The Federalist Papers

Kerby Anderson takes through a summary of the Federalist Papers as seen from a biblical worldview perspective. Does a Christian view of man and government undergird these foundational documents? Kerby considers this question.

Introduction



The Federalist Papers are a collection of eighty-five essays written by James Madison, Alexander Hamilton, and John Jay between October 1787 and May 1788. They were written at the time to convince New York State to ratify the U.S. Constitution.

They are perhaps the most famous newspaper columns ever written, and today constitute one of the most important documents of America's founding period. They provide the justification for the Constitution and address some of the most important political issues associated with popular self-government.

Clinton Rossiter says that "*The Federalist* is the most important work in political science that has ever been written, or is likely ever to be written, in the United States. . . . It would not be stretching the truth more than a few inches to say that *The Federalist* stands third only to the Declaration of Independence and the Constitution itself among all the sacred writings of American political history."{1} Jacob Cooke agrees. He believes that "The United States has produced three historic documents of major importance: The Declaration of Independence, the Constitution, and *The Federalist*." {2}

All the essays were signed "Publius" even though they were written by three different authors (Hamilton wrote fifty-two, Madison wrote twenty-eight, and Jay wrote five). Political

leaders in New York opposed the new government because the state had become an independent nation under the Articles of Confederation and was becoming rich through tariffs on trade with other states. When it became apparent that New York would not ratify the Constitution, Alexander Hamilton enlisted the aid of James Madison (who was available because the Continental Congress was sitting in New York) and John Jay. Unfortunately, Jay was injured and was only able to complete a few essays.

There are many reasons for the importance of *The Federalist Papers*. First, the authors were significant figures during the founding era. James Madison is considered the architect of the Constitution and later served as President of the United States. Alexander Hamilton served in George Washington's cabinet and was a major force in setting U.S. economic policy. John Jay became the first Chief Justice of the U.S. Supreme Court. Each of these men was present at the constitutional convention and was respected by their peers.

Second, *The Federalist Papers* provide the most systematic and comprehensive analysis of the constitution. Not only do the authors explain the structure of the constitution, but they also defend their decisions against the critics of their day. They were, after all, writing to convince New York to ratify the constitution.

Third, *The Federalist Papers* explain the motives of the Founding Fathers. Often when Supreme Court justices are trying to discern the founder's intentions, they appeal to these writings.{3} *The Federalist Papers* are the most important interpretative source of constitutional interpretation and give important insight into the framers' intent and purpose for the Constitution.

Human Nature

The writers of *The Federalist Papers* were concerned about the relationship between popular government and human nature. They were well aware that human beings have the propensity to pursue short-term self-interest often at the expense of long-term benefits. The writers were also concerned that factions that formed around these areas of immediate self-interest could ultimately destroy the moral foundations of civil government.

James Madison argued in *Federalist Paper #51* that government must be based upon a realistic view of human nature:

> 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.{4}

The writers of *The Federalist Papers* certainly believed that there was a positive aspect to human nature. They often talk about reason, virtue, and morality. But they also recognized there was a negative aspect to human nature. They believed that framing a republic required a balance of power that liberates human dignity and rationality and controls human sin and depravity.

As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form.{5}

As we will discuss in more detail later, James Madison concluded from his study of governments that they were destroyed by factions. He believed this factionalism was due to "the propensity of mankind, to fall into mutual animosities" (*Federalist Paper #10*) which he believed were "sown in the nature of man." Constitutional scholars have concluded that "the fallen nature of man influenced Madison's view of law and government."{6} He therefore concluded that government must be based upon a more realistic view which also accounts for this sinful side of human nature.

A Christian view of government is based upon a balanced view of human nature. It recognizes both human dignity (we are created in God's image) and human depravity (we are sinful individuals). Because both grace and sin operate in government, we should neither be too optimistic nor too pessimistic. We should view governmental affairs with a deep sense of biblical realism.

Factions and the Republic

The writers of *The Federalist Papers* were concerned about the previous history of republics. Alexander Hamilton writes that "the history of the petty republics of Greece and Italy" can only evoke "horror and disgust" since they rocked back and forth from "the extremes of tyranny and anarchy."

