treated man as primarily an individual and only secondarily as a member of human society. Society itself was regarded as based upon a contract made between the individuals by whose union it was formed. At the time of making this contract these individuals were deemed to have reserved certain rights spoken of as "natural"

\* Editors' Note: Frank Johnson Goodnow, *The American Conception of Liberty and Government*, Brown University: The Colver Lectures (Providence, R.I.: Standard printing company, 1916), 9–21, 29–31. Excerpt.

rights. These rights could neither be taken away nor be limited without the consent of the individual affected.

Such a theory, of course, had no historical justification. There was no record of the making of any such contract as was postulated. It was impossible to assert, as a matter of fact even, that man existed first as an individual and that later he became, as the result of any act of volition on his part, a member of human society. But at a time when truth was sought usually through speculation rather than observation, the absence of proof of the facts which lay at the basis of the theory did not seriously trouble those by whom it was formulated or accepted.

While there was no justification in fact for this social contract theory and this doctrine of natural rights, their acceptance by thinking men did nevertheless have an important influence upon the development of thought and in that way upon the actual conditions of human life. For these theories were not only a philosophical explanation of the organization of society; they were at the same time the result of the then existing social conditions, and like most such theories were also an attempt to justify a course of conduct which was believed to be expedient.

At the end of the eighteenth century a great change was beginning in Western Europe. The enlargement of the field of commercial transactions, due to the discovery and colonization of America and to the contact of Europe with Asia, particularly with India, had opened new spheres of activity to those minded for adventure. The invention of the steam engine and its application to manufacturing were rapidly changing industrial conditions. The factory system was in process of establishment and had already begun to displace domestic industry.

The new possibilities of reward for individual endeavor made men impatient of the restrictions on private initiative incident to an industrial and commercial system which was fast passing away. They therefore welcomed with eagerness a political philosophy which, owing to the emphasis it placed upon private rights, would if acted upon have the effect of freeing them from what they regarded as hampering limitations on individual initiative.

This political philosophy was incorporated into the celebrated Declaration of the Rights of Man and of the Citizen promulgated in France on the eve of the Revolution. A perusal of this remarkable document reveals the fact, however, that the reformers of France had not altogether emancipated themselves from the influences of their historical development. For almost every clause of the Declaration refers to rights under the law rather than to rights which were natural to and inherent in man.

The subsequent development in Europe of this private rights philosophy is along the lines thus marked out by the Declaration. The rights which men

have been recognized as possessing have not been considered to be inherent rights, attaching to man at the time of his birth, so much as rights which find their origin in the law as adopted by that organ of government regarded as representative of the society of which the individual man is a member.

In a word, man is regarded now throughout Europe, contrary to the view expressed by Rousseau, as primarily a member of society and secondarily as an individual. The rights which he possesses are, it is believed, conferred upon him, not by his Creator, but rather by the society to which he belongs. What they are is to be determined by the legislative authority in view of the needs of that society. Social expediency, rather than natural right, is thus to determine the sphere of individual freedom of action.

The development of this private rights philosophy has been, however, somewhat different in the United States. The philosophy of Rousseau was accepted in this country probably with even greater enthusiasm than was the case in Europe. The social and economic conditions of the Western World were, in the first place, more favorable than in Europe for its acceptance. There was at the time no well-developed social organization in this country. America was the land of the pioneer, who had to rely for most of his success upon his strong right arm. Such communities as did exist were loosely organized and separated one from another. Roads worthy of the name hardly existed and communication was possible only by rivers which were imperfectly navigable or over a sea which, when account is taken of the vessels then in use, was tempestuous in character.

Furthermore, the religious and moral influences in this country, which owed much to the Protestant Reformation, all favored the development of an extreme individualism. They emphasized personal responsibility and the salvation of the individual soul. It was the fate of the individual rather than that of the social group which appealed to the preacher or aroused the anxiety of the theologian. It was individual rather than social morality which was emphasized by the ethical teacher and received attention in moral codes. Everything, in a word, favored the acceptance of the theory of individual natural rights.

The result was the adoption in this country of a doctrine of unadulterated individualism. Every one had rights. Social duties were hardly recognized, or if recognized little emphasis was laid upon them. It was apparently thought that every one was able and willing to protect his rights, and that as a result of the struggle between men for their rights and of the compromise of what appeared to be conflicting rights would arise an effective social organization.

The rights with which it was believed that man was endowed by his Creator were, as was the case in France, set forth in bills of rights which formed an important part of American constitutions. The form in which they were

stated in American bills of rights was subject to fewer qualifications than was the case in France. Their origin was found in nature rather than in the law. The development of these rights, further, has been quite different from the European development which has been noted. American courts, early in the history of the country, claimed and secured the general recognition of a power to declare unconstitutional and therefore void acts of legislation which, in their opinion, were not in conformity with these bills of rights. In their determination of these questions, American courts appear to have been largely influenced by the private rights conception of the prevalent political philosophy. The result has been that the private individual rights of American citizens have come to be formulated and defined, not by representative legislative bodies, as is now the rule in Europe, but by courts which have in the past been much under the influence of the political philosophy of the eighteenth century.

In thus adopting the Continental political philosophy of the eighteenth century, American judges modified greatly the conception of individual liberty which was the basis of English political practice. The most important modifications were two in number:—

In the first place, the rights of men, of which their liberty consisted, were, as natural rights, regarded in a measure—and in no small measure—as independent of the law. This modification of the original English idea was an almost necessary result of the fact that these rights were set forth in written constitutions, which were placed under the protection of courts. The written constitution was considered to be the act of the sovereign people. It therefore was superior to any mere laws which might be passed by the representatives of the people in the lawmaking bodies. These bodies being simply delegates of the people were not authorized to do anything not within the powers granted to them. If a written constitution provided that a man had a certain right, it was evident that the legislature could not take it away from him. When the courts assumed in the United States the power to declare unconstitutional acts of the legislature, they did so because their duty was to apply the law as they found it. They might not, therefore, apply as law an act of the legislature which in their opinion was in conflict with the Constitution, since, being in conflict with the Constitution, the highest law of all, such an act could not be law.

In this way natural rights came to have an existence apart from the law, or, at any rate, apart from the law as it had up to that time been understood.

The importance which was attributed by the Americans of those days to this idea of natural rather than legal rights will be appreciated when we recall that the Constitution of the United States, which in its original form contained few if any provisions relative to these natural rights, was ultimately adopted

only on condition that they should be enumerated in a bill of rights to be appended to the Constitution. This was subsequently done in Amendments I to IX. The Ninth Amendment to the United States Constitution in particular is a characteristic expression of the feeling of the time that these natural rights existed independently of all law. It reads: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

In the second place, our American courts emphasized substantive rights rather than the right to particular methods of procedure. Most of the historic rights of Englishmen had been rights to particular methods of action. Thus, the right to a special kind of trial for crime—that is, the right to trial by jury—was regarded as one of the most sacred rights of an Englishman.

The English insistence on particular methods of procedure was due to the belief that these methods had shown themselves, as the result of a long experience, to be valuable aids in securing the end desired. This end was freedom from arbitrary autocratic action on the part of those to whom political power had been entrusted. It was the rule of law—that is, the rule of a principle of general application as opposed to the rule of a person arbitrary and capricious—which the Englishman sought. It was to secure his rights through this rule of law that he originated the form of government which has been called "constitutional." The Englishman, as a matter of fact, never claimed that he had any natural rights; that is, rights to which he was entitled by reason of the fact that he is a man, a human being. He was perfectly satisfied if it was recognized in his political and legal system that no attempt might be made, except in the manner by law provided, to take away what he might think were his rights. This claim being admitted, he felt that in some way or other he would be able to have the law so formulated that he could secure the recognition of all substantive rights which he ought at any particular time to possess. To secure the recognition in the law of these substantive rights he insisted upon the grant to more and more of the people of the land of the power to control legislation. For through the control of legislation was obtained the power to determine what are his rights.

The rights of Englishmen were, therefore, so far as they were defined at all, to be found in acts of legislation and in judicial decisions. One of the earliest and most important of these acts of legislation is what is known as the Great Charter, which was originally forced from a reluctant king in 1215. The most notable clauses of the Great Charter deal not so much with what have been called "substantive" as with procedural rights. Thus, in section 12 the Crown enacts that "no scutage or aid (i.e., no tax) shall be imposed in our kingdom unless by the General Council of our kingdom." Section 14 provides how the General Council shall be composed and called together. Section 39, probably

the most important section of all, provides that "no freeman shall be taken or imprisoned or disseized or outlawed or banished or anyways destroyed, nor will we pass upon him nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land."

It will be noticed that this famous provision of the Great Charter accords hardly any recognition to a substantive right. It is not said that a freeman has any right not to be "taken or imprisoned or disseized or outlawed or banished." Indeed it is clearly implied that such a right does not exist. What the section does say is that these things shall not be done to the freeman except in a specified way, which is, according to law. It is the rule of law which the Great Charter emphasizes. It was to the rule of law then that the Englishmen of the beginning of the thirteenth century were striving to attain.

The power of the American courts to determine in the concrete and in detail,—which after all is the only thing that amounts to much in this life,—the content of private rights was very large because of the fact that these rights were often stated in very general terms in the Constitution. The most marked instance of such vagueness is perhaps to be found in the almost universal provision that no one shall be deprived of life, liberty or property without due process of law. The Constitution does not define property nor liberty nor due process of law. All of these matters have had to be "pricked out," as Mr. Justice Holmes of the United States Supreme Court has said in decisions which are almost too numerous to be counted.

The following are some of the conclusions characteristic of American ideas of private rights which the courts have reached:

The clause providing that private property shall not be taken for public use without just compensation has been interpreted as prohibiting inferentially the taking of property for private use. The interpretation is really due to the recognition in the individual of a natural inherent substantive right of property which may be taken from him by the government only in the case mentioned in the Constitution, viz., by taking property for public use. It is therefore altogether probable that the American courts would have held unconstitutional an act of the legislature similar to the recent act of the British Parliament appropriating the property which had been held to belong to what was known as the "Scotch Wee Kirk" between that church and the "Free Kirk."

Again the clause providing that no person shall "be deprived of life, liberty or property without due process of law" has been held by some of the State courts, under the influence of the idea of inherent absolute individual substantive rights to prevent the legislature from passing an act which changes the basis of the liability of employer to employee. The old basis of the liability was negligence. The act declared unconstitutional provided in the case of accident a liability on the part of the employer regardless of the question

whether he was negligent or not. Other acts of legislation have been declared unconstitutional as violating this due process clause, because they imposed upon an employer the duty to pay employees in money, or at stated periods, or because they forbade an employer to work his men more than a certain number of hours a week or a day. These acts were held unconstitutional as depriving either the employer or the employed of his property or his liberty.

Such decisions have been reached as a result of the fact that the American courts have emphasized the idea of a substantive right and have lost sight of the fact that the right granted in the Constitution if defined in the light of its history was a right not under all conceivable circumstances to liberty or property, but merely a right not to be deprived of liberty or property except in a certain way, that is, by due process of law. The fact that in all these cases an act of the legislature, that is, a law in the historic English sense, provided that liberty or property should be taken away was not regarded by the courts as due process of law. In fact the courts of the United States have really taken the position that there is no due process of law by which the individual may be deprived of some of these absolute substantive inherent natural rights.

Furthermore and partly as a consequence of the acceptance of the conception of private rights as inherent and not based upon law the content and character of private rights specifically provided for by legislation have been fixed, not so much as the result of an inquiry into their social expediency but rather because it has been believed that the individual has rights with which he has been endowed by his Creator, rights which it would be improper to take away or to limit even in the interest of society.

Take for example the qualifications required for entrance into the legal profession. What they shall be is, in large if not in controlling degree, determined in view of the assumed existence in every respectable and reasonably intelligent individual of a right to practise law. Such considerations as the evil influence upon the community of a superabundance of lawyers are given very little weight. Although it might easily be shown that the overcrowding of the legal profession almost inevitably leads to an increase of litigation which has evil effects upon the community, that fact is not permitted to have much influence on the determination of the qualifications of lawyers since an encroachment might as a consequence be made upon the inborn and inherent right of every man to become a lawyer.

This general attitude towards private rights is, it seems to me, at the present time in process of modification. Whatever may have been formerly the advantages attaching to a private rights political philosophy—and that they were many I should be the last person to deny—this question of private rights has been reexamined with the idea of ascertaining whether, under the conditions of modern life, our traditional political philosophy should be retained.

The political philosophy of the eighteenth century was formulated before the announcement and acceptance of the theory of evolutionary development. The natural rights doctrine presupposed almost that society was static or stationary rather than dynamic or progressive in character. It was generally believed at the end of the eighteenth century that there was a social state which under all conditions and at all times would be absolutely ideal. The rights which man had were believed to come from his Creator. These rights consequently were the same then as they once had been and would always remain the same. Natural rights were in theory thus permanent and immutable. Natural rights being conceived of as eternal and immutable, the theory of natural rights did not permit of their amendment in view of a change in conditions.

The actual rights which at the close of the eighteenth century were recognized were, however, as a matter of fact influenced in large measure by the social and economic conditions of the time when the recognition was made. Those conditions have certainly been subjected to great modifications. The pioneer can no longer rely upon himself alone. Indeed with the increase of population and the conquest of the wilderness the pioneer has almost disappeared. The improvement in the means of communication, which has been one of the most marked changes that have occurred, has placed in close contact and relationship once separated and unrelated communities. The canal and the railway, the steamship and the locomotive, the telegraph and the telephone, we might add the motor car and the aeroplane have all contributed to the formation of a social organization such as our forefathers never saw in their wildest dreams. The accumulation of capital, the concentration of industry with the accompanying increase in the size of the industrial unit and the loss of personal relations between employer and employed, have all brought about a constitution of society very different from that which was to be found a century and a quarter ago. Changed conditions, it has been thought, must bring in their train different conceptions of private rights if society is to be advantageously carried on. In other words, while insistence on individual rights may have been of great advantage at a time when the social organization was not highly developed, it may become a menace when social rather than individual efficiency is the necessary prerequisite of progress. For social efficiency probably owes more to the common realization of social duties than to the general insistence on privileges based on individual private rights. As our conditions have changed, as the importance of the social group has been realized, as it has been perceived that social efficiency must be secured if we are to attain and retain our place in the field of national competition which is practically coterminous with the world, the attitude of our courts on the one hand towards private rights and on the other hand towards social duties has gradually been changing. The general theory remains the same.

Man is still said to be possessed of inherent natural rights of which he may not be deprived without his consent. The courts still now and then hold unconstitutional acts of legislature which appear to encroach upon those rights. At the same time the sphere of governmental action is continually widening and the actual content of individual private rights is being increasingly narrowed.

...

We no longer believe as we once believed that a good social organization can be secured merely through stressing our rights. The emphasis is being laid more and more on social duties. The efficiency of the social group is taking on in our eyes a greater importance than it once had. We are not, it is true, taking the view that the individual man lives for the state of which he is a member and that state efficiency is in some mysterious way an admirable end in and of itself.

But we have come to the conclusion that man under modern conditions is primarily a member of society and that only as he recognizes his duties as a member of society can he secure the greatest opportunities as an individual. While we do not regard society as an end in itself we do consider it as one of the most important means through which many may come into his own.

You are probably asking yourselves: What is the purpose of saying these things in this place? What connection have they with a great educational institution? My answer to these questions is this. Those who are in charge of such an institution are under a very solemn obligation. They are in some measure at any rate responsible for the beliefs of the coming generation of thinkers and of moulders of public opinion. We teachers perhaps take ourselves too seriously at times. That I am willing to admit. We may not have nearly the influence which we think we have. Changes in economic conditions for which we are in no way responsible bring in their train regardless of what we teach changes in beliefs and opinions. But if we are unable to exercise great influence in the institution of positive changes, we can by acquainting ourselves with the changes in conditions and by endeavoring to accommodate our teaching to those changes, certainly refrain from impeding progress. This may be an over-modest estimate of the function of a teacher. At the same time it is an ideal the realization of which is not to be despised. For many universities have in the past been the homes of conservatism. New ideas have often knocked for a long time on the gates of learning before they have been permitted to enter. Even after they have passed the portal they are sometimes the object of a suspicion which it has taken years to allay.