James Madison focused on the problem of factions. "By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of the citizens, or to the permanent and aggregate interests of the community."{7}

Madison believed there were only two ways to cure the problem of factions: remove the causes or control the effects. He quickly dismisses the first since it would either destroy

liberty or require everyone to have “the same opinions, the same passions, and the same interests.”

He further acknowledges that “causes of faction are thus sown in the nature of man.” So he rejects the idea of changing human nature. And he also rejects the idea that a political leader will be able to deal with the problem of factions: “It is 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.”{8}

Madison believed the solution could be found in the extended republic that the framers created. While a small republic might be shattered by factions, the larger number of representatives that would be chosen would “guard against the cabals of a few.”

Also, since “each representative will be chosen by a greater number of citizens, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried.” Also, the voters are “more likely to center on men who possess the most attractive merit and the most diffusive and established characters.”{9}

Madison also believed that this extended republic would minimize the possibility of one faction pushing forward it agenda to the exclusion of others. This was due to the “greater number of citizens and extent of territory.” A smaller society would most likely have fewer distinct parties. But if you extend the sphere, you increase the variety and interests of the parties. And it is less likely any one faction could dominate the political arena.

Madison realized the futility of trying to remove passions or human sinfulness, and instead designed a system that minimized the influence of factions and still provided the greatest amount of liberty for its citizens.

Separation of Powers

The writers of *The Federalist Papers* were concerned with the potential abuse of power, and set forth their rationale for separating the powers of the various branches of government. James Madison summarizes their fear of the centralization of political power in a famous quote in *Federalist Paper* #47.

> No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty, than that on which the objection is founded. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.{10}

Madison quickly dismisses the idea that constitutional provisions alone will prevent an abuse of political power. He argues that mere "parchment barriers" are not adequate "against the encroaching spirit of power."{11}

He also believed that the legislature posed the greatest threat to the separation of powers. "The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex."{12} The framers therefore divided Congress into a bicameral legislature and hoped that the Senate would play a role in checking the passions of popular majorities (*Federalist Paper* #63).

His solution was to give each branch separate but rival powers. This prevented the possibility of concentrating power into the hands of a few. Each branch had certain checks over the other branches so there was a distribution and balance of power.

The effect of this system was to allow ambition and power to control itself. Each branch is given power, and as ambitious

men and women seek to extend their sphere of influence, they provide a check on the other branch.

Madison said, “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.”{13} This policy of supplying “opposite and rival interests” has been known as the concept of countervailing ambitions.

In addition to this, the people were given certain means of redress. Elections and an amendment process have kept power from being concentrated in the hands of governmental officials. Each of these checks was motivated by a healthy fear of human nature. The founders believed in human responsibility and human dignity, but they did not trust human nature too much. Their solution was to separate powers and invest each branch with rival powers.

Limited Government

The writers of *The Federalist Papers* realized the futility of trying to remove passions and ambition from the population. They instead divided power and allowed “ambition to counteract ambition.” By separating various institutional power structures, they limited the expansion of power.

This not only included a horizontal distribution of powers (separation of powers), but also a vertical distribution of powers (federalism). The federal government was delegated certain powers while the rest of the powers were reserved to the states and the people.

James Madison rightly called this new government a republic which he defined as “a government which derives all its powers directly or indirectly from the great body of people, and is administered by persons holding their offices during pleasure

for a limited period, or during good behavior."{14}

He also argued that "the proposed government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several states a residuary and inviolable sovereignty over all other objects."{15}

Governmental power was limited by the Constitution and its interpretation was delegated to the judicial branch. As Alexander Hamilton explained, the Constitution was to be the supreme law of the land.

A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.{16}

Although Hamilton referred to the judiciary as the weakest of the three branches of government, some of the critics of the Constitution warned that the Supreme Court "would be exalted above all power in the government, and subject to no control."{17} Unfortunately, that assessment certain has proved correct over the last few decades.

The Federalist Papers provide an overview of the political theory that undergirds the U.S. Constitution and provide important insight into the intentions of the framers in constructing a new government. As we have also seen, it shows us where the current governmental structure strays from the original intent of the framers.

The framers fashioned a government that was based upon a realistic view of human nature. The success of this government

in large part is due to separating power structures because of their desire to limit the impact of human sinfulness.

Notes

1. Clinton Rossiter, *The Federalist Papers* (New York: New American Library, 1961), vii.
2. Jacob E. Cooke, *The Federalist* (Middletown, CT: Wesleyan University Press, 1961), ix.
3. James G. Wilson, "The Most Sacred Text: The Supreme Court's Use of The Federalist Papers," *Brigham Young University Law Review* I (1985).
4. James Madison, *Federalist Papers,* #51 (New York: New American Library, 1961), 322.
5. Madison, *Federalist Papers* #55, 346.
6. John Eidsmoe, *Christianity and the Constitution* (Grand Rapids, MI: Baker Books, 1987), 101.
7. Madison, *The Federalist Papers,* #10, 78.
8. Ibid., 80.
9. Ibid., 82-3.
10. Madison, *The Federalist Papers,* #47, 301.
11. Madison, *The Federalist Papers,* #48, 308.
12. Ibid., 309.
13. Madison, *The Federalist Papers*, #51, 322.
14. Madison, *The Federalist Papers,* #39, 241.
15. Ibid, 245.
16. Alexander Hamilton, *The Federalist Papers,* #78, 467.
17 Herbert Storing and Murray Day, eds. *The Complete Anti-Federalist* (University of Chicago Press, 1981) II, 420.

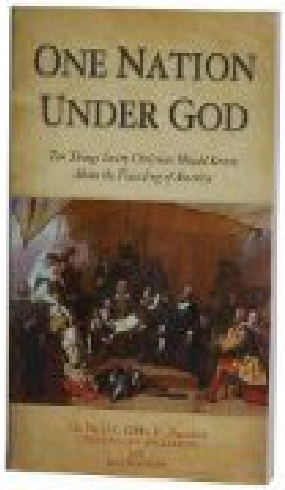
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One Nation Under God

The Christian influence in American history has been lost. Kerby Anderson provides an overview of nearly 160 years of our nation's founding history by discussing Ten Things Every Christian Should Know About the Founding of America.

This article is also available in Spanish.

Founders of America: Part One



G.K. Chesterton once said that "America is the only nation in the world that is founded on a creed. That creed is set forth with dogmatic and even theological lucidity in the Declaration of Independence."{1} We are going to document the origins of this country by looking at a book entitled *One Nation Under God: Ten Things Every Christian Should Know About the Founding of America*.{2}

The first thing every Christian should know is that "Christopher Columbus was motivated by his Christian faith to sail to the New World." One example of this can be found in his writings after he discovered this new land. He wrote, "Therefore let the king and queen, the princes and their most fortunate kingdoms, and all other countries of Christendom give thanks to our Lord and Saviour Jesus Christ, who has bestowed upon us so great a victory and gift. Let religious processions be solemnized; let sacred festivals be given; let

the churches be covered with festive garlands. Let Christ rejoice on earth, as he rejoices in heaven, when he foresees coming to salvation so many souls of people hitherto lost."{3}

The second thing every Christian should know is "The Pilgrims clearly stated that they came to the New World to glorify God and to advance the Christian faith." It could easily be said that America began with the words, "In the name of God. Amen." Those were the first words of our nation's first self-governing document—the Mayflower Compact.

The Pilgrims were Bible-believers who refused to conform to the heretical state Church of England and eventually came to America. Their leader, William Bradford, said "A great hope and inward zeal they had of laying some good foundation, or at least to make some way thereunto, for the propagating and advancing the gospel of the kingdom of Christ in those remote parts of the world; yea, though they should be but even as stepping stones unto others for the performing of so great a work."{4}

Many scholars believe that the initial agreement for self-government, found in the Mayflower Compact, became the cornerstone of the U.S. Constitution. This agreement for self-government, signed on November 11, 1620, created a new government in which they agreed to "covenant and combine" themselves together into a "Body Politick."

British historian Paul Johnson said, "It is an amazing document . . . . What was remarkable about this particular contract was that it was not between a servant and a master, or a people and a king, but between a group of like-minded individuals and each other, with God as a witness and symbolic co-signatory."{5}

Founders of America: Part Two

The third thing every Christian should know is “The Puritans created Bible-based commonwealths in order to practice a representative government that was modeled on their church covenants.” Both the Pilgrims and the Puritans disagreed with many things about the Church of England in their day. But the Pilgrims felt that reforming the church was a hopeless endeavor. They were led to separate themselves from the official church and were often labeled “Separatists.” The Puritans, on the other hand, wanted to reform the Church of England from within. They argued from within for purity of the church. Hence, the name *Puritans*.