So I repeat we teachers are in a measure responsible for the thoughts of the coming generation. This being the case, if under the conditions of modern life

it is the social group rather than the individual which is increasing in importance, if it is true that greater emphasis should be laid on social duties and less on individual rights, it is the duty of the University to call the attention of the student to this fact and it is the duty of the student when he goes out into the world to do what in him lies to bring this truth home to his fellows.



serves, not the public, but an irresponsible minister. The question for us is, how shall our series of governments within governments be so administered that it shall always be to the interest of the public officer to serve, not his superior alone but the community also, with the best efforts of his talents and the soberest service of his conscience? How shall such service be made to his commonest interest by contributing abundantly to his sustenance, to his dearest interest by furthering his ambition, and to his highest interest by advancing his honor and establishing his character? And how shall this be done alike for the local part and for the national whole?

If we solve this problem we shall again pilot the world. There is a tendency — is there not? — a tendency as yet dim, but already steadily impulsive and clearly destined to prevail, towards, first the confederation of parts of empires like the British, and finally of great states themselves. Instead of centralization of power, there is to be wide union with tolerated divisions of prerogative. This is a tendency towards the American type — of governments joined with governments for the pursuit of common purposes, in honorary equality and honorable subordination. Like principles of civil liberty are everywhere fostering like methods of government; and if comparative studies of the ways and means of government should enable us to offer suggestions which will practicably combine openness and vigor in the administration of such governments with ready docility to all serious, well-sustained public criticism, they will have approved themselves worthy to be ranked among the highest and most fruitful of the great departments of political study. That they will issue in such suggestions I confidently hope.

## The New Nationalism\*

*Theodore Roosevelt*

Given by Theodore Roosevelt in 1910, the themes of this speech, "The New Nationalism," would serve as the foundation for his presidential campaign in 1912. The speech is perhaps the clearest concession from Roosevelt that achieving his progressive policy goals would require a radical expansion of governmental power into the private sphere. Indeed, the very concept of private property would have to be reconceived, Roosevelt suggests, with the national government to determine if private property was of genuine benefit to the community at large.

We come here to-day to commemorate one of the epoch-making events of the long struggle for the rights of man — the long struggle for the uplift of humanity. Our country — this great republic — means nothing unless it means the triumph of a real democracy, the triumph of popular government, and, in the long run, of an economic system under which each man shall be guaranteed the opportunity to show the best that there is in him. That is why the history of America is now the central feature of the history of the world; for the world has set its face hopefully toward our democracy; and, O my fellow citizens, each one of you carries on your shoulders not only the burden of doing well for the sake of your own country, but the burden of doing well and of seeing that this nation does well for the sake of mankind.

There have been two great crises in our country's history: first, when it was formed, and then, again, when it was perpetuated; and, in the second of these

\* Editors' Note: Theodore Roosevelt, "The New Nationalism," in *The New Nationalism* (New York: The Outlook Company, 1910), 3–33.

great crises—in the time of stress and strain which culminated in the Civil War, on the outcome of which depended the justification of what had been done earlier, you men of the Grand Army, you men who fought through the Civil War, not only did you justify your generation, not only did you render life worth living for our generation, but you justified the wisdom of Washington and Washington's colleagues. If this Republic had been founded by them only to be split asunder into fragments when the strain came, then the judgment of the world would have been that Washington's work was not worth doing. It was you who crowned Washington's work, as you carried to achievement the high purpose of Abraham Lincoln.

Now, with this second period of our history the name of John Brown will be forever associated; and Kansas was the theater upon which the first act of the second of our great national life dramas was played. It was the result of the struggle in Kansas which determined that our country should be in deed as well as in name devoted to both union and freedom; that the great experiment of democratic government on a national scale should succeed and not fail. In name we had the Declaration of Independence in 1776; but we gave the lie by our acts to the words of the Declaration of Independence until 1865; and words count for nothing except in so far as they represent acts. This is true everywhere; but, O my friends, it should be truest of all in political life. A broken promise is bad enough in private life. It is worse in the field of politics. No man is worth his salt in public life who makes on the stump a pledge which he does not keep after the election; and, if he makes such as pledge and does not keep it, hunt him out of public life. I care for the great deeds of the past chiefly as spurs to drive us onward in the present. I speak of the men of the past partly that they may be honored by our praise of them, but more that they may serve as examples for the future.

It was a heroic struggle; and, as is inevitable with all such struggles, it had also a dark and terrible side. Very much was done of good, and much also of evil; and, as was inevitable in such a period of revolution, often the same man did both good and evil. For our great good fortune as a nation, we, the people of the United States as a whole, can now afford to forget the evil, or, at least, to remember it without bitterness, and to fix our eyes with pride only on the good that was accomplished. Even in ordinary times there are very few of us who do not see the problems of life as through a glass, darkly; and when the glass is clouded by the murk of furious popular passion, the vision of the best and the bravest is dimmed. Looking back, we are all of us now able to do justice to the valor and the disinterestedness and the love of the right, as to each it was given to see the right, shown both by the men of the North and the men of the South in that contest which was finally decided by the attitude of the West. We can admire the heroic valor, the sincerity, the self-devotion shown

alike by the men who wore the blue and the men who wore the gray; and our sadness that such men should have had to fight one another is tempered by the glad knowledge that ever hereafter their descendants shall be found fighting side by side, struggling in peace as well as in war for the uplift of their common country, all alike resolute to raise to the highest pitch of honor and usefulness the nation to which they all belong. As for the veterans of the Grand Army of the Republic, they deserve honor and recognition such as is paid to no other citizens of the republic; for to them the republic owes its all; for to them it owes its very existence. It is because of what you and your comrades did in the dark years that we of to-day walk, each of us, head erect, and proud that we belong, not to one of a dozen little squabbling contemptible common-wealths, but to the mightiest nation upon which the sun shines.

I do not speak of this struggle of the past merely from the historic standpoint. Our interest is primarily in the application to-day of the lessons taught by the contest of half a century ago. It is of little use for us to pay lip loyalty to the mighty men of the past unless we sincerely endeavor to apply to the problems of the present precisely the qualities which in other crises enabled the men of that day to meet those crises. It is half melancholy and half amusing to see the way in which well-meaning people gather to do honor to the men who, in the company with John Brown, and under the lead of Abraham Lincoln, faced and solved the great problems of the nineteenth century, while, at the same time, these same good people nervously shrink from, or frantically denounce, those who are trying to meet the problems of the twentieth century in the spirit which was accountable for the successful solution of the problems of Lincoln's time.

Of that generation of men to whom we owe so much, the man to whom we owe most is, of course, Lincoln. Part of our debt to him is because he forecast our present struggle and saw the way out. He said:—

["]I hold that while man exists it is his duty to improve not only his own condition, but to assist in ameliorating mankind.["]

And again:—

["]Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration.["]

If that remark was original with me, I should be even more strongly denounced as a communist agitator than I shall be anyhow. It is Lincoln's. I am only quoting it; and that is one side, that is the side the capitalist should hear. Now, let the workingman hear his side.

[“]Capital has its rights, which are as worthy of protection as any other rights. . . . Nor should this lead to a war upon the owners of property. Property is the fruit of labor; . . . property is desirable; is a positive good in the world.[”]

And then comes a thoroughly Lincolnlike sentence:—

[“]Let not him who is houseless pull down the house of another, but let him work diligently and build one for himself, thus by example assuring that his own shall be safe from violence when built.[”]

It seems to me that, in these words, Lincoln took substantially the attitude that we ought to take; he showed the proper sense of proportion in his relative estimates of capital and labor, of human rights and property rights. Above all, in this speech, as in many others, he taught a lesson in wise kindness and charity: an indispensable lesson to us of to-day. But this wise kindness and charity never weakened his arm or numbed his heart. We cannot afford weakly to blind ourselves to the actual conflict which faces us to-day. The issue is joined, and we must fight or fail.

In every wise struggle for human betterment one of the main objects, and often the only object, has been to achieve in large measure equality of opportunity. In the struggle for this great end, nations rise from barbarism to civilization, and through it people press forward from one stage of enlightenment to the next. One of the chief factors in progress is the destruction of special privilege. The essence of any struggle for healthy liberty has always been, and must always be, to take from some one man or class of men the right to enjoy power, or wealth, or position, or immunity, which has not been earned by service to his or their fellows. That is what you fought for in the Civil War, and that is what we strive for now.

At many stages in the advance of humanity, this conflict between the men who possess more than they have earned and the men who have earned more than they possess is the central condition of progress. In our day it appears as the struggle of free men to gain and hold the right of self-government against the special interests, who twist the methods of free government into machinery for defeating the popular will. At every stage, and under all circumstances, the essence of the struggle is to equalize opportunity, destroy privilege, and give to the life and citizenship of every individual the highest possible value both to himself and to the commonwealth. That is nothing new. All I ask in civil life is what you fought for in the Civil War. I ask that civil life be carried on according to the spirit in which the army was carried on. You never get perfect justice, but the effort in handling the army was to bring to the front the men who could do the job. Nobody grudged promotion to

Grant, or Sherman, or Thomas, or Sheridan, because they earned it. The only complaint was when a man got promotion which he did not earn.

Practical equality of opportunity for all citizens, when we achieve it, will have two great results. First, every man will have a fair chance to make of himself all that in him lies; to reach the highest point to which his capacities, unassisted by special privilege of his own and unhampered by the special privilege of others, can carry him, and to get for himself and his family substantially what he has earned. Second, equality of opportunity means that the commonwealth will get from every citizen the highest service of which he is capable. No man who carries the burden of the special privileges of another can give to the commonwealth that service to which it is fairly entitled.

I stand for the square deal. But when I say that I am for the square deal, I mean not merely that I stand for fair play under the present rules of the game, but that I stand for having those rules changed so as to work for a more substantial equality of opportunity and of reward for equally good service. One word of warning, which, I think, is hardly necessary in Kansas. When I say I want a square deal for the poor man, I do not mean that I want a square deal for the man who remains poor because he has not got the energy to work for himself. If a man who has had a chance will not make good, than he has got to quit. And you men of the Grand Army, you want justice for the brave man who fought, and punishment for the coward who shirked his work. Is not that so?

Now, this means that our government, national and state, must be freed from the sinister influence or control of special interests. Exactly as the special interests of cotton and slavery threatened our political integrity before the Civil War, so now the great special business interests too often control and corrupt the men and methods of government for their own profit. We must drive the special interests out of politics. That is one of our tasks to-day. Every special interest is entitled to justice—full, fair, and complete,—and, now, mind you, if there were any attempt by mob violence to plunder and work harm to the special interest, whatever it may be, that I most dislike, and the wealthy man, whomsoever he may be, for whom I have the greatest contempt, I would fight for him, and you would if you were worth your salt. He should have justice. For every special interest is entitled to justice, but not one is entitled to a vote in Congress, to a voice on the bench, or to representation in any public office. The Constitution guarantees protection to property, and we must make that promise good. But it does not give the right of suffrage to any corporation.

The true friend of property, the true conservative, is he who insists that property shall be the servant and not the master of the commonwealth; who

insists that the creature of man's making shall be the servant and not the master of the man who made it. The citizens of the United States must effectively control the mighty commercial forces which they have themselves called into being.

There can be no effective control of corporations while their political activity remains. To put an end to it will be neither a short nor an easy task, but it can be done.

We must have complete and effective publicity of corporate affairs, so that the people may know beyond peradventure whether the corporations obey the law and whether their management entitles them to the confidence of the public. It is necessary that laws should be passed to prohibit the use of corporate funds directly or indirectly for political purposes; it is still more necessary that such laws should be thoroughly enforced. Corporate expenditures for political purposes, and especially such expenditures by public service corporations, have supplied one of the principal sources of corruption in our political affairs.

It has become entirely clear that we must have government supervision of the capitalization, not only of public service corporations, including, particularly, railways, but of all corporations doing an interstate business. I do not wish to see the nation forced into the ownership of the railways if it can possibly be avoided, and the only alternative is thoroughgoing and effective regulation, which shall be based on a full knowledge of all the facts, including a physical valuation of property. This physical valuation is not needed, or, at least, is very rarely needed, for fixing rates; but it is needed as the basis of honest capitalization.

We have come to recognize that franchises should never be granted except for a limited time, and never without proper provision for compensation to the public. It is my personal belief that the same kind and degree of control and supervision which should be exercised over public service corporations should be extended also to combinations which control necessities of life, such as meat, oil, and coal, or which deal in them on an important scale. I have no doubt that the ordinary man who has control of them is much like ourselves. I have no doubt he would like to do well, but I want to have enough supervision to help him realize that desire to do well.

I believe that the officers, and, especially, the directors, of corporations should be held personally responsible when any corporation breaks the law.

Combinations in industry are the result of an imperative economic law which cannot be repealed by political legislation. The effort at prohibiting all combination has substantially failed. The way out lies, not in attempting to prevent such combinations, but in completely controlling them in the interest of the public welfare. For that purpose the Federal Bureau of Corporations is

an agency of first importance. Its powers, and, therefore, its efficiency, as well as that of the Interstate Commerce Commission, should be largely increased. We have a right to expect from the Bureau of Corporations and from the Interstate Commerce Commission a very high grade of public service. We should be as sure of the proper conduct of the interstate railways and the proper management of interstate business as we are now sure of the conduct and management of the national banks, and we should have as effective supervision in one case as in the other. The Hepburn Act, and the amendment to the Act in the shape in which it finally passed Congress at the last session, represent a long step in advance, and we must go yet further.

There is a widespread belief among our people that, under the methods of making tariffs which have hitherto obtained, the special interests are too influential. Probably this is true of both the big special interests and the little special interests. These methods have put a premium on selfishness, and, naturally, the selfish big interests have gotten more than their smaller, though equally selfish, brothers. The duty of Congress is to provide a method by which the interest of the whole people shall be all that receives consideration. To this end there must be an expert tariff commission, wholly removed from the possibility of political pressure or of improper business influence. Such a commission can find the real difference between cost of production, which is mainly the difference of labor cost here and abroad. As fast as its recommendations are made, I believe in revising one schedule at a time. A general revision of the tariff almost inevitably leads to log-rolling and the subordination of the general public interest to local and special interests.

The absence of effective state, and, especially, national, restraint upon unfair money getting has tended to create a small class of enormously wealthy and economically powerful men, whose chief object is to hold and increase their power. The prime need is to change the conditions which enable these men to accumulate power which it is not for the general welfare that they should hold or exercise. We grudge no man a fortune which represents his own power and sagacity, when exercised with entire regard to the welfare of his fellows. Again, comrades over there, take the lesson from your own experience. Not only did you not grudge, but you gloried in the promotion of the great generals who gained their promotion by leading the army to victory. So it is with us. We grudge no man a fortune in civil life if it is honorably obtained and well used. It is not even enough that it should have been gained without doing damage to the community. We should permit it to be gained only so long as the gaining represents benefit to the community. This, I know, implies a policy of a far more active governmental interference with social and economic conditions in this country than we have yet had, but I think we have got to face the fact that such an increase in governmental control is now necessary.

No man should receive a dollar unless that dollar has been fairly earned. Every dollar received should represent a dollar's worth of service rendered—not gambling in stocks, but service rendered. The really big fortune, the swollen fortune, by the mere fact of its size acquires qualities which differentiate it in kind as well as in degree from what is possessed by men of relatively small means. Therefore, I believe in a graduated income tax on big fortunes, and in another tax which is far more easily collected and far more effective—a graduated inheritance tax on big fortunes, properly safeguarded against evasion and increasing rapidly in amount with the size of the estate.

The people of the United States suffer from periodical financial panics to a degree substantially unknown among the other nations which approach us in financial strength. There is no reason why we should suffer what they escape. It is of profound importance that our financial system should be promptly investigated, and so thoroughly and effectively revised as to make it certain that hereafter our currency will no longer fail at critical times to meet our needs.

It is hardly necessary for me to repeat that I believe in an efficient army and a navy large enough to secure for us abroad that respect which is the surest guarantee of peace. A word of special warning to my fellow citizens who are as progressive as I hope I am. I want them to keep up their interest in our internal affairs; and I want them also continually to remember Uncle Sam's interests abroad. Justice and fair dealing among nations rest upon principles identical with those which control justice and fair dealing among the individuals of which nations are composed, with the vital exception that each nation must do its own part in international police work. If you get into trouble here, you can call for the police; but if Uncle Sam gets into trouble, he has got to be his own policeman, and I want to see him strong enough to encourage the peaceful aspirations of other peoples in connection with us. I believe in national friendships and heartiest good will to all nations; but national friendships, like those between men, must be founded on respect as well as on liking, on forbearance as well as upon trust. I should be heartily ashamed of any American who did not try to make the American government act as justly toward the other nations in international relations as he himself would act toward any individual in private relations. I should be heartily ashamed to see us wrong a weaker power, and I should hang my head forever if we tamely suffered wrong from a stronger power.