At that time, there had been no written constitution in England. The British common law was a mostly oral tradition, articulated as necessary in various written court decisions. The Puritans determined to anchor their liberties on the written page, a tradition taken from the Bible. They created the Body of Liberties which were established on the belief that Christ’s rule is not only given for the church, but also for the state. It contained principles found in the Bible, specifically ninety-eight separate protections of individual rights, including due process of law, trial by a jury of peers, and prohibitions against cruel and unusual punishment.

The fourth thing every Christian should know is that “This nation was founded as a sanctuary for religious dissidents.” Roger Williams questioned many of the Puritan laws in Massachusetts, especially the right of magistrates to punish Sabbath-breakers. After he left Massachusetts and founded Rhode Island, he became the first to formulate the concept of “separation of church and state” in America.

Williams said, “The civil magistrate may not intermeddle even to stop a church from apostasy and heresy.”{6} In the 1643 charter for Rhode Island and in all its subsequent charters, Roger Williams established the idea that the state should not

enforce religious opinion.

Another dissident was the Quaker William Penn. He was the main author of the founding governmental document for the land that came to be known as Pennsylvania. This document was called *The Concessions*, and dealt with not only government matters but was also concerned with social, philosophical, scientific, and political matters. By 1680, *The Concessions* had 150 signers, and in the Quaker spirit, this group effort provided for far-reaching liberties never before seen in Anglo-Saxon law.

Paul Johnson said that at the time of America's founding, Philadelphia was "the cultural capital of America." He also points out: "It can be argued, indeed, that Quaker Pennsylvania was the key state in American history. It was the last great flowering of Puritan political innovation, around its great city of brotherly love."{7}

Education and Religion in America

The fifth thing every Christian should know is that "The education of the settlers and founders of America was uniquely Christian and Bible-based." Education was very important to the founders of this country. One of the laws in Puritan New England was the Old Deluder Act. It was called that because it was intended to defeat Satan, the Old Deluder, who had used illiteracy in the Old World to keep people from reading the Word of God. The New England Primer was used to teach colonial children to read and included the Lord's Prayer, the Apostle's Creed, and the text of many hymns and prayers.

We can also see the importance of education in the rules of many of the first colleges. The Laws and Statutes of Harvard College in 1643 said: "Let every student be plainly instructed and earnestly pressed to consider well the main end of his life and studies is *to know God and Jesus Christ which is eternal life* (John 17:3)."{8}

Yale College listed two requirements in its 1745 charter: "All scholars shall live religious, godly, and blameless lives according to the rules of God's Word, diligently reading the Holy Scriptures, the fountain of light and truth; and constantly attend upon all the duties of religion, both in public and secret."{9}

Reverend John Witherspoon was the only active minister who signed the Declaration of Independence. Constitutional scholar John Eidsmoe says, "John Witherspoon is best described as the man who shaped the men who shaped America. Although he did not attend the Constitutional Convention, his influence was multiplied many times over by those who spoke as well as by what was said."{10}

New Jersey elected John Witherspoon to the Continental Congress that drafted the Declaration of Independence. When Congress called for a national day of fasting and prayer on May 17, 1776, John Witherspoon was called upon to preach the sermon. His topic was "The Dominion of Providence over the Affairs of Men."

The sixth thing every Christian should know is that "A religious revival was the key factor in uniting the separate pre- Revolutionary War colonies."

Paul Johnson, author of *A History of the American People*, reports that the Great Awakening may have touched as many as three out of four American colonists.{11} He also points out that this Great Awakening "sounded the death-knell of British colonialism."{12}

As John Adams was to put it afterwards, "The Revolution was effected before the War commenced. The Revolution was in the mind and hearts of the people: and change in their religious sentiments of their duties and obligations."

Paul Johnson believes that "The Revolution could not have taken place without this religious background. The essential

difference between the American Revolution and the French Revolution is that the American Revolution, in its origins, was a religious event, whereas the French Revolution was an anti-religious event."{13}

Clergy and Biblical Christianity

The seventh thing every Christian should know is that "Many of the clergy in the American colonies, members of the Black Regiment, preached liberty." Much of this took place in so-called "Election Sermons" of Massachusetts, Connecticut, New Hampshire, and Vermont. Often the ministers spoke on the subject of civil government in a serious and instructive manner. The sermon was then printed so that every representative had a copy for himself, and so that every minister of the town could have a copy.