Of conservation I shall speak more at length elsewhere. Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us. I ask nothing of the nation except that it so behave as each farmer here behaves with reference to his own children. That

farmer is a poor creature who skins the land and leaves it worthless to his children. The farmer is a good farmer who, having enabled the land to support himself and to provide for the education of his children, leaves it to them a little better than he found it himself. I believe the same thing of a nation.

Moreover, I believe that the natural resources must be used for the benefit of all our people, and not monopolized for the benefit of the few, and here again is another case in which I am accused of taking a revolutionary attitude. People forget now that one hundred years ago there were public men of good character who advocated the nation selling its public lands in great quantities, so that the nation could get the most money out of it, and giving it to the men who could cultivate it for their own uses. We took the proper democratic ground that the land should be granted in small sections to the men who were actually to till it and live on it. Now, with the water power, with the forests, with the mines, we are brought face to face with the fact that there are many people who will go with us in conserving the resources only if they are to be allowed to exploit them for their benefit. That is one of the fundamental reasons why the special interests should be driven out of politics. Of all the questions which can come before this nation, short of the actual preservation of its existence in a great war, there is none which compares in importance with the great central task of leaving this land even a better land for our descendants than it is for us, and training them into a better race to inhabit the land and pass it on. Conservation is a great moral issue, for it involves the patriotic duty of insuring the safety and continuance of the nation. Let me add that the health and vitality of our people are at least as well worth conserving as their forests, waters, lands, and minerals, and in this great work the national government must bear a most important part.

I have spoken elsewhere also of the great task which lies before the farmers of the country to get for themselves and their wives and children not only the benefits of better farming, but also those of better business methods and better conditions of life on the farm. The burden of this great task will fall, as it should, mainly upon the great organizations of the farmers themselves. I am glad it will, for I believe they are all well able to handle it. In particular, there are strong reasons why the Departments of Agriculture of the various states, the United States Department of Agriculture, and the agricultural colleges and experiment stations should extend their work to cover all phases of farm life, instead of limiting themselves, as they have far too often limited themselves in the past, solely to the question of the production of crops. And now a special word to the farmer. I want to see him make the farm as fine a farm as it can be made; and let him remember to see that the improvement goes on indoors as well as out; let him remember that the farmer's wife should have her share of thought and attention just as much as the farmer himself.

Nothing is more true than that excess of every kind is followed by reaction; a fact which should be pondered by reformer and reactionary alike. We are face to face with new conceptions of the relations of property to human welfare, chiefly because certain advocates of the rights of property as against the rights of men have been pushing their claims too far. The man who wrongly holds that every human right is secondary to his profit must now give way to the advocate of human welfare, who rightly maintains that every man holds his property subject to the general right of the community to regulate its use to whatever degree the public welfare may require it.

But I think we may go still further. The right to regulate the use of wealth in the public interest is universally admitted. Let us admit also the right to regulate the terms and conditions of labor, which is the chief element of wealth, directly in the interest of the common good. The fundamental thing to do for every man is to give him a chance to reach a place in which he will make the greatest possible contribution to the public welfare. Understand what I say there. Give him a chance, not push him up if he will not be pushed. Help any man who stumbles; if he lies down, it is a poor job to try to carry him; but if he is a worthy man, try your best to see that he gets a chance to show the worth that is in him. No man can be a good citizen unless he has a wage more than sufficient to cover the bare cost of living, and hours of labor short enough so that after his day's work is done he will have time and energy to bear his share in the management of the community, to help in carrying the general load. We keep countless men from being good citizens by the conditions of life with which we surround them. We need comprehensive workmen's compensation acts, both state and national laws to regulate child labor and work for women, and, especially, we need in our common schools not merely education in book learning, but also practical training for daily life and work. We need to enforce better sanitary conditions for our workers and to extend the use of safety appliances for our workers in industry and commerce, both within and between the states. Also, friends, in the interest of the workingman himself we need to set our faces like flint against mob violence just as against corporate greed; against violence and injustice and lawlessness by wage workers just as much as against lawless cunning and greed and selfish arrogance of employers. If I could ask but one thing of my fellow countrymen, my request would be that, whenever they go in for reform, they remember the two sides, and that they always exact justice from one side as much as from the other. I have small use for the public servant who can always see and denounce the corruption of the capitalist, but who cannot persuade himself, especially before election, to say a word about lawless mob violence. And I have equally small use for the man, be he a judge on the bench, or editor of a great paper, or wealthy and influential private citizen, who can

see clearly enough and denounce the lawlessness of mob violence, but whose eyes are closed so that he is blind when the question is one of corruption in business on a gigantic scale. Also remember what I said about excess in reformer and reactionary alike. If the reactionary man, who thinks of nothing but the rights of property, could have his way, he would bring about a revolution; and one of my chief fears in connection with progress comes because I do not want to see our people, for lack of proper leadership, compelled to follow men whose intentions are excellent, but whose eyes are a little too wild to make it really safe to trust them. Here in Kansas there is one paper which habitually denounces me as the tool of Wall Street, and at the same time habitually repudiates the statement that I am a Socialist on the ground that that is an unwarranted slander of the Socialists.

National efficiency has many factors. It is a necessary result of the principle of conservation widely applied. In the end it will determine our failure or success as a nation. National efficiency has to do, not only with natural resources and with men, but it is equally concerned with institutions. The state must be made efficient for the work which concerns only the people of the state; and the nation for that which concerns all the people. There must remain no neutral ground to serve as a refuge for lawbreakers, and especially for lawbreakers of great wealth, who can hire the vulpine legal cunning which will teach them how to avoid both jurisdictions. It is a misfortune when the national legislature fails to do its duty in providing a national remedy, so that the only national activity is the purely negative activity of the judiciary forbidding the state to exercise power in the premises.

I do not ask for over centralization; but I do ask that we work in a spirit of broad and far-reaching nationalism when we work for what concerns our people as a whole. We are all Americans. Our common interests are as broad as the continent. I speak to you here in Kansas exactly as I would speak in New York or Georgia, for the most vital problems are those which affect us all alike. The national government belongs to the whole American people, and where the whole American people are interested, that interest can be guarded effectively only by the national government. The betterment which we seek must be accomplished, I believe, mainly through the national government.

The American people are right in demanding that New Nationalism, without which we cannot hope to deal with new problems. The New Nationalism puts the national need before sectional or personal advantage. It is impatient of the utter confusion that results from local legislatures attempting to treat national issues as local issues. It is still more impatient of the impotence which springs from overdivision of governmental powers, the impotence which makes it possible for local selfishness or for legal cunning, hired by wealthy special interests, to bring national activities to a deadlock. This New Nationalism regards



the executive power as the steward of the public welfare. It demands of the judiciary that it shall be interested primarily in human welfare rather than in property, just as it demands that the representative body shall represent all the people rather than any one class or section of the people.

I believe in shaping the ends of government to protect property as well as human welfare. Normally, and in the long run, the ends are the same; but whenever the alternative must be faced, I am for men and not for property, as you were in the Civil War. I am far from underestimating the importance of dividends; but I rank dividends below human character. Again, I do not have any sympathy with the reformer who says he does not care for dividends. Of course, economic welfare is necessary, for a man must pull his own weight and be able to support his family. I know well that the reformers must not bring upon the people economic ruin, or the reforms themselves will go down in the ruin. But we must be ready to face temporary disaster, whether or not brought on by those who will war against us to the knife. Those who oppose all reform will do well to remember that ruin in its worst form is inevitable if our national life brings us nothing better than swollen fortunes for the few and the triumph in both politics and business of a sordid and selfish materialism.

If our political institutions were perfect, they would absolutely prevent the political domination of money in any part of our affairs. We need to make our political representatives more quickly and sensitively responsive to the people whose servants they are. More direct action by the people in their own affairs under proper safeguards is vitally necessary. The direct primary is a step in this direction, if it is associated with a corrupt practices act effective to prevent the advantage of the man willing recklessly and unscrupulously to spend money over his more honest competitor. It is particularly important that all moneys received or expended for campaign purposes should be publicly accounted for, not only after election, but before election as well. Political action must be made simpler, easier, and freer from confusion for every citizen. I believe that the prompt removal of unfaithful or incompetent public servants should be made easy and sure in whatever way experience shall show to be most expedient in any given class of cases.

One of the fundamental necessities in a representative government such as ours is to make certain that the men to whom the people delegate their power shall serve the people by whom they are elected, and not the special interests. I believe that every national officer, elected or appointed, should be forbidden to perform any service or receive any compensation, directly or indirectly, from interstate corporations; and a similar provision could not fail to be useful within the states.

The object of government is the welfare of the people. The material progress and prosperity of a nation are desirable chiefly so far as they lead to

the moral and material welfare of all good citizens. Just in proportion as the average man and woman are honest, capable of sound judgment and high ideals, active in public affairs,—but, first of all, sound in their home life, and the father and mother of healthy children whom they bring up well,—just so far, and no farther, we may count our civilization a success. We must have—I believe we have already—a genuine and permanent moral awakening, without which no wisdom of legislation or administration really means anything; and, on the other hand, we must try to secure the social and economic legislation without which any improvement due to purely moral agitation is necessarily evanescent. Let me again illustrate by a reference to the Grand Army. You could not have won simply as a disorderly and disorganized mob. You needed generals; you needed careful administration of the most advanced type; and a good commissary—the cracker line. You well remember that success was necessary in many different lines in order to bring about general success. You had to have the administration at Washington good, just as you had to have the administration in the field; and you had to have the work of the generals good. You could not have triumphed without that administration and leadership; but it would all have been worthless if the average soldier had not had the right stuff in him. He had to have the right stuff in him, or you could not get it out of him. In the last analysis, therefore, vitally necessary though it was to have the right kind of organization and the right kind of generalship, it was even more vitally necessary that the average soldier should have the fighting edge, the right character. So it is in our civil life. No matter how honest and decent we are in our private lives, if we do not have the right kind of law and the right kind of administration of the law, we cannot go forward as a nation. That is imperative; but it must be an addition to, and not a substitution for, the qualities that make us good citizens. In the last analysis, the most important elements in any man's career must be the sum of those qualities which, in the aggregate, we speak of as character. If he has not got it, then no law that the wit of man can devise, no administration of the law by the boldest and strongest executive, will avail to help him. We must have the right kind of character—character that makes a man, first of all, a good man in the home, a good father, a good husband—that makes a man a good neighbor. You must have that, and, then, in addition, you must have the kind of law and the kind of administration of the law which will give to those qualities in the private citizen the best possible chance for development. The prime problem of our nation is to get the right type of good citizenship, and, to get it, we must have progress, and our public men must be genuinely progressive.

And of course this applies no more to the slave-owner or to the foreign despot than to the present-day American citizen who oppresses others by the abuse of special privilege, be his wealth great or little, be he the multi-millionaire owner of railways and mines and factories who forgets his duties to those who earn him his bread while earning their own, or be he only the owner of a foul little sweatshop in which he grinds dollars from the excessive and underpaid labor of haggard women.

We who stand for the cause of progress, for the cause of the uplift of humanity and the betterment of mankind, are pledged to eternal war against tyranny and wrong, by the few or by the many, by a plutocracy or by a mob. We stand for justice and for fair play; fearless and confident we face the coming years, for we know that ours are the banners of justice and that all men who wish well to the people must fight under them. We fight to make this country a better place to live in for those who have been harshly treated by fate; and if we succeed, it will also be a better place to live in for those who have been well treated. None of us can really prosper permanently if masses of our fellows are debased and degraded, if masses of men and women are ground down and forced to lead starved and sordid lives, so that their souls are crippled like their bodies and the fine edge of their every feeling is blunted.

I ask that those of us to whom Providence, to whom fate, has been kind, remember that each must be his brother's keeper, and that all must feel their obligation to the less fortunate who work beside us in the strain and press of our eager modern life. I ask justice for the weak for their sakes, and I ask it also for the sake of our own children, and of our children's children who are to come after us. This country will not be a good place for any of us to live in if it is not a reasonably good place for all of us to live in. When I plead the cause of the crippled brakeman on a railway, of the overworked girl in a factory, of the stunted child toiling at inhuman labor, of all who work excessively or in unhealthy surroundings, of the family dwelling in the squalor of a noisome tenement, of the worn-out farmer in regions where the farms are worn out also; when I protest against the unfair profits of unscrupulous and conscienceless men, or against the greedy exploitation of the helpless by the beneficiaries of privilege—in all these cases I am not only fighting for the weak, I am also fighting for the strong. The sons of all of us will pay in the future if we of the present do not do justice in the present. If the fathers cause others to eat bitter bread, the teeth of their own sons shall be set on edge. Our cause is the cause of justice for all, in the interest of all. Surely there was never a more noble cause; surely there was never a cause in which it was better worth while to spend and be spent.

## What Is Progress?\*

### From *The New Freedom*, Chapter 2

Woodrow Wilson

The twenty-eighth president of the United States who also served as governor of New Jersey, Woodrow Wilson (1856–1924), is known best for his public life and especially for his leadership during and after World War I. But Wilson was also a prolific academic long before he became a politician, having held professorships at Bryn Mawr, Wesleyan, and finally Princeton (his alma mater). His many academic books and essays, in addition to his political speeches, are a rich source for those interested in both the theory and practice of American progressivism. In the following chapter from *The New Freedom*—an edited collection of his campaign speeches from 1912—Wilson critiques the limited constitutionalism of the American founders and identifies progressivism with an evolutionary interpretation of American government.

In that sage and veracious chronicle, "Alice Through the Looking-Glass," it is recounted how, on a noteworthy occasion, the little heroine is seized by the Red Chess Queen, who races her off at a terrific pace. They run until both of them are out of breath; then they stop, and Alice looks around her and says, "Why, we are just where we were when we started!" "Oh, yes," says the Red Queen; "you have to run twice as fast as that to get anywhere else."

That is a parable of progress. The laws of this country have not kept up with the change of economic circumstances in this country; they have not kept up with the change of political circumstances; and therefore we are not even where we were when we started. We shall have to run, not until we are

\* Editors' Note: Woodrow Wilson, *The New Freedom* (New York: Doubleday, Page and Company, 1913), 33–54.



out of breath, but until we have caught up with our own conditions, before we shall be where we were when we started; when we started this great experiment which has been the hope and the beacon of the world. And we should have to run twice as fast as any rational program I have seen in order to get anywhere else.

I am, therefore, forced to be a progressive, if for no other reason, because we have not kept up with our changes of conditions, either in the economic field or in the political field. We have not kept up as well as other nations have. We have not kept our practices adjusted to the facts of the case, and until we do, and unless we do, the facts of the case will always have the better of the argument; because if you do not adjust your laws to the facts, so much the worse for the laws, not for the facts, because law trails along after the facts. Only that law is unsafe which runs ahead of the facts and beckons to it and makes it follow the will-o'-the-wisps of imaginative projects.

Business is in a situation in America which it was never in before; it is in a situation to which we have not adjusted our laws. Our laws are still meant for business done by individuals; they have not been satisfactorily adjusted to business done by great combinations, and we have got to adjust them. I do not say we may or may not; I say we must; there is no choice. If your laws do not fit your facts, the facts are not injured, the law is damaged; because the law, unless I have studied it amiss, is the expression of the facts in legal relationships. Laws have never altered the facts; laws have always necessarily expressed the facts; adjusted interests as they have arisen and have changed toward one another.

Politics in America is in a case which sadly requires attention. The system set up by our law and our usage doesn't work,—or at least it can't be depended on; it is made to work only by a most unreasonable expenditure of labor and pains. The government, which was designed for the people, has got into the hands of bosses and their employers, the special interests. An invisible empire has been set up above the forms of democracy.

There are serious things to do. Does any man doubt the great discontent in this country? Does any man doubt that there are grounds and justifications for discontent? Do we dare stand still? Within the past few months we have witnessed (along with other strange political phenomena, eloquently significant of popular uneasiness) on one side a doubling of the Socialist vote and on the other the posting on dead walls and hoardings all over the country of certain very attractive and diverting bills warning citizens that it was "better to be safe than sorry" and advising them to "let well enough alone." Apparently a good many citizens doubted whether the situation they were advised to let alone was really well enough, and concluded that they would take a chance of being sorry. To me, these counsels of do-nothingism, these counsels of sit-

ting still for fear something would happen, these counsels addressed to the hopeful, energetic people of the United States, telling them that they are not wise enough to touch their own affairs without marring them, constitute the most extraordinary argument of fatuous ignorance I ever heard. Americans are not yet cowards. True, their self-reliance has been sapped by years of submission to the doctrine that prosperity is something that benevolent magnates provide for them with the aid of the government; their self-reliance has been weakened, but not so utterly destroyed that you can twit them about it. The American people are not naturally stand-patters. Progress is the word that charms their ears and stirs their hearts.

There are, of course, Americans who have not yet heard that anything is going on. The circus might come to town, have the big parade and go, without their catching a sight of the camels or a note of the callopie. There are people, even Americans, who never move themselves or know that anything else is moving.

A friend of mine who had heard of the Florida "cracker," as they call a certain ne'er-do-weel portion of the population down there, when passing through the State in a train, asked some one to point out a "cracker" to him. The man asked replied, "Well, if you see something off in the woods that looks brown, like a stump, you will know it is either a stump or a cracker; if it moves, it is a stump."

Now, movement has no virtue in itself. Change is not worth while for its own sake. I am not one of those who love variety for its own sake. If a thing is good to-day, I should like to have it stay that way to-morrow. Most of our calculations in life are dependent upon things staying the way they are. For example, if, when you got up this morning, you had forgotten how to dress, if you had forgotten all about those ordinary things which you do almost automatically, which you can almost do half awake, you would have to find out what you did yesterday. I am told by the psychologists that if I did not remember who I was yesterday, I should not know who I am to-day, and that, therefore, my very identity depends upon my being able to tally to-day with yesterday. If they do not tally, then I am confused; I do not know who I am, and I have to go around and ask somebody to tell me my name and where I came from.

I am not one of those who wish to break connection with the past; I am not one of those who wish to change for the mere sake of variety. The only men who do that are the men who want to forget something, the men who filled yesterday with something they would rather not recollect to-day, and so go about seeking diversion, seeking abstraction in something that will blot out recollection, or seeking to put something into them which will blot out all recollection. Change is not worth while unless it is improvement. If I move out

Progress! Did you ever reflect that that word is almost a new one? No word comes more often or more naturally to the lips of modern man, as if the thing it stands for were almost synonymous with life itself, and yet men through many thousand years never talked or thought of progress. They thought in the other direction. Their stories of heroisms and glory were tales of the past. The ancestor wore the heavier armor and carried the larger spear. "There were giants in those days." Now all that has altered. We think of the future, not the past, as the more glorious time in comparison with which the present is nothing. Progress, development, — those are modern words. The modern idea is to leave the past and press onward to something new.

But what is progress going to do with the past, and with the present? How is it going to treat them? With ignominy, or respect? Should it break with them altogether, or rise out of them, with its roots still deep in the older time? What attitude shall progressives take toward the existing order, toward those institutions of conservatism, the Constitution, the laws, and the courts?

Are those thoughtful men who fear that we are now about to disturb the ancient foundations of our institutions justified in their fear? If they are, we ought to go very slowly about the processes of change. If it is indeed true that we have grown tired of the institutions which we have so carefully and sedulously built up, then we ought to go very slowly and very carefully about the very dangerous task of altering them. We ought, therefore, to ask ourselves, first of all, whether thought in this country is tending to do anything by which we shall retrace our steps, or by which we shall change the whole direction of our development?

I believe, for one, that you cannot tear up ancient rootages and safely plant the tree of liberty in soil which is not native to it. I believe that the ancient traditions of a people are its ballast; you cannot make a *tabula rasa* upon which to write a political program. You cannot take a new sheet of paper and determine what your life shall be to-morrow. You must knit the new into the old. You cannot put a new patch on an old garment without ruining it; it must be not a patch, but something woven into the old fabric, of practically the same pattern, of the same texture and intention. If I did not believe that to be progressive was to preserve the essentials of our institutions, I for one could not be a progressive.

One of the chief benefits I used to derive from being president of a university was that I had the pleasure of entertaining thoughtful men from all over the world. I cannot tell you how much has dropped into my granary by their presence. I had been casting around in my mind for something by which to draw several parts of my political thought together when it was my good fortune to entertain a very interesting Scotsman who had been devoting himself to the philosophical thought of the seventeenth century. His talk

of my present house because I do not like it, then I have got to choose a better house, or build a better house, to justify the change.

It would seem a waste of time to point out that ancient distinction, — between mere change and improvement. Yet there is a class of mind that is prone to confuse them. We have had political leaders whose conception of greatness was to be forever frantically doing something, — it mattered little what; restless, vociferous men, without sense of the energy of concentration, knowing only the energy of succession. Now, life does not consist of eternally running to a fire. There is no virtue in going anywhere unless you will gain something by being there. The direction is just as important as the impetus of motion.

All progress depends on how fast you are going, and where you are going, and I fear there has been too much of this thing of knowing neither how fast we were going or where we were going. I have my private belief that we have been doing most of our progressiveness after the fashion of those things that in my boyhood days we called "treadmills," a treadmill being a moving platform, with cleats on it, on which some poor devil of a mule was forced to walk forever without getting anywhere. Elephants and even other animals have been known to turn treadmills, making a good deal of noise, and causing certain wheels to go round, and I daresay grinding out some sort of product for somebody, but without achieving much progress. Lately, in an effort to persuade the elephant to move, really, his friends tried dynamite. It moved, — in separate and scattered parts, but it moved.

A cynical but witty Englishman said, in a book, not long ago, that it was a mistake to say of a conspicuously successful man, eminent in his line of business, that you could not bribe a man like that, because, he said, the point about such men is that they have been bribed — not in the ordinary meaning of that word, not in any gross, corrupt sense, but they have achieved their great success by means of the existing order of things and therefore they have been put under bonds to see that that existing order of things is not changed; they are bribed to maintain the *status quo*.

It was for that reason that I used to say, when I had to do with the administration of an educational institution, that I should like to make the young gentlemen of the rising generation as unlike their fathers as possible. Not because their fathers lacked character or intelligence or knowledge or patriotism, but because their fathers, by reason of their advancing years and their established position in society, had lost touch with the processes of life; they had forgotten what it was to begin; they had forgotten what it was to rise; they had forgotten what it was to be dominated by the circumstances of their life on their way up from the bottom to the top, and, therefore, they were out of sympathy with the creative, formative and progressive forces of society.

was so engaging that it was delightful to hear him speak of anything, and presently there came out of the unexpected region of his thought the thing I had been waiting for. He called my attention to the fact that in every generation all sorts of speculation and thinking tend to fall under the formula of the dominant thought of the age. For example, after the Newtonian Theory of the universe had been developed, almost all thinking tended to express itself in the analogies of the Newtonian Theory, and since the Darwinian Theory has reigned amongst us, everybody is likely to express whatever he wishes to expound in terms of development and accommodation to environment.

Now, it came to me, as this interesting man talked, that the Constitution of the United States had been made under the dominion of the Newtonian Theory. You have only to read the papers of *The Federalist* to see that fact written on every page. They speak of the "checks and balances" of the Constitution, and use to express their idea the simile of the organization of the universe, and particularly of the solar system,—how by the attraction of gravitation the various parts are held in their orbits; and then they proceed to represent Congress, the Judiciary, and the President as a sort of imitation of the solar system.

They were only following the English Whigs, who gave Great Britain its modern constitution. Not that those Englishmen analyzed the matter, or had any theory about it; Englishmen care little for theories. It was a Frenchman, Montesquieu, who pointed out to them how faithfully they had copied Newton's description of the mechanism of the heavens.

The makers of our Federal Constitution read Montesquieu with true scientific enthusiasm. They were scientists in their way,—the best way of their age,—those fathers of the nation. Jefferson wrote of "the laws of Nature,"—and then by way of afterthought,— "and of Nature's God." And they constructed a government as they would have constructed an orrery,—to display the laws of nature. Politics in their thought was a variety of mechanics. The Constitution was founded on the law of gravitation. The government was to exist and move by virtue of the efficacy of "checks and balances."

The trouble with the theory is that government is not a machine, but a living thing. It falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton. It is modified by its environment, necessitated by its tasks, shaped to its functions by the sheer pressure of life. No living thing can have its organs offset against each other, as checks, and live. On the contrary, its life is dependent upon their quick co-operation, their ready response to the commands of instinct or intelligence, their amicable community of purpose. Government is not a body of blind forces; it is a body of men, with highly differentiated functions, no doubt, in

our modern day, of specialization, with a common task and purpose. Their co-operation is indispensable, their warfare fatal. There can be no successful government without the intimate, instinctive co-ordination of the organs of life and action. This is not theory, but fact, and displays its force as fact, whatever theories may be thrown across its track. Living political constitutions must be Darwinian in structure and in practice. Society is a living organism and must obey the laws of life, not of mechanics; it must develop.

All that progressives ask or desire is permission—in an era when "development," "evolution," is the scientific word—to interpret the Constitution according to the Darwinian principle; all they ask is recognition of the fact that a nation is a living thing and not a machine.

Some citizens of this country have never got beyond the Declaration of Independence, signed in Philadelphia, July 4th, 1776. Their bosoms swell against George III, but they have no consciousness of the war for freedom that is going on to-day.

The Declaration of Independence did not mention the questions of our day. It is of no consequence to us unless we can translate its general terms into examples of the present day and substitute them in some vital way for the examples it itself gives, so concrete, so intimately involved in the circumstances of the day in which it was conceived and written. It is an eminently practical document, meant for the use of practical men; not a thesis for philosophers, but a whip for tyrants; not a theory of government, but a program of action. Unless we can translate it into the questions of our own day, we are not worthy of it, we are not the sons of the sires who acted in response to its challenge.

What form does the contest between tyranny and freedom take to-day? What is the special form of tyranny we now fight? How does it endanger the rights of the people, and what do we mean to do in order to make our contest against it effectual? What are to be the items of our new declaration of independence?

By tyranny, as we now fight it, we mean control of the law, of legislation and adjudication, by organizations which do not represent the people, by means which are private and selfish. We mean, specifically, the conduct of our affairs and the shaping of our legislation in the interest of special bodies of capital and those who organize their use. We mean the alliance, for this purpose, of political machines with selfish business. We mean the exploitation of the people by legal and political means. We have seen many of our governments under these influences cease to be representative governments, cease to be governments representative of the people, and become governments representative of special interests, controlled by machines, which in their turn are not controlled by the people.

found that they had adjusted their regulations of economic development to conditions we had not yet found a way to meet in the United States.

Well, we have started now at all events. The procession is under way. The stand-patter doesn't know there is a procession. He is asleep in the back part of his house. He doesn't know that the road is resounding with the tramp of men going to the front. And when he wakes up, the country will be empty. He will be deserted, and he will wonder what has happened. Nothing has happened. The world has been going on. The world has a habit of going on. The world has a habit of leaving those behind who won't go with it. The world has always neglected stand-patters. And, therefore, the stand-patter does not excite my indignation; he excites my sympathy. He is going to be so lonely before it is all over. And we are good fellows, we are good company; why doesn't he come along? We are not going to do him any harm. We are going to show him a good time. We are going to climb the slow road until it reaches some upland where the air is fresher, where the whole talk of mere politicians is stilled, where men can look in each other's faces and see that there is nothing to conceal, that all they have to talk about they are willing to talk about in the open and talk about with each other; and whence, looking back over the road, we shall see at last that we have fulfilled our promise to mankind. We had said to all the world, "America was created to break every kind of monopoly, and to set men free, upon a footing of equality, upon a footing of opportunity, to match their brains and their energies." [A]nd now we have proved that we meant it.

Sometimes, when I think of the growth of our economic system, it seems to me as if, leaving our law just about where it was before any of the modern inventions or developments took place, we had simply at haphazard extended the family residence, added an office here and a workroom there, and a new set of sleeping rooms there, built up higher on our foundations, and put out little lean-tos on the side, until we have a structure that has no character whatever. Now, the problem is to continue to live in the house and yet change it.

Well, we are architects in our time, and our architects are also engineers. We don't have to stop using a railroad terminal because a new station is being built. We don't have to stop any of the processes of our lives because we are rearranging the structures in which we conduct those processes. What we have to undertake is to systematize the foundations of the house, then to thread all the old parts of the structure with the steel which will be laced together in modern fashion, accommodated to all the modern knowledge of structural strength and elasticity, and then slowly change the partitions, relay the walls, let in the light through new apertures, improve the ventilation; until finally, a generation or two from now, the scaffolding will be taken away, and there will be the family in a great building whose noble architecture will at last be disclosed, where men can live as a single community, co-operative as in a perfected, co-ordinated beehive, not afraid of any storm of nature, not afraid of any artificial storm, any imitation of thunder and lightning, knowing that the foundations go down to the bedrock of principle, and knowing that whenever they please they can change that plan again and accommodate it as they please to the altering necessities of their lives.

But there are a great many men who don't like the idea. Some wit recently said, in view of the fact that most of our American architects are trained in a certain *École* in Paris, that all American architecture in recent years was either bizarre or "Beaux Arts." I think that our economic architecture is decidedly bizarre; and I am afraid that there is a good deal to learn about matters other than architecture from the same source from which our architects have learned a great many things. I don't mean the School of Fine Arts at Paris, but the experience of France; for from the other side of the water men can now hold up against us the reproach that we have not adjusted our lives to modern conditions to the same extent that they have adjusted theirs. I was very much interested in some of the reasons given by our friends across the Canadian border for being very shy about the reciprocity arrangements. They said: "We are not sure whether these arrangements will lead, and we don't care to associate too closely with the economic conditions of the United States until those conditions are as modern as ours." And when I resented it, and asked for particulars, I had, in regard to many matters, to retire from the debate. Because I

## "Socialism and Democracy"\*

Is it possible that in practical America we are becoming sentimentalists? To judge by much of our periodical literature, one would think so. All resolution about great affairs seems now "sicklied o'er with a pale cast of thought." Our magazine writers smile sadly at the old-time optimism of their country; are themselves full of forebodings; expend much force and enthusiasm and strong (as well as weak) English style in disclosing social evils and economic bugbears; are moved by a fine sympathy for the unfortunate and a fine anger against those who bring wrong upon their fellows; but where amidst all these themes for the conscience is there a theme for the courage of the reader? Where are the brave plans of reform which should follow such prologues?

No man with a heart can withhold sympathy from the laborer whose strength is wasted and whose hope is thwarted in the service of the heartless-and close-fisted; but, then, no man with a head ought to speak that sympathy in the public prints unless he have some manly, thought-out ways of betterment to propose. One wearies easily, it must be confessed, of woful-warnings; one sighs often for a little tonic of actual thinking grounded in sane, clear-sighted perception of what is possible to be done. Sentiment is not despicable—it may be elevating and noble, it may be inspiring, and in some mental fields it is self-sufficing—but when uttered concerning great social and political questions it needs the addition of practical, initiative sense to keep it sweet and to prevent its becoming insipid.

I point these remarks particularly at current discussions of socialism, and principally of 'state socialism,' which is almost the only form of socialism seriously discussed among us, outside the Anti-Poverty Society. Is there not a plentiful

\*"Socialism and Democracy," reproduced from the essay published in *The Papers of Wendell Phillips*, edited by Arthur S. Link, Vol. 5 (Princeton University Press, 1968, 1996), 559–62. Reprinted with the permission of Princeton University Press. (Editor's note).

lack of nerve and purpose in what we read and hear nowadays on this momentous topic. One might be excused for taking and keeping the impression that there can be no great need for haste in the settlement of the questions mooted in connexion with it, inasmuch as the debating of them has not yet passed beyond its rhetorical and pulpit stage. It is easy to make socialism, as theoretically developed by the greater and saner socialistic writers, intelligible not only, but even attractive, as a conception; it is easy also to render it a thing of fear to timorous minds, and to make many signs of the times bear menace of it; the only hard task is to give it validity and strength as a program in practical politics. Yet the whole interest of socialism for those whose thinking extends beyond the covers of books and the paragraphs of periodicals lies in what it will mean in practice. It is a question of practical politics, or else it is only a thesis for engaging discourse.

Even mere discourses, one would think, would be attracted to treat of the practical means of realizing for society the principles of socialism, for much the most interesting and striking features of it emerge only when its actual applications to concrete affairs are examined. These actual applications of it are the part of it which is much the most worth talking about—even for those whose only object is to talk effectively.