John Adams observed, "The Philadelphia ministers thunder and lighten every Sabbath' against George III's despotism."{14} And in speaking of his native Virginia, Thomas Jefferson observed that "pulpit oratory ran like a shock of electricity through the whole colony."{15}

Some of the most influential preachers include John Witherspoon, Jonathan Mayhew, Samuel West, and Reverend John Peter Muhlenberg. Reverend Mayhew, for example, preached a message entitled "Concerning Unlimited Submission to the Higher Powers, to the Council and House of Representatives in Colonial New England." He said, "It is hoped that but few will think the subject of it an improper one to be discoursed on in the pulpit, under a notion that this is preaching politics, instead of Christ. However, to remove all prejudices of this sort, I beg it may be remembered that all Scripture is profitable for doctrine, for reproof, for correction, for instruction in righteousness.' Why, then, should not those parts of Scripture which related to civil government be examined and explained from the desk, as well as others?"{16}

The eighth thing every Christian should know is that "Biblical Christianity was the driving force behind the key leaders of the American Revolution."

In 1772, Samuel Adams created a "Committee of Correspondence" in Boston, in order to keep in touch with his fellow Americans up and down the coast. Historian George Bancroft called Sam Adams, "the last of the Puritans."{17} His biographer, John C. Miller, says that Samuel Adams cannot be understood without considering the lasting impact Whitefield's preaching at Harvard during the Great Awakening had on him.{18} Adams had been telling his countrymen for years that America had to take her stand against tyranny. He regarded individual freedom as "the law of the Creator" and a Christian right documented in the New Testament.{19} As the Declaration was being signed, Sam Adams said, "We have this day restored the Sovereign to Whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come."

The Founding Documents

The ninth thing every Christian should know is that "Christianity played a significant role in the development of our nation's birth certificate, the Declaration of Independence." For example, the Presbyterian Elders of North Carolina drafted the Mecklenburg Declaration in May 1775 under the direction of Elder Ephraim Brevard (a graduate of Princeton). One scholar says "In correcting his first draft of the Declaration it can be seen, in at least a few places, that Jefferson has erased the original words and inserted those which are first found in the Mecklenburg Declaration. No one can doubt that Jefferson had Brevard's resolutions before him when he was writing his immortal Declaration."{20}

The relationship between the Declaration of Independence and the Constitution is crucial. The Declaration is the "why" of American government, while the Constitution is the "how."

Another influence on the Declaration was George Mason's "Virginia Declaration of Rights." Notice how similar it sounds to the Declaration: "That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety."

Paul Johnson says, "There is no question that the Declaration of Independence was, to those who signed it, a religious as well as secular act, and that the Revolutionary War had the approbation of divine providence. They had won it with God's blessing and afterwards, they drew up their framework of government with God's blessing, just as in the seventeenth century the colonists had drawn up their Compacts and Charters and Orders and Instruments, with God peering over their shoulders."{21}

The tenth thing every Christian should know is that "The Biblical understanding of the sinfulness of man was the guiding principle behind the United States Constitution." John Eidsmoe says, "Although Witherspoon derived the concept of separation of powers from other sources, such as Montesquieu, checks and balances seem to have been his own unique contribution to the foundation of U.S. Government."{22} He adds, "One thing is certain: the Christian religion, particularly Rev. Witherspoon's Calvinism, which emphasized the fallen nature of man, influenced Madison's view of law and government."{23}

Notes

1. Gilbert K. Chesterton, *What I Saw in America* (London: Hodder and Stoughton, 1922).
2. David C. Gibbs and Jerry Newcombe, *One Nation Under God: Ten Things Every Christian Should Know About the Founding of*