Roundly described, socialism is a proposition that every community, by means of whatever forms of organization may be most effective for the purpose, see to it for itself that each one of its members finds the employment for which he is best suited and is rewarded according to his diligence and merit, all proper surroundings of moral influence being secured to him by the public authority. 'State socialism' is willing to act through state authority as it is at present organized. It proposes that all idea of a limitation of public authority by individual rights be put out of view, and that the State consider itself bound to stop only at what is unwise or futile in its universal superintendence alike of individual and of public interests. The thesis of the state socialist is, that no line can be drawn between private and public affairs which the State may not cross at will; that omnipotence of legislation is the first postulate of all just political theory.

Applied in a democratic state, such doctrine sounds radical, but not revolutionary. It is only an acceptance of the extremest logical conclusions deducible from democratic principles long ago received as respectable. For it is very clear that in fundamental theory socialism and democracy are almost if not quite one and the same. They both rest at bottom upon the absolute right of the community to determine its own destiny and that of its members. Men as communities are supreme over men as individuals. Limits of wisdom and convenience to the public control there may be; limits of principle there are, upon strict analysis, none.

It is of capital importance to note this substantial correspondence of fundamental conception as between socialism and democracy: a whole system of practical politics may be erected upon it without further foundation. The germinal conceptions of democracy are as free from all thought of a limitation of the public authority as are the corresponding conceptions of socialism; the individual

rights which the democracy of our own century has actually observed, were suggested to it by a political Philosophy radically individualistic, but not necessarily democratic. Democracy is bound by no principle of its own nature to say itself nay as to the exercise of any power. Here, then, lies the point. The difference between democracy and socialism is not an essential difference, but only a practical difference—is a difference of *organization* and *policy*, not a difference of primary motive. Democracy has not undertaken the tasks which socialists clamour to have undertaken; but it refrains from them, not for lack of adequate principles or suitable motives, but for lack of adequate organization and suitable hardihood: because it cannot see its way clear to accomplishing them with credit. Moreover it may be said that democrats of to-day hold off from such undertakings because they are of to-day, and not of the days, which history very well remembers, when government had the temerity to try everything. The best thought of modern time having recognized a difference between social and political questions, democratic government, like all other governments, seeks to confine itself to those political concerns which have, in the eyes of the judicious, approved themselves appropriate to the sphere and capacity of public authority.

The socialist does not disregard the obvious lessons of history concerning overwrought government: at least he thinks he does not. He denies that he is urging the resumption of tasks which have been repeatedly shown to be impossible. He points to the incontrovertible fact that the economic and social conditions of life in our century are not only superficially but radically different from those of any other time whatever. Many affairs of life which were once easily to be handled by individuals have now become so entangled amongst the complexities of international trade relations, so confused by the multiplicity of news-voices, or so hoisted into the winds of speculation that only powerful combinations of wealth and influence can compass them. Corporations grow on every hand, and on every hand not only swallow and overawe individuals but also compete with governments. The contest is no longer between government and individuals; it is now between government and dangerous combinations and individuals. Here is a monstrously changed aspect of the social world. In face of such circumstances, must not government lay aside all timid scruple and boldly make itself an agency for social reform as well as for political control?

'Yes,' says the democrat, 'perhaps it must. You know it is my principle, no less than yours, that every man shall have an equal chance with every other man: if I saw my way to it as a practical politician, I should be willing to go farther and superintend every man's use of his chance. But the means? The question with me is not whether the community has power to act as it may please in these matters, but how it can act with practical advantage—a question of *policy*.'

A question of policy primarily, but also a question of organization, that is to say of *administration*.

**Session V: “The Administrative State and the Duties of Citizens”**

Dr. Larry Arnn

## WHAT GOOD'S A CONSTITUTION?

No one can think clearly or sensibly about this vast and burning topic without in the first instance making up his mind upon the fundamental issue. Does he value the State above the citizen, or the citizen above the State? Does a government exist for the individual, or do individuals exist for the government? One must recognize that the world today is deeply divided upon this. Some of the most powerful nations and races have definitely chosen to subordinate the citizen or subject to the life of the State. In Russia, Germany and Italy we have this sombre, tremendous decision, expressed in varying forms. All nations agree that in time of war, where the life and independence of the country are at stake, every man and woman must be ready to work and, if need be, die in defence of these supreme objects; and that the government must be empowered to call upon them to any extent.

But what we are now considering is the existence of this principle in times of peace and its erection into a permanent system to which the life of great communities must be made to conform. The argument is used that economic crises are only another form of war, and as they are always with us, or can always be alleged to be with us, it is claimed that we must live our lives in a perpetual state of war, only without actual shooting, bayoneting or can-  
nonading.

This is, of course, the Socialist view. As long as Socialists present themselves in an international guise as creators of a new world order, like the beehive or the ant heap, with a new human heart to fit these novel conceptions, they could easily be beaten, and have been very effectively beaten both by argument and by nature. But when new forms of socialism arose which were grafted not upon world ideals but upon the strongest forms of nationalism, their success was remarkable.

In Germany, for instance, the alliance between national patriotism, tradition and pride on the one hand, and discontent about the inequalities of wealth on the other, made the Weimar Constitution 'a scrap of paper'. Either of these two fierce, turbulent torrents separately might have been kept within bounds. Joined together in a fierce confluence, they proved irresistible.

Once the rulers of a country can create a war atmosphere in time of peace, can allege that the State is in danger and appeal to all the noblest national instincts, as well as all the basest, it is only in very solidly established

countries that the rights of the citizens can be preserved. In Germany these rights vanished almost overnight. Today no one may criticize the dictatorship, either in speech or writing. Voters still go to the polls—in fact, are herded to the polls like sheep—but the method of election has become a fantastic travesty of popular government. A German can vote for the régime, but not against it. If he attempts to indicate disapproval, his ballot paper is reckoned as 'spoiled'.

The tyranny of the ruling junta extends into every department of life. Friends may not greet each other without invoking the name of Hitler. At least on certain days, the very meals that a family eats in the privacy of its home are regulated by decree. The shadow of an all-powerful State falls between parent and child, husband and wife. Love itself is fettered and confined. No marriage, no love relation of any kind is permitted which offends against a narrow and arbitrary code based upon virulent race prejudice.

Nor is this all. Even in the sphere of religion the State must intervene. It comes between the priest and his penitent, between the worshipper and the God to whom he prays. And this last, by one of the curious ironies of history, in the land of Luther.

To rivet this intolerable yoke upon the necks of the German people all the resources of propaganda have been utilized to magnify the sense of crisis and to exhibit sometimes France, sometimes Poland, sometimes Lithuania, always the Soviets and the Jews, as antagonists at whom the patriotic Teuton must grind his teeth.

Much the same thing has happened in Russia. The powerful aid of national sentiment and imperialist aspirations has been invoked to buttress a decaying Communism.

In the United States, also, economic crisis has led to an extension of the activities of the Executive and to the pillorying, by irresponsible agitators, of certain groups and sections of the population as enemies of the rest. There have been efforts to exalt the power of the central government and to limit the rights of individuals. It has been sought to mobilize behind this reversal of the American tradition, at once the selfishness of the pensioners, or would-be pensioners, of Washington, and the patriotism of all who wish to see their country prosperous once more.

It is when passions and cupidities are thus unleashed and, at the same time, the sense of public duty rides high in the hearts of all men and women of good will that the handcuffs can be slipped upon the citizens and they can be brought into entire subjugation to the executive government. Then they are led to believe that, if they will only yield themselves, body, mind and soul, to the State, and obey unquestioningly its injunctions, some dazzling future of riches and power will open to them, either—as in Italy—by the conquest of the territories of others, or—as in America—by a further liberation and exploitation of the national resources.



society which can be altered only gradually. It is so hard to build the structure of a vast economic community, and so easy to upset it and throw it into confusion. The onus must lie always upon those who propose a change, and the process of change is hardly ever beneficial unless it considers what is due to the past as well as what is claimed for the future.

It is for these reasons among many others that the founders of the American Republic in their Declaration of Independence inculcate as a duty binding upon all worthy sons of America 'a frequent recurrence to first principles'. Do not let us too readily brush aside the grand, simple affirmations of the past. All wisdom is not new wisdom. Let us never forget that the glory of the nineteenth century was founded upon what seemed to be the successful putting down of those twin curses, anarchy and tyranny.

The question we are discussing is whether a fixed constitution is a bulwark or a fetter. From what I have written it is plain that I incline to the side of those who would regard it as a bulwark, and that I rank the citizen higher than the State, and regard the State as useful only in so far as it preserves his inherent rights. All forms of tyranny are odious. It makes very little difference to the citizen, father of a family, head of a household, whether tyranny comes from a royal or imperial despot, or from a Pope or Inquisitor, or from a military caste, or from an aristocratic or plutocratic oligarchy, or from a ring of employers, or a trade union, or a party caucus—or worst of all, from a terrified and infuriated mob. 'A man's a man for a' that.' The whole point is, whether he can make head against oppression in any of its Protean shapes, and defend the island of his home, his life and soul. And here is the point at which we may consider and contrast the constitutions of our respective countries.

It is very difficult for us in England to realize the kind of deadlock which has been reached in the United States. Imagine, for instance, the gigantic India Bill, passed through Parliament and for two or three years in active operation throughout the whole of India, suddenly being declared illegal by the law lords sitting as a tribunal. Imagine—to take an instance nearer home—some gigantic measure of insurance as big as our widows' pensions, health and employment insurance rolled together, which had deeply interwoven itself in the whole life of the people, upon which every kind of contract and business arrangement had been based, being declared to have no validity by a court of law. We simply cannot conceive it. Yet something very like that has occurred on your side of the Atlantic.

In our country an act of Parliament which, upon the advice of the ministers responsible for it, has received the royal assent is the law of the land. Its authority cannot be questioned by any court. There is no limit to the powers of Crown and Parliament. Even the gravest changes in our Constitution can in theory be carried out by simple majority votes in both Houses and the consequential assent of the Crown.

I take the opposite view. I hold that governments are meant to be, and must remain, the servants of the citizens; that states and federations only come into existence and can only be justified by preserving the 'life, liberty and the pursuit of happiness' in the homes and families of individuals. The true right and power rest in the individual. He gives of his right and power to the State, expecting and requiring thereby in return to receive certain advantages and guarantees. I do not admit that an economic crisis can ever truly be compared with the kind of struggle for existence by races constantly under primordial conditions. I do not think that modern nations in time of peace ought to regard themselves as if they were the inhabitants of besieged cities, liable to be put to the sword or led into slavery if they cannot make good their defence.

One of the greatest reasons for avoiding war is that it is destructive to liberty. But we must not be led into adopting for ourselves the evils of war in time of peace upon any pretext whatever. The word 'civilization' means not only peace by the non-regimentation of the people such as is required in war. Civilization means that officials and authorities, whether uniformed or not, whether armed or not, are made to realize that they are servants and not masters.

Socialism or overweening State life, whether in peace or war, is only sharing miseries and not blessings. Every self-respecting citizen in every country must be on his guard lest the rulers demand of him in time of peace sacrifices only tolerable in a period of war for national self-preservation.

I judge the civilization of any community by simple tests. What is the degree of freedom possessed by the citizen or subject? Can he think, speak and act freely under well-established, well-known laws? Can he criticize the executive government? Can he sue the State if it has infringed his rights? Are there also great processes for changing the law to meet new conditions?

Judging by these standards, Great Britain and the United States can claim to be in the forefront of civilized communities. But we owe this only in part to the good sense and watchfulness of our citizens. In both our countries the character of the judiciary is a vital factor in the maintenance of the rights and liberties of the individual citizen.

Our judges extend impartially to all men protection, not only against wrongs committed by private persons, but also against the arbitrary acts of public authority. The independence of the courts is, to all of us, the guarantee of freedom and the equal rule of law.

It must, therefore, be the first concern of the citizens of a free country to preserve and maintain the independence of the courts of justice, however inconvenient that independence may be, on occasion, to the government of the day.

But all this implies peace conditions, an atmosphere of civilization rather than militarization or officialization. It implies a balance and equipoise of

But we now watch the workings of a written Constitution enforced by a Supreme Court according to the letter of the law, under which anyone may bring a test case challenging not merely the interpretation of a law, but the law itself; and if the Court decides for the appellant, be he only an owner of a few chickens, the whole action of the Legislature and the Executive comes to that extent null and void. We know that to modify the Constitution even in the smallest particular requires a two-thirds majority of the sovereign states forming the American Union. And this has been achieved, after prodigious struggles, on only a score of occasions during the whole history of the United States.

American citizens or jurists in their turn, gaze with wonder at our great British democracy expressing itself with plenary powers through a Government and a Parliament controlled only by the fluctuating currents of public opinion. British Governments live from day to day only upon the approval of the House of Commons. There is no divorce between the Executive and the Legislature. The ministers, new or old, must be chosen from men and parties which in the aggregate will command a majority in the House of Commons. Parliament can, if it chooses, even prolong its own life beyond the statutory limit. Ministers may at any time advise the King to a sudden dissolution. Yet all classes and all parties have a deep, underlying conviction that these vast, flexible powers will not be abused, that the spirit of our unwritten Constitution will be respected at every stage.

To understand how this faith is justified, how the British people are able to enjoy a real stability of government without a written Constitution, it is necessary to consider the beginning of party politics in Britain. Whigs and Tories were almost equally concerned to assert the authority of Parliament as a check upon the Executive. With the Whigs this was a matter of fundamental principle; with the Tories it was a question of expediency. James II was a Catholic and his efforts to further the cause of his co-religionists alienated the great bulk of the Tory party, who were loyal to the Church of England. Then from the advent of William of Orange to the accession of George III, with a brief interval in the reign of Queen Anne, the Crown could do nothing without the Whigs and the government of the country was predominantly or exclusively in the hands of that party.

The Tories were thus vitally interested in preserving and extending the rights of the parliamentary opposition. In this way a jealous care for constitutional rights came to mark both the great parties of the State. And as to all men the Constitution represented security and freedom, none would consent willingly to any breach of it, even to gain a temporary advantage.

Modern times offer respect for law and constitutional usage. Nothing contributed so much to the collapse of the general strike ten years ago as the declaration by great lawyers that it was illegal. And the right of freedom of speech and publication is extended, under the Constitution, to those who

in theory seek to overthrow established institutions by force of arms so long as they do not commit any illegal act.

Another factor making for stability is our permanent civil service. Governments come and go; parliamentary majorities fluctuate; but the civil servants remain. To new and inexperienced ministers they are 'guides, philosophers and friends'. Themselves untouched by the vicissitudes of party fortunes, they impart to the business of administration a real continuity.

On the whole, too, popular opinion acts as a guardian of the unwritten Constitution. Public chastisement would speedily overtake any minister, however powerful, who fell below the accepted standards of fair play or who descended to trickwork or dodgery.

When one considers the immense size of the United States and the extraordinary contrasts of climate and character which differentiate the forty-eight sovereign states of the American Union, as well as the inevitable conflict of interests between North and South and between East and West, it would seem that the participants of so vast a federation have the right to effectual guarantees upon the fundamental laws, and that these should not be easily changed to suit a particular emergency or fraction of the country.

The founders of the Union, although its corpus was then so much smaller, realized this with profound conviction. They did not think it possible to entrust legislation for so diverse a community and enormous an area to a simple majority. They were as well acquainted with the follies and intolerance of parliaments as with the oppression of princes. 'To control the powers and conduct of the legislature,' said a leading member of the Convention of 1787, 'by an overruling constitution was an improvement in the science and practice of government reserved to the American States.'

All the great names of American history can be invoked behind this principle. Why should it be considered obsolete? If today we are framing that constitution for a 'United States of Europe' for which so many thinkers on this side of the ocean aspire, fixed and almost unalterable guarantees would be required by the acceding nations.

It may well be that this very quality of rigidity, which is today thought to be so galling, has been a prime factor in founding the greatness of the United States. In the shelter of the Constitution nature has been conquered, a mighty continent has been brought under the sway of man, and an economic entity established, unrivalled in the whole history of the globe.

In this small island of Britain we make laws for ourselves. But if we had again attempted to apply this flexibility and freedom to the British Empire, and to frame an Imperial Constitution to make laws for the whole body, it would have been broken to pieces. Although we have a free, flexible Constitution at the centre and for the centre of the Empire, nothing is more rigid than the established practice—namely, that we claim no powers to interfere

with the affairs of its self-governing component parts. No supreme court is needed to enforce this rule. We have learned the lessons of the past too well.

And here we must note a dangerous misuse of terminology. 'Taking the rigidity out of the American Constitution' means, and is intended to mean, new gigantic accessions of power to the dominating centre of government and giving it the means to make new fundamental laws enforceable upon all American citizens.

Such a departure in the British Empire by a chance parliamentary majority or even by aggregate Dominion parliamentary majorities, would shatter it to bits. The so-called 'rigidity' of the American Constitution is in fact the guarantee of freedom to its widespread component parts. That a set of persons, however eminent, carried into office upon some populist heave should have the power to make the will of a bare majority effective over the whole of the United States might cause disasters upon the greatest scale from which recovery would not be swift or easy.

I was reading the other day a recent American novel by Sinclair Lewis—*It Can't Happen Here*. Such books render a public service to the English-speaking world. When we see what has happened in Germany, Italy and Russia we cannot neglect their warning. This is an age in which the citizen requires more, and not less, legal protection in the exercise of his rights and liberties.

That is doubtless why, after all the complaints against the rigidity of the United States Constitution and the threats of a presidential election on this issue, none of the suggested constitutional amendments has so far been adopted by the Administration. This may explain why the 'Nine Old Men' of the Supreme Court have not been more seriously challenged. But the challenge may come at a later date, though it would perhaps be wiser to dissociate it from any question of the age of the judges, lest it be the liberal element in the court which is weakened.

Now, at the end of these reflections, I must strike a minor and different note. The rigidity of the Constitution of the United States is the shield of the common man. But that rigidity ought not to be interpreted by pedants. In England we continually give new interpretation to the archaic language of our fundamental institutions, and this is no new thing in the United States. The judiciary have obligations which go beyond expounding the mere letter of the law. The Constitution must be made to work.

A true interpretation, however, of the British or the American Constitution is certainly not a chop-logic or pedantic interpretation. So august a body as the Supreme Court in dealing with law must also deal with the life of the United States, and words, however solemn, are only true when they preserve their vital relationship to facts. It would certainly be a great disaster, not only to the American Republic but to the whole world, if a violent collision should

take place between the large majority of the American people and the great instrument of government which has so long presided over their expanding fortunes.

*Collier's*, 22 August, 1936

Parts of this article originally appeared in *The Daily Mail* on 6 June, 1935.

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burning deep in the hearts of some of the greatest peoples of the world, fanned by continual provocation and unceasing fear, and fed by the deepest sense of national wrong or national danger! On the other hand, there is the blessed respite of Exhaustion, offering to the nations a final chance to control their destinies and avert what may well be a general doom. Surely if a sense of self-preservation still exists among men, if the will to live resides not merely in individuals or nations but in humanity as a whole, the prevention of the supreme catastrophe ought to be the paramount object of all endeavour.

Against the gathering but still distant tempest the League of Nations, deserted by the United States, scorned by Soviet Russia, flouted by Italy, distrusted equally by France and Germany, raises feebly but faithfully its standards of sanity and hope. Its structure, airy and unsubstantial, framed of shining but too often visionary idealism, is in its present form incapable of guarding the world from its dangers and of protecting mankind from itself. Yet it is through the League of Nations alone that the path to safety and salvation can be found. To sustain and aid the League of Nations is the duty of all. To reinforce it and bring it into vital and practical relation with actual world-politics by sincere agreements and understanding between the great Powers, between the leading races, should be the first aim of all who wish to spare their children torments and disasters compared with which those we have suffered will be but a pale preliminary.

Winsten Churchill

## MASS EFFECTS IN MODERN LIFE

**I**S the march of events ordered and guided by eminent men; or do our leaders merely fall into their places at the heads of the moving columns? Is human progress the result of the resolves and deeds of individuals, or are these resolves and deeds only the outcome of time and circumstance? Is history the chronicle of famous men and women, or only of their responses to the tides, tendencies and opportunities of their age? Do we owe the ideals and wisdom that make our world to the glorious few, or to the patient anonymous innumerable many? The question has only to be posed to be answered. We have but to let the mind's eye skim back over the story of nations, indeed to review the experience of our own small lives, to observe the decisive part which accident and chance play at every moment. If this or that had been otherwise, if this instruction had not been given, if that blow had not been struck, if that horse had not stumbled, if we had not met that woman, or missed or caught that train, the whole course of our lives would have been changed; and with our lives the lives of others, until gradually, in ever-widening circles, the movement of the world itself would have been affected. And if this be true of the daily experience of ordinary average people, how much more potent must be the deflection which the Master Teachers—Thinkers, Discoverers, Commanders—have imparted at every stage. True, they required their background, their atmosphere, their opportunity; but these were also the leverages which magnified their power. I have no hesitation in ranging myself with those who view the past history of the world mainly as the tale

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of exceptional human beings, whose thoughts, actions, qualities, virtues, triumphs, weaknesses and crimes have dominated the fortunes of the race. But we may now ask ourselves whether powerful changes are not coming to pass, are not already in progress or indeed far advanced. Is not mankind already escaping from the control of individuals? Are not our affairs increasingly being settled by mass processes? Are not modern conditions—at any rate throughout the English-speaking communities—hostile to the development of outstanding personalities, and to their influence upon events: and lastly if this be true, will it be for our greater good and glory? These questions merit some examination from thoughtful people.

Certainly we see around us to-day a marked lack of individual leadership. The late Mr. John Morley, statesman and philanthropist, man of letters and man of affairs, some years ago towards the close of his life delivered an oration in which he drew attention to the decline in the personal eminence of the leaders in almost all the important spheres of thought and art. He contrasted the heads of the great professions in the early twentieth century with those who had shone in the mid-Victorian era. He spoke of 'the vacant Thrones' in Philosophy, History, Economics, Oratory, Statecraft, Poetry, Literature, Painting, Sculpture, and Music, which stood on every side. He pointed—as far as possible without offence—to the array of blameless mediocrities, who strutted conscientiously around the seats of the mighty decked in their discarded mantles and insignia. The pith and justice of these reflections were unwelcome, but not to be denied. They are no less applicable to the United States. With every natural wish to be complimentary to our own age and generation, with every warning against 'singing the praises of former times,' it is difficult to marshal to-day in any part of the English-speaking world an assembly of notables, who either in distinction or achievement can compare with those to whom our grandfathers so gladly paid attention and tribute.

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It must be admitted that in one great sphere the thrones are neither vacant nor occupied by pygmies. Science in all its forms surpasses itself every year. The body of knowledge ever accumulating is immediately interchanged and the quality and fidelity of the research never flags. But here again the mass effect largely suppresses the individual achievement. The throne is occupied; but by a throng.

In part we are conscious of the enormous processes of collectivization which are at work among us. We have long seen the old family business, where the master was in direct personal touch with his workmen, swept out of existence or absorbed by powerful companies, which in their turn are swallowed by mammoth trusts. We have found in these processes, whatever hardships they may have caused to individuals, immense economic and social advantages. The magic of mass production has carried all before it. The public have a cheaper and even better article or a superior service, the workmen have better wages and greater security.

The results upon national character and psychology are more questionable. We are witnessing a great diminution in the number of independent people who had some standing of their own, albeit a small one, and who if they conducted their affairs with reasonable prudence could 'live by no man's leave underneath the law.' They may be better off as the salaried officials of great corporations; but they have lost in forethought, in initiative, in contrivance, in freedom and in effective civic status.

These instances are but typical of what is taking place in almost every sphere of modern industrial life, and of what must take place with remorseless persistency, if we are to enjoy the material blessings which scientific and organized civilization is ready to bestow in measureless abundance.

In part again these changes are unconscious. Public opinion is formed and expressed by machinery. The newspapers do an immense amount of thinking for the average man and woman. In fact they supply them with such a

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continuous stream of standardized opinion, borne along upon an equally inexhaustible flood of news and sensation, collected from every part of the world every hour of the day, that there is neither the need nor the leisure for personal reflection. All this is but a part of a tremendous educating process. But it is an education which passes in at one ear and out at the other. It is an education at once universal and superficial. It produces enormous numbers of standardized citizens, all equipped with regulation opinions, prejudices and sentiments, according to their class or party. It may eventually lead to a reasonable, urbane and highly-serviceable society. It may draw in its wake a mass culture enjoyed by countless millions, to whom such pleasures were formerly unknown. We must not forget the enormous circulations at cheap prices of the greatest books of the world, which is a feature of modern life in civilized countries, and nowhere more than in the United States. But this great diffusion of knowledge, information and light reading of all kinds may, while it opens new pleasures to humanity and appreciably raises the general level of intelligence, be destructive of those conditions of personal stress and mental effort to which the masterpieces of the human mind are due.

It is a curious fact that the Russian Bolsheviks in carrying by compulsion mass conceptions to their utmost extreme seem to have lost not only the guidance of great personalities, but even the economic fertility of the process itself. The Communist theme aims at universal standardization. The individual becomes a function: the community is alone of interest: mass thoughts dictated and propagated by the rulers are the only thoughts deemed respectable. No one is to think of himself as an immortal spirit, clothed in the flesh, but sovereign, unique, indestructible. No one is to think of himself even as that harmonious integrity of mind, soul and body, which, take it as you will, may claim to be 'the Lord of Creation.' Sub-human goals and ideals are set before these Asiatic millions. The Beehive? No, for there must be no queen and no honey, or at least no honey

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for others. In Soviet Russia we have a society which seeks to model itself upon the Ant. There is not one single social or economic principle or concept in the philosophy of the Russian Bolshevik which has not been realized, carried into action, and enshrined in immutable laws a million years ago by the White Ant.

But human nature is more intractable than ant-nature. The explosive variations of its phenomena disturb the smooth working out of the laws and forces which have subjugated the White Ant. It is at once the safeguard and the glory of mankind that they are easy to lead and hard to drive. So the Bolsheviks, having attempted by tyranny and by terror to establish the most complete form of mass life and collectivism of which history bears record, have not only lost the distinction of individuals, but have not even made the nationalization of life and industry pay. We have not much to learn from them, except what to avoid.

Mass effects and their reactions are of course more pronounced in the leading nations than in more backward and primitive communities. In Great Britain, the United States, Germany, and France, the decline in personal pre-eminence is much more plainly visible than in societies which have less wealth, less power, less freedom. The great emancipated nations seem to have become largely independent of famous guides and guardians. They no longer rely upon the Hero, the Commander, or the Teacher as they did in bygone rugged ages, or as the less advanced peoples do to-day. They wend their way ponderously, unthinkingly, blindly, but nevertheless surely and irresistibly towards goals which are ill-defined and yet magnetic. Is it then true that civilization and democracy, when sufficiently developed, will increasingly dispense with personal direction: that they mean to find their own way for themselves; and that they are capable of finding the right way? Or are they already going wrong? Are they off the track? Have they quitted the stern, narrow high-roads which alone lead to glorious destinies and survival? Is what we now see in the leading

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democracies merely a diffusion and squandering of the accumulated wisdom and treasure of the past? Are we blundering on together in myriad companies, like innumerable swarms of locusts, chirping and devouring towards the salt sea, or towards some vast incinerator of shams and fallacies? Or have we for the first time reached those uplands whence all of us, even the humblest and silliest equally with the best, can discern for ourselves the beacon lights? Surely such an inquiry deserves an idle hour.

In no field of man's activities is the tendency to mass effects and the suppression of the individual more evident than in modern war. The Armageddon through which we have recently passed displays the almost complete elimination of personal guidance. It was the largest and the latest of all wars. It was also the worst, the most destructive, and in many ways the most ruthless. Now that it is over we look back, and with minute and searching care seek to find its criminals and its heroes. Where are they? Where are the villains who made the War? Where are the deliverers who ended it? Facts without number, growing libraries, clouds of contemporary witnesses, methods of assembling and analysing evidence never before possessed or used among men are at our disposal. The quest is keen. We ought to know; we mean to know. Smarting under our wounds, enraged by our injuries, amazed by our wonderful exertions and achievements, conscious of our authority, we demand to know the truth, and to fix the responsibilities. Our halts and our laurels are ready and abundant.

But what is the answer? There is no answer. On the one hand, the accusations eagerly pressed now against this man or Government or nation, now against that, seem to dissipate themselves as the indictment proceeds. On the other, as the eager claimants for the honour of being the man, the Government, the nation THAT ACTUALLY WON THE WAR multiply and as their self-advocacy becomes more voluble, more strident, we feel less and less convinced. The Muse of History to whom we all so confidently appeal

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has become a Sphinx. A sad, half-mocking smile flickers on her stone war-scarred lineaments. While we gaze, we feel that the day will never come when we shall learn the answer for which we have clamoured. Meanwhile the halts rot and the laurels fade. Both the making and the winning of the most terrible and the most recent of earthly struggles seems to have been a co-operative affair!

Modern conditions do not lend themselves to the production of the heroic or super-dominant type. On the whole they are fatal to pose. The robes, the wigs, the ceremonies, the grades that fortified the public men and ruling functionaries of former centuries have fallen into disuse in every country. Even 'the Divinity that doth hedge a King' is considered out of place except on purely official occasions. Sovereigns are admired for their free and easy manners, their readiness to mingle with all classes, their matter-of-fact work-a-day air, their dislike of pomp and ritual. The Minister or President at the head of some immense sphere of business, whose practical decisions from hour to hour settle so many important things, is no longer a figure of mystery and awe. On the contrary he is looked upon, and what is more important for our present purpose, looks upon himself, as quite an ordinary fellow, who happens to be charged for the time being with a peculiar kind of large-scale work. He hustles along with the crowd in the public conveyances, or attired in 'plus fours' waits his turn upon the links. All this is very jolly, and a refreshing contrast to the ridiculous airs and graces of the periwigged potentates of other generations. The question is whether the sense of leadership, and the commanding attitude towards men and affairs, are likely to arise from such simple and unpretentious customs and habits of mind; and further whether our public affairs will now for the future run on quite happily without leaders who by their training and situation, no less than by their abilities, feel themselves to be uplifted above the general mass.

The intense light of war illuminates as usual this topic

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more clearly than the comfortable humdrum glow of peace. We see the modern commander entirely divorced from the heroic aspect by the physical conditions which have overwhelmed his art. No longer will Hannibal and Cæsar, Turenne and Marlborough, Frederick and Napoleon, sit their horses on the battlefield and by their words and gestures direct and dominate between dawn and dusk the course of a supreme event. No longer will their fame and presence cheer their struggling soldiers. No longer will they share their perils, rekindle their spirits and restore the day. They will not be there. They have been banished from the fighting scene, together with their plumes, standards and breast-plates. The lion-hearted warrior, whose keen eye detected the weakness in the foe's line, whose resolve outlasted all the strains of battle, whose mere arrival at some critical point turned the tide of conflict, has disappeared. Instead our Generals are to be found on the day of battle at their desks in their offices fifty or sixty miles from the front, anxiously listening to the trickle of the telephone for all the world as if they were speculators with large holdings when the market is disturbed.

All very right and worthy. They are at their posts. Where else indeed should they be? The tape-machine ticks are recording in blood-red ink that railways are down or utilities up, that a bank has broken here, and a great fortune has been captured there. Calm sits the General—he is a high-souled speculator. He is experienced in finance. He has survived many market crashes. His reserves are ample and mobile. He watches for the proper moment, or proper day—for battles now last for months—and then launches them to the attack. He is a fine tactician, and knows the wiles of bull and bear, of attack and defence to a nicety. His commands are uttered with decision. Sell fifty thousand of this. Buy at the market a hundred thousand of that. Ah! No, we are on the wrong track. It is not shares he is dealing in. It is the lives of scores of thousands of men. To look at him at

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work in his office you would never have believed that he was fighting a battle in command of armies ten times as large and a hundred times as powerful as any that Napoleon led. We must praise him if he does his work well, if he sends the right messages, and spends the right troops, and buys the best positions. But it is hard to feel that he is the hero. No; he is not the hero. He is the manager of a stock-market, or a stock-yard.