America (Seminole, FL: Christian Law Association, 2003).
3. Christopher Columbus, Journal, 1492, quoted in Federer, United States Folder, *Library of Classics.*
4. William Bradford, *Of Plymouth Plantation,* 1620-1647, edited and updated by Samuel Eliot Morison (New York: Alfred A. Knopf, 2001), 25.
5. Paul Johnson, *A History of the American People* (New York: HarperCollins Publishers, 1997), 29-30.
6. George Bancroft, *History of the United States of America, From the Discovery of the Continent* (New York: D. Appleton and Company, 1890), Vol. I, 250.
7. Johnson, 66.
8. Rules for Harvard University, 1643, from "New England's First Fruits," *The Annals of America,* Vol. 1, 176.
9. Regulations at Yale College, 1745, from "New England's First Fruits," *The Annals of America,* Vol. 1, 464.
10. John Eidsmoe, *Christianity and the Constitution* (Grand Rapids, MI: Baker Books, 1987), 81.
11. Johnson, 115.
12. Ibid., 307.
13. Ibid., 116-117.
14. Derek Davis, "Jesus vs. the Watchmaker," *Christian History,* May 1996, 35.
15. Thomas Jefferson, *Autobiography,* January 6, 1821.
16. Jonathan Mayhew, to the Council and House of Representatives in Colonial New England, 1749.
17. Bancroft, History, Vol. III, 77.
18. John C. Miller, *Sam Adams: Pioneer in Propaganda* (Stanford, CA: Stanford University Press, 1936/1960), 85, quoted in Eidsmoe, Christianity and the Constitution, 248.
19. Robert Flood, *Men Who Shaped America* (Chicago: Moody Press, 1976), 35-36.
20. N. S. McFetridge, *Calvinism in History* (Philadelphia: Presbyterian Board of Publication, 1882), 85-88.
21. Johnson, 204-205.
22. Eidsmoe, 89.
23. Ibid., 101.

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American Government and Christianity – A Biblical Worldview Perspective

Kerby Anderson looks at how a Christian, biblical framework operated as a critical force in establishing our constitution and governmental system. The founders views on the nature of man and the role of government were derived from their biblical foundation.

America's Christian Roots

The founding of this country as well as the framing of the key political documents rests upon a Christian foundation. That doesn't necessarily mean that the United States is a Christian nation, although some framers used that term. But it does mean that the foundations of this republic presuppose a Christian view of human nature and God's providence.

In previous articles we have discussed "The Christian Roots of the Declaration and Constitution" [on the Web as "The Declaration and the Constitution: Their Christian Roots"] and provided an overview of the books *On Two Wings* and *One Nation Under God*. Our focus in this article will be to pull together many of the themes of these resources and combine them with additional facts and quotes from the founders.

First, what was the perspective of the founders of America? Consider some of these famous quotes.

John Adams was the second president of the United States. He

saw the need for religious values to provide the moral base line for society. He stated in a letter to the officers of the First Brigade of the Third Division of the Militia of Massachusetts:

> *We have no government armed with power capable of contending with human passions unbridled by morality and religion. Avarice, ambition, revenge, or gallantry, would break the strongest cords of our Constitution as a whale goes through a net. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.{1}*

In fact, John Adams wasn't the only founding father to talk about the importance of religious values. Consider this statement from George Washington during his Farewell Address:

> *And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.{2}*

Two hundred years after the establishment of the Plymouth colony in 1620, Americans gathered at that site to celebrate its bicentennial. Daniel Webster was the speaker at this 1820 celebration. He reminded those in attendance of this nation's origins:

> *Let us not forget the religious character of our origin. Our fathers were brought hither by their high veneration for the Christian religion. They journeyed by its light, and labored in its hope. They sought to incorporate its principles with the elements of their society, and to diffuse its influence through all their institutions, civil, political, or literary.{3}*

Religion, and especially the Christian religion, was an important foundation to this republic.

Christian Character

It is clear that the framers of this new government believed that the people should elect and support leaders with character and integrity. George Washington expressed this in his Farewell Address when he said, “Of all the dispositions and habits which lead to political prosperity, Religion and Morality are indispensable supports.”