The obliteration of the personal factor in war, the stripping from high commanders of all the drama of the battlefield, the reducing of their highest function to pure office work, will have profound effects upon sentiment and opinion. Hitherto the great captain has been rightly revered as the genius who by the firmness of his character, and by the mysterious harmonies and inspirations of his nature, could rule the storm. He did it himself: and no one else could do it so well. He conquered there and then. Often he fell beneath the bolts and the balls, saviour of his native land. Now, however illogical it may seem and even unjust, his glamour and honours will not readily descend upon our calculating friend at the telephone. This worthy must assuredly be rewarded as a useful citizen, and a faithful perspicacious public servant; but not as a hero. The heroes of modern war lie out in the cratered fields, mangled, stifled, scarred; and there are too many of them for exceptional honours. It is mass suffering, mass sacrifice, mass victory. The glory which plays upon the immense scenes of carnage is diffused. No more the blaze of triumph irradiates the helmets of the chiefs. There is only the pale light of a rainy dawn by which forty miles of batteries recommence their fire, and another score of divisions flounder to their death in mud and poison gas.

That was the last war. The wars of the future will be even less romantic and picturesque. They will apparently be the wars not of armies but of whole populations. Men, women and children, old and feeble, soldiers and civilians, sick and wounded—all will be exposed—so we are told—to aerial

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bombardment, that is to say to mass destruction by lethal vapour. There will not be much glory for the general in this process. My gardener last spring exterminated seven wasp's nests. He did his work most efficiently. He chose the right poison. He measured the exact amount. He put it stealthily in the right place, at the right time. The entire communities were destroyed. Not even one wasp got near enough to sting him. It was his duty and he performed it well. But I am not going to regard him as a hero.

So when some spectacled 'brass hat' of a future world-agony has extinguished some London or Paris, some Tokio or San Francisco, by pressing a button, or putting his initials neatly at the bottom of a piece of foolscap, he will have to wait a long time for fame and glory. Even the flashlights of the photographers in the national Ministry of Propaganda will be only a partial compensation. Still our Commander-in-Chief may be a man of exemplary character, most painstaking and thorough in his profession. He may only be doing what in all the circumstances some one or other would have to do. It seems rather hard that he should receive none of the glory which in former ages would have been the attribute of his office and the consequence of his success. But this is one of the mass effects of modern life and science. He will have to put up with it.

From this will follow blessed reactions. The idea of war will become loathsome to humanity. The military leader will cease to be a figure of romance and fame. Youth will no longer be attracted to such careers. Poets will not sing nor sculptors chisel the deeds of conquerors. It may well be that the chemists will carry off what credit can be found. The budding Napoleons will go into business, and the civilization of the world will stand on a surer basis. We need not waste our tears on the mass effects in war. Let us return to those of peace.

Can modern communities do without great men? Can they dispense with hero-worship? Can they provide a

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larger wisdom, a nobler sentiment, a more vigorous action, by collective processes, than were ever got from the Titans? Can nations remain healthy, can all nations draw together, in a world whose brightest stars are film stars and whose gods are sitting in the gallery? Can the spirit of man emit the vital spark by machinery? Will the new problems of successive generations be solved successfully by 'the common sense of most'; by party caucuses; by Assemblies whose babble is no longer heeded? Or will there be some big hitch in the forward march of mankind, some intolerable block in the traffic, some vain wandering into the wilderness; and will not then the need for a personal chief become the mass desire?

'We see a restlessness around us already. The cry of Measures, not Men' no longer commands universal sympathy. There is a sense of vacancy and of fatuity, of incompleteness. We miss our giants. We are sorry that their age is past. The general levels of intelligence and of knowledge have risen. We are upon a high plateau. A peak of 10,000 feet above the old sea-level is scarcely noticeable. There are so many such eminences that we hardly bother about them. The region seems healthy; but the scenery is unimpressive. We mourn the towering grandeur which surrounded and cheered our long painful ascent. Ah! if we could only find some new enormous berg rising towards the heavens as high above our plateau as those old mountains down below rose above the plains and marshes! We want a monarch peak, with base enormous, whose summit is forever hidden from our eyes by clouds, and down whose precipices cataracts of sparkling waters thunder. Unhappily the democratic plateau or platform does not keep that article in stock. Perhaps something like it might be worked up by playing spot-lights upon pillars of smoke or gas, and using the loud-speaker apparatus. But we soon see through these pretences.

No, we must take the loss with the gain. On the uplands there are no fine peaks. We must do without them while

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we stay there. Of course we could always if we wished go down again into the plains and valleys out of which we have climbed. We may even wander thither unwittingly. We may slide there. We may be pushed there. There are still many powerful nations dwelling at these lower levels—some contentedly—some even proudly. They often declare that life in the valleys is preferable. There is, they say, more variety, more beauty, more grace, more dignity—more true health and fertility than upon the arid highlands. They say this middle situation is better suited to human nature. The arts flourish there, and science need not be absent. Moreover it is pleasing to look back over the plains and morasses through which our path has lain in the past, and remember in tradition the great years of pilgrimage. Then they point to the frowning crag, their venerated 'El Capitan' or 'Il Duce,' casting its majestic shadow in the evening light; and ask whether we have anything like that up there. We certainly have not.

## FIFTY YEARS HENCE

THE great mass of human beings, absorbed in the toils, cares and activities of life, are only dimly conscious of the pace at which mankind has begun to travel. We look back a hundred years, and see that great changes have taken place. We look back fifty years, and see that the speed is constantly quickening. This present century has witnessed an enormous revolution in material things, in scientific appliances, in political institutions, in manners and customs. The greatest change of all is the least perceptible by individuals; it is the far greater numbers which in every civilized country participate in the fuller life of man. 'In those days,' said Disraeli, writing at the beginning of the nineteenth century, 'England was for the few and for the very few.' 'The twice two thousand for whom,' wrote Byron, 'the world is made' have given place to many millions for whom existence has become larger, safer, more varied, more full of hope and choice. In the United States scores of millions have lifted themselves above primary necessities and comforts, and aspire to culture—at least for their children. Europe, though stunned and lacerated by Armageddon, presents a similar if less general advance. We all take the modern conveniences and facilities as they are offered to us without being grateful or consciously happier. But we simply could not live, if they were taken away. We assume that progress will be constant. 'This 'ere progress,' Mr. Wells makes one of his characters remark, 'keeps going on. It's wonderful 'ow it keeps going on.' It is also very fortunate, for if it stopped or were reversed, there would be the catastrophe of unimaginable horror. Mankind

First Inaugural Address  
 George Washington  
 New York  
 April 30, 1789

Fellow-Citizens of the Senate and of the House of Representatives:

Among the vicissitudes incident to life no event could have filled me with greater anxieties than that of which the notification was transmitted by your order, and received on the 14th day of the present month. On the one hand, I was summoned by my country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and, in my flattering hopes, with an immutable decision, as the asylum of my declining years—a retreat which was rendered every day more necessary as well as more dear to me by the addition of habit to inclination, and of frequent interruptions in my health to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust to which the voice of my country called me, being sufficient to awaken in the wisest and most experienced of her citizens a distrustful scrutiny into his qualifications, could not but overwhelm with despondence one who (inheriting inferior endowments from nature and unpracticed in the duties of civil administration) ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions all I dare aver is that it has been my faithful study to collect my duty from a just appreciation of every circumstance by which it might be affected. All I dare hope is that if, in executing this task, I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof of the confidence of my fellow-citizens, and have thence too little consulted my incapacity as well as disinclination for the weighty and untried cares before me, my error will be palliated by the motives which mislead me, and its consequences be judged by my country with some share of the partiality in which they originated.

Such being the impressions under which I have, in obedience to the public summons, repaired to the present station, it would be peculiarly improper to omit in this first official act my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that His benediction may consecrate to the liberties and happiness of the people of the United States a Government instituted by themselves for these essential purposes, and may enable every instrument employed in its administration to execute with success the functions allotted to his charge. In tendering this homage to the Great Author of every public and private good, I assure myself that it expresses your sentiments not less than my own, nor those of my fellow-citizens at large less than either. No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency; and in the important revolution just accomplished in the system of their united government the tranquil deliberations and voluntary consent of so many distinct communities from which the event has resulted can not be compared with the means by which most governments have been established without some return of pious gratitude, along with an humble anticipation of the future blessings which the past seem to presage. These reflections, arising out of the present crisis, have forced themselves too strongly on my mind to be suppressed. You will join with me, I trust, in thinking that there are none under the influence of which the proceedings of a new and free government can more auspiciously commence.

By the article establishing the executive department it is made the duty of the President "to recommend to your consideration such measures as he shall judge necessary and expedient." The circumstances under which I now meet you will acquit me from entering into that subject further than to refer to the great constitutional charter under which you are assembled, and which, in defining your powers, designates the objects to which your attention is to be given. It will be more consistent with those circumstances, and far more congenial with the feelings which actuate me, to substitute, in place of a recommendation of particular measures, the tribute that is due to the talents, the rectitude, and the patriotism which adorn the characters selected to devise and adopt them. In these honorable qualifications I behold the surest pledges that as on one side no local prejudices or attachments, no separate views nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests, so, on another, that the foundation of our national policy will be laid in the pure and immutable principles of private morality, and the preeminence of free government be exemplified by all the attributes which can win the affections of its citizens and command the respect of the world. I dwell on this prospect with every satisfaction which an ardent love for my country can inspire, since there is no truth more thoroughly established than that there exists in the economy and course of nature an indissoluble union between virtue and happiness; between duty and advantage; between the genuine maxims of an honest and magnanimous policy and the solid rewards of public prosperity and felicity; since we ought to be no less persuaded that the propitious smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained; and since the preservation of the sacred fire of liberty and the destiny of the republican model of government are justly considered, perhaps, as deeply, as finally, staked on the experiment entrusted to the hands of the American people.

Besides the ordinary objects submitted to your care, it will remain with your judgment to decide how far an exercise of the occasional power delegated by the fifth article of the Constitution is rendered expedient at the present juncture by the nature of objections which have been urged against the system, or by the degree of inquietude which has given birth to them. Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good; for I assure myself that whilst you carefully avoid every alteration which might endanger the benefits of an united and effective government, or which ought to await the future lessons of experience, a reverence for the characteristic rights of freemen and a regard for the public harmony will sufficiently influence your deliberations on the question how far the former can be impregably fortified or the latter be safely and advantageously promoted.

To the foregoing observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will therefore be as brief as possible. When I was first honored with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed; and being still under the impressions which produced it, I must decline as inapplicable to myself any share in the personal emoluments which may be indispensably included in a permanent provision for the executive department, and must accordingly pray that the pecuniary estimates for the station in which I am placed may during my continuance in it be limited to such actual expenditures as the public good may be thought to require.

Having thus imparted to you my sentiments as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign Parent of the Human Race in humble supplication that, since He has been pleased to favor the American people with opportunities for deliberating in perfect tranquility, and dispositions for deciding with unparalleled unanimity on a form of government for the security of their union and the advancement of their happiness, so His divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures on which the success of this Government must depend.

under proper circumstances, has permission to depart from the United States been refused to prisoners of this description.

That no specific provision having been made by law for the sustenance of French prisoners, they have been allowed, in some instances, more, but never less than one pound of bread, half a pound of meat, and one pound of vegetables each per day. That, deeming this allowance sufficient, no discrimination has been made between the officers and privates, except that the former have been permitted to draw either the provisions, or the value in money; and that, besides provisions, the prisoners have been furnished with coarse but comfortable clothing and blankets; and, when the season required it, with fuel.

The Secretary begs leave further to report, that it is a fact not to be doubted, that the American citizens, who have fallen into the hands of the agents of the French Government in the West Indies, have experienced treatment less indulgent than that of which the prisoners at Burlington complain; and that, in his opinion, neither humanity nor policy requires any change in the conduct heretofore observed towards French prisoners.

All which is respectfully submitted.

BEN. STODDERT, *Secretary of the Navy.*

6th CONGRESS.]

No. 117.

[1st Session.]

# ORATION ON THE DEATH OF GENERAL WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 30, 1799.

DEAR SIR:

PHILADELPHIA, *December 27, 1799.*

The enclosed resolutions, which unanimously passed the House of Representatives this day, will make known to you how highly they have been gratified with the manner in which you have performed the service assigned to you, in preparing and delivering a funeral oration on the death of General Washington. That our constituents may participate in the gratification we have received, from your having so well expressed those sentiments of respect for the character, of gratitude for the services, and of grief for the death of that illustrious personage, I flatter myself you will not hesitate to comply with the request of the House, by furnishing a copy of your oration, to be taken for publication.

Allow me, while performing this pleasing task of official duty, in communicating an act of the Representatives of the people, so just to you and so honorable to themselves, to embrace the opportunity to declare that

I am, personally, with great esteem and sincere regard,

Dear sir, your friend and obedient servant,

THEODORE SEDGWICK.

The Honorable Major Gen. LEE.

DEAR SIR:

FRANKLIN COURT, *December 28, 1799.*

I owe to the goodness of the House of Representatives the honor which their resolutions confer on my humble efforts to execute their wish.

I can never disobey their will, and therefore will furnish a copy of the oration delivered on the late afflicting occasion, much as I had flattered myself with a different disposition of it.

Sincerely reciprocating the personal considerations with which you honor me,

I am, very respectfully, sir, your friend and obedient servant,

HENRY LEE.

The SPEAKER of the House of Representatives.

In obedience to your\* will, I rise your humble organ, with the hope of executing a part of the system of public mourning which you have been pleased to adopt, commemorative of the death of the most illustrious and most beloved personage this country has ever produced; and which, while it transmits to posterity your sense of the awful event, faintly represents your knowledge of the consummate excellence you so cordially honor.

Desperate indeed is any attempt on earth to meet correspondently this dispensation of Heaven; for, while with pious resignation we submit to the will of an all-gracious Providence, we can never cease lamenting in our finite view of Omnipotent Wisdom, the heart-rending privation for which our nation weeps. When the civilized world shakes to its centre; when every moment gives birth to strange and momentous changes; when our peaceful quarter of the globe, exempt as it happily has been from any share in the slaughter of the human race, may yet be compelled to abandon her pacific policy, and to risk the doleful casualties of war, what limit is there to the extent of our loss? None within the reach of my words to express; none which your feelings will not disavow.

The founder of our federate republic, our bulwark in war, our guide in peace, is no more. Oh that this was but questionable! Hope, the comforter of the wretched, would pour into our agonized hearts its balmy dew. But, alas! there is no hope for us: our Washington is removed forever. Possessing the stoutest frame, and purest mind, he had passed nearly to his sixty-eighth year, in the enjoyment of high health; when, habituated by his care of us to neglect himself, a slight cold, disregarded, became inconvenient on Friday, oppressive on Saturday, and, defying every medical interposition, before the morning of Sunday put an end to the best of men. An end did I say!—his fame survives! bounded only by the limits of the earth, and by the extent of the human mind. He survives in our hearts, in the growing knowledge of our children, in the affection of the good throughout the world; and when our monuments shall be done away, when nations now existing shall be no more, when even our young and far-spreading empire shall have perished, still will our Washington's glory unfaded shine, and die not, until love of virtue cease on earth, or earth itself sink into chaos.

\* The two Houses of Congress.

How, my fellow-citizens, shall I single to your grateful hearts his pre-eminent worth! Where shall I begin in opening to your view a character throughout sublime? Shall I speak of his warlike achievements, all springing from obedience to his country's will—all directed to his country's good?

Will you go with me to the banks of the Monongahela, to see your youthful Washington, supporting, in the dismal hour of Indian victory, the ill-fated Braddock, and saving, by his judgment and by his valor, the remains of a defeated army, pressed by the conquering savage foe? Or, when oppressed America, nobly resolving to risk her all in defence of her violated rights, he was elevated by the unanimous voice of Congress to the command of her armies? Will you follow him to the high grounds of Boston, where to an undisciplined, courageous, and virtuous yeomanry, his presence gave the stability of system, and infused the invincibility of love of country? Or shall I carry you to the painful scenes of Long Island, York Island, and New Jersey; when, combating superior and gallant armies, aided by powerful fleets, and led by chiefs high in the roll of fame, he stood the bulwark of our safety; undismayed by disaster; unchanged by change of fortune? Or will you view him in the precarious fields of Trenton, where deep gloom unnerving every arm, reigned triumphant through our thinned, worn down, unaided ranks, himself unmoved? Dreadful was the night—it was about this time of winter—the storm raged—the Delaware, rolling furiously with floating ice, forbade the approach of man. Washington, self-collected, viewed the tremendous scene; his country called; unappalled by surrounding dangers, he passed to the hostile shore: he fought; he conquered. The morning sun cheered the American world. Our country rose on the event; and her dauntless chief, pursuing his blow, completed in the lawns of Princeton what his vast soul had conceived on the shores of Delaware.

Thence to the strong ground of Morristown he led his small but gallant band; and through an eventful winter, by the high efforts of his genius, whose matchless force was measurable only by the growth of difficulties, he held in check formidable hostile legions, conducted by a chief experienced in the art of war, and famed for his valor on the ever-memorable Heights of Abraham, where fell Wolfe, Montcalm, and since our much-lamented Montgomery, all covered with glory. In this fortunate interval, produced by his masterly conduct, our fathers, ourselves, animated by his resistless example, rallied around our country's standard, and continued to follow her beloved chief through the various and trying scenes to which the destinies of our Union led.

Who is there that has forgotten the vales of Brandywine, the fields of Germantown, or the plains of Monmouth? Every where present, wants of every kind obstructing, numerous and valiant armies encountering, himself a host, he assuaged our sufferings, limited our privations, and upheld our tottering republic. Shall I display to you the spread of the fire of his soul, by rehearsing the praises of the hero of Saratoga, and his much-loved compeer of the Carolinas? No; our Washington wears not borrowed glory. To Gates—to Green—he gave without reserve the applause due to their eminent merit; and long may the chiefs of Saratoga and of Eutaw receive the grateful respect of a grateful people.

Moving in his own orbit, he imparted heat and light to his most distant satellites; and combining the physical and moral force of all within his sphere, with irresistible weight he took his course, commiserating folly, disdaining vice, dismaying treason, and invigorating despondency, until the auspicious hour arrived; when, united with the intrepid forces of a potent and magnanimous ally, he brought to submission the since conqueror of India; thus finishing his long career of military glory with a lustre corresponding to his great name, and in this his last act of war affixing the seal of fate to our nation's birth.

To the horrid din of battle sweet peace succeeded; and our virtuous chief, mindful only of the common good, in a moment tempting personal aggrandizement, hushed the discontents of growing sedition, and surrendering his power into the hands from which he had received it, converted his sword into a ploughshare, teaching an admiring world that to be truly great you must be truly good.

Were I to stop here, the picture would be incomplete, and the task imposed unfinished. Great as was our Washington in war, and much as did that greatness contribute to produce the American republic, it is not in war alone his pre-eminence stands conspicuous: his various talents combining all the capacities of the statesman with those of the soldier, fitted him alike to guide the councils and the armies of our nation. Scarcely had he rested from his martial toils, while his invaluable parental advice was still sounding in our ears, when he who had been our shield and our sword was called forth to act a less splendid but a more important part.

Possessing a clear and penetrating mind, a strong and a sound judgment, calmness and temper for deliberation, with invincible firmness and perseverance in resolutions maturely formed, drawing information from all, acting from himself, with incorruptible integrity and unvarying patriotism; his own superiority and the public confidence alike marked him as the man designed by Heaven to lead in the great political as well as military events which have distinguished the era of his life.

The finger of an overruling Providence, pointing at Washington, was neither mistaken nor unobserved; when, to realize the vast hopes to which our revolution had given birth, a change of political system became indispensable.

How novel—how grand the spectacle! independent States stretched over an immense territory, and known only by common difficulty, clinging to their Union as the rock of their safety, deciding by frank comparison of their relative condition, to rear on that rock, under the guidance of reason, a common Government, through whose commanding protection, liberty and order, with their long train of blessings, should be safe to themselves, and the sure inheritance of their posterity.

This arduous task devolved on citizens selected by the people, from knowledge of their wisdom and confidence in their virtue. In this august assembly of sages and of patriots, Washington of course was found; and, as if acknowledged to be most wise, where all were wise, with one voice he was declared their chief. How well he merited this rare distinction, how faithful were the labors of himself and his compatriots, the work of their hands and our Union, strength and prosperity, the fruits of that work, best attest.

But to have essentially aided in presenting to his country this consummation of her hopes, neither satisfied the claims of his fellow-citizens on his talents, nor those duties which the possession of those talents imposed. Heaven had not infused into his mind such an uncommon share of its ethereal spirit to remain unemployed, nor bestowed on him his genius unaccompanied with the corresponding duty of devoting it to the common good. To have framed a constitution, was showing only, without realizing, the general happiness. This great work remained to be done, and America, steadfast in her preference, with one voice summoned her beloved Washington, unpractised as he was in the duties of civil administration, to execute this last act in the completion of the national felicity. Obedient to her call, he assumed the high office with that self-distrust peculiar to his innate modesty, the constant attendant of pre-eminent virtue. What was the burst of joy through our anxious land on this exhilarating event is known to us all. The aged, the young, the brave, the fair, rivalled each other in demonstrations of their gratitude; and this high-wrought delightful scene was heightened in its effect, by the singular contest between the zeal of the bestowers, and the avoidance of the receiver of the honors bestowed. Commencing his administration, what heart is not charmed with the recollection of the pure and wise principles announced by himself, as the basis of his political life. He best understood the indissoluble union between virtue and happiness, between duty and advantage,

between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and individual felicity: watching with an equal and comprehensive eye over this great assemblage of communities and interests, he laid the foundation of our national policy in the unerring immutable principles of morality, based on religion, exemplifying the pre-eminence of free Government, by all the attributes which win the affections of its citizens, or command the respect of the world.

"O fortunatos nimium, sua si bona norint!"

Leading through the complicated difficulties produced by previous obligations and conflicting interests, seconded by succeeding Houses of Congress, enlightened and patriotic, he surmounted all original obstructions, and brightened the path of our national felicity.

The Presidential term expiring, his solicitude to exchange exaltation for humility returned with a force increased with increase of age, and he had prepared his farewell address to his countrymen, proclaiming his intention, when the united interposition of all around him, enforced by the eventful prospects of the epoch, produced a further sacrifice of inclination to duty. The election of President followed; and Washington, by the unanimous vote of the nation, was called to resume the Chief Magistracy. What a wonderful fixture of confidence! Which attracts most our admiration—a people so correct, or a citizen combining an assemblage of talents forbidding rivalry, and stifling even envy itself? Such a nation ought to be happy; such a chief must be forever revered.

War, long menaced by the Indian tribes, now broke out; and the terrible conflict, deluging Europe with blood, began to shed its baneful influence over our happy land. To the first, outstretching his invincible arm, under the orders of the gallant Wayne, the American eagle soared triumphant through distant forests. Peace followed victory, and the melioration of the condition of the enemy followed peace. Godlike virtue, which uplifts even the subdued savage.

To the second he opposed himself. New and delicate was the conjuncture, and great was the stake. Soon did his penetrating mind discern and seize the only course; continuing to us all the felicity enjoyed. He issued his proclamation of neutrality. This index to his whole subsequent conduct was sanctioned by the approbation of both Houses of Congress, and by the approving voice of the people.

To this sublime policy he inviolably adhered, unmoved by foreign intrusion, unshaken by domestic turbulence.

"Justum et tenacem propositi virum  
"Non civium ardor prava jubentium,  
"Non vultus instantis tyranni  
"Mente quatit solida."

Maintaining his pacific system at the expense of no duty, America, faithful to herself and unstained in her honor, continued to enjoy the delights of peace, while afflicted Europe mourns in every quarter, under the accumulated miseries of an unexampled war; miseries in which our happy country must have shared, had not our pre-eminent Washington been as firm in council as he was brave in the field.

Pursuing steadfastly his course, he held safe the public happiness, preventing foreign war, and quelling internal discord, till the revolving period of a third election approached, when he executed his interrupted but inextinguishable desire of returning to the humble walks of private life.

The promulgation of his fixed resolution stopped the anxious wishes of an affectionate people from adding a third unanimous testimonial of their unabated confidence in the man so long enthroned in their hearts. When, before, was affection like this exhibited on earth? Turn over the records of ancient Greece—review the annals of mighty Rome—examine the volumes of modern Europe—you search in vain. America and her Washington only afford the dignified exemplification.

The illustrious personage called by the national voice in succession to the arduous office of guiding a free people, had new difficulties to encounter; the amicable effort of settling our difficulties with France, begun by Washington, and pursued by his successor in virtue as in station, proving abortive, America took measures of self-defence. No sooner was the public mind roused by prospect of danger, than every eye was turned to the friend of all, though secluded from public view, and grey in public service; the virtuous veteran, following his plough,\* received the unexpected summons with mingled emotions of indignation at the unmerited ill-treatment of his country, and of a determination once more to risk his all in her defence.

The annunciation of these feelings, in his affecting letter to the President accepting the command of the army, concludes his official conduct.

First in war—first in peace—and first in the hearts of his countrymen, he was second to none in the humble and endearing scenes of private life; pious, just, humane, temperate, and sincere; uniform, dignified, and commanding; his example was as edifying to all around him, as were the effects of that example lasting.

To his equals he was condescending, to his inferiors kind, and to the dear object of his affections exemplarily tender; correct throughout, vice shuddered in his presence, and virtue always felt his fostering hand; the purity of his private character gave effulgence to his public virtues.

His last scene comported with the whole tenor of his life. Although in extreme pain, not a sigh, not a groan escaped him; and with undisturbed serenity he closed his well-spent life. Such was the man America has lost—such was the man for whom our nation mourns.

Methinks I see his august image, and hear falling from his venerable lips these deep sinking words:

"Cease, sons of America, lamenting our separation: go on, and confirm by your wisdom the fruits of our joint councils, joint efforts, and common dangers; reverence religion, diffuse knowledge throughout your land, patronize the arts and sciences; let liberty and order be inseparable companions; control party spirit, the bane of free Governments; observe good faith to, and cultivate peace with, all nations; shut up every avenue to foreign influence; contract rather than extend national connexion; rely on yourselves only; be American in thought, word, and deed: thus will you give immortality to that Union, which was the constant object of my terrestrial labors; thus will you preserve, undisturbed, to the latest posterity, the felicity of a people to me most dear; and thus will you supply (if my happiness is now aught to you) the only vacancy in the round of pure bliss high Heaven bestows."

\* General Washington, though opulent, gave much of his time and attention to practical agriculture.



*Democracy in America*  
Alexis De Tocqueville

Excerpt 1. Volume One, Part One, Chapter Five, On Administration in New England

“What most strikes the European who travels through the United States is the absence of what is called among us government or administration. In America you see written laws; you perceive their daily execution; everything moves around you and nowhere do you discover the motor. The hand that directs the social machine vanishes at each instant. Nevertheless, just as all peoples, to express their thoughts, are obliged to have recourse to certain grammatical forms constitutive of human languages, so all societies, to subsist, are constrained to submit to a certain amount of authority without which they fall into anarchy. That authority can be distributed in different manners; but it must always be found somewhere.”

Excerpt 2. Volume One, Part One, Chapter Five, On the Political Effects of Administrative Decentralization in the United States

“Often the European sees in the public official only force; the American sees in him right. One can therefore say that in America man never obeys man, but justice or law. Thus he has conceived an often exaggerated but almost always salutary opinion of himself. He trusts fearlessly in his own forces, which appear to him to suffice for everything. A particular person conceives the thought of some undertaking; should this undertaking have a direct relation to the well-being of society, the idea of addressing himself to the public authority to obtain its concurrence does not occur to him. He makes known his plan, offers to execute it, calls individual forces to the assistance of his, and struggles hand to hand against all obstacles. Often, doubtless, he succeeds less well than if the state were in his place; but in the long term the general result of all the individual undertakings far exceeds what the government could do.”

**Hillsdale College**  
**Allan P. Kirby, Jr. Center for Constitutional Studies and Citizenship**  
**Reviving the Constitution**  
**An Online Town Hall**  
**January 30, 2010**

**Bibliography**

**Session I: "America's Foundational Principles"**

1. The Declaration of Independence (1776)
2. The Constitution of the United States
3. Abraham Lincoln, "Fragment on the Constitution of the Union," in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, Vol. IV (New Brunswick, New Jersey: Rutgers University Press, 1953): 168-9.
4. Alexander Hamilton, James Madison, and John Jay, *Federalist 51* (Madison), in *The Federalist Papers*, ed. Clinton Rossiter, with a new introduction and notes by Charles Kesler (New York: Mentor, 1999): 288-293.
5. James Madison, "Property," in Philip B. Kurland and Ralph Lerner, eds., *The Founders' Constitution*, Vol. I (Indianapolis: Liberty Fund, 1987): 598-99.
6. Calvin Coolidge, "The Inspiration of the Declaration of Independence" (Washington, D.C.: Government Printing Office, 1926).
7. Franklin D. Roosevelt, "Message on the State of the Union," in Peter Augustine Lawler and Robert Martin Schaefer, eds., *American Political Rhetoric*, fourth edition (Lanham: Rowman & Littlefield Publishers, 2001): 186-189.

**Session II: "The Founders' Constitution"**

8. James Otis, "The Rights of the British Colonies Asserted and Proved," in Charles F. Mullett, ed., *Some Political Writings of James Otis* (University of Missouri Studies, 1929): 326-327.
9. The Articles of Confederation (1781)
10. Alexander Hamilton, James Madison, and John Jay, *Federalist 10* (Madison), in *The Federalist Papers*, ed. Clinton Rossiter, with a new introduction and notes by Charles Kesler (New York: Mentor, 1999): 45-52.
11. Alexander Hamilton, James Madison, and John Jay, *Federalist 45* (Madison), in *The Federalist Papers*, ed. Clinton Rossiter, with a new introduction and notes by Charles Kesler (New York: Mentor, 1999): 285-290.
12. Alexis de Tocqueville, *Democracy in America*, Volume II, Part IV, "What Kind of Despotism Democratic Nations Have To Fear," trans. Harvey C. Mansfield, Jr. and Delba Winthrop (Chicago: University of Chicago Press, 2000): 661-665.

**Session III: "The Constitution and the Civil War"**

13. Alexander H. Stephens, "Corner Stone Speech," in *Alexander H. Stephens, in Public and Private, with Letter and Speeches, Before, During, and Since the War*, ed. Henry Cleveland (Philadelphia: National Publishing Company, 1866): 717-723.
14. Abraham Lincoln, "Speech at Peoria, Illinois," in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, Vol. II (New Brunswick, New Jersey: Rutgers University Press, 1953): 247-283.

15. The Republican Party Platform (1856)
16. Abraham Lincoln, "Speech at Springfield, Illinois," in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, Vol. II (New Brunswick, New Jersey: Rutgers University Press, 1953): 398-410.
17. Abraham Lincoln, "A House Divided Speech: Speech at Springfield, Illinois," in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, Vol. II (New Brunswick, New Jersey: Rutgers University Press, 1953): 461-469.

#### **Session IV: "The Progressives' Constitution"**

18. Frank Johnson Goodnow, "The American Conception of Liberty," in Ronald J. Pestritto and William J. Atto, eds., *American Progressivism: A Reader* (Lanham: Rowman & Littlefield Publishers, 2008): 55-64.
19. Theodore Roosevelt, "The New Nationalism," in Ronald J. Pestritto and William J. Atto, eds., *American Progressivism: A Reader* (Lanham: Rowman & Littlefield Publishers, 2008): 211-223.
20. Woodrow Wilson, "What Is Progress?" from *The New Freedom*, Chapter 2, in Ronald J. Pestritto and William J. Atto, eds., *American Progressivism: A Reader* (Lanham: Rowman & Littlefield Publishers, 2008): 45-53.
21. Woodrow Wilson, "Socialism and Democracy" in Ronald J. Pestritto, ed., *Woodrow Wilson: The Essential Political Writings* (Lanham: Rowman & Littlefield Publishers, 2005): 77-79.

#### **Session V: "The Administrative State and the Duties of Citizens"**

22. Winston Churchill, "What Good's A Constitution?," *Collier's Weekly*, August 22, 1936.
23. Winston Churchill, "Mass Effects In Modern Life" in James W. Muller, ed., *Winston Churchill: Thoughts and Adventures* (Wilmington, Delaware: ISI Books, 2009): 269-280.
24. George Washington, "The First Inaugural Speech," in W.B. Allen, ed., *George Washington: A Collection* (Liberty Press: Indianapolis, 1988): 460-467.
25. 6 *Congressional Record* 117 (1799).
26. Alexis de Tocqueville, *Democracy in America*, Volume I, Part I, "Necessity of Studying What Takes Place in the Particular States Before Speaking of the Government of the Union," trans. Harvey C. Mansfield, Jr. and Delba Winthrop (Chicago: University of Chicago Press, 2000): 67, 90.