Benjamin Rush talked about the religious foundation of the republic that demanded virtuous leadership. He said that, “the only foundation for a useful education in a republic is to be laid on the foundation of religion. Without this there can be no virtue, and without virtue there can be no liberty, and liberty is the object and life of all republican governments.”{4}

He went on to explain that

> *A Christian cannot fail of being a republican . . . for every precept of the Gospel inculcates those degrees of humility, self- denial, and brotherly kindness which are directly opposed to the pride of monarchy. . . . A Christian cannot fail of being useful to the republic, for his religion teaches him that no man “liveth to himself.” And lastly a Christian cannot fail of being wholly inoffensive, for his religion teaches him in all things to do to others what he would wish, in like circumstances, they should do to him.{5}*

Daniel Webster understood the importance of religion, and especially the Christian religion, in this form of government. In his famous Plymouth Rock speech of 1820 he said,

> *Lastly, our ancestors established their system of government on morality and religious sentiment. Moral habits, they*

> *believed, cannot safely be trusted on any other foundation than religious principle, nor any government be secure which is not supported by moral habits. . . .Whatever makes men good Christians, makes them good citizens.{6}*

John Jay was one of the authors of the Federalist Papers and became America's first Supreme Court Justice. He also served as the president of the American Bible Society. He understood the relationship between government and Christian values. He said, "Providence has given to our people the choice of their rulers, and it is the duty, as well as the privilege and interest of our Christian nation to select and prefer Christians for their rulers."{7}

William Penn writing the *Frame of Government* for his new colony said, "Government, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad."{8}

The founders believed that good character was vital to the health of the nation.

New Man

Historian C. Gregg Singer traces the line of influence from the seventeenth century to the eighteenth century in his book, *A Theological Interpretation of American History*. He says,

> *Whether we look at the Puritans and their fellow colonists of the seventeenth century, or their descendants of the eighteenth century, or those who framed the Declaration of Independence and the Constitution, we see that their political programs were the rather clear reflection of a consciously held political philosophy, and that the various political philosophies which emerged among the American people were intimately related to the theological*

> *developments which were taking place. . . . A Christian world and life view furnished the basis for this early political thought which guided the American people for nearly two centuries and whose crowning lay in the writing of the Constitution of 1787.{9}*

Actually, the line of influence extends back even further. Historian Arnold Toynbee, for example, has written that the American Revolution was made possible by American Protestantism. Page Smith, writing in the *Religious Origins of the American Revolution*, cites the influence of the Protestant Reformation. He believes that

> *The Protestant Reformation produced a new kind of consciousness and a new kind of man. The English Colonies in America, in turn, produced a new unique strain of that consciousness. It thus follows that it is impossible to understand the intellectual and moral forces behind the American Revolution without understanding the role that Protestant Christianity played in shaping the ideals, principles and institutions of colonial America.{10}*

Smith argues that the American Revolution "started, in a sense, when Martin Luther nailed his 95 theses to the church door at Wittenburg." It received "its theological and philosophical underpinnings from John Calvin's *Institutes of the Christian Religion* and much of its social theory from the Puritan Revolution of 1640-1660.{11}

Most people before the Reformation belonged to classes and social groups which set the boundaries of their worlds and established their identities. The Reformation, according to Smith, changed these perceptions. Luther and Calvin, in a sense, created a re- formed individual in a re-formed world.

Key to this is the doctrine of the priesthood of the believer where each person is "responsible directly to God for his or

her own spiritual state…. The individuals who formed the new congregations established their own churches, chose their own ministers, and managed their own affairs without reference to an ecclesiastical hierarchy."{12}

These re-formed individuals began to change their world including their view of government and authority.

Declaration of Independence

Let's look at the Christian influence on the Declaration of Independence. Historian Page Smith points out that Thomas Jefferson was not only influenced by secular philosophers, but was also influenced by the Protestant Reformation. He says,

> *Jefferson and other secular-minded Americans subscribed to certain propositions about law and authority that had their roots in the Protestant Reformation. It is a scholarly common-place to point out how much Jefferson (and his fellow delegates to the Continental Congress) were influenced by Locke. Without disputing this we would simply add that an older and deeper influence — John Calvin — was of more profound importance.{13}*

Another important influence was William Blackstone. Jefferson drew heavily on the writings of this highly respected jurist. In fact, Blackstone's *Commentaries on the Laws of England* were among Jefferson's most favorite books.

In his section on the "Nature of Laws in General," Blackstone wrote, "as man depends absolutely upon his Maker for everything, it is necessary that he should, in all points, conform to his Maker's will. This will of his Maker is called the law of nature."{14}

In addition to the law of nature, the other source of law is from divine revelation. "The doctrines thus delivered we call the revealed or divine law, and they are to be found only in

the Holy Scriptures." According to Blackstone, all human laws depended either upon the law of nature or upon the law of revelation found in the Bible: "Upon these two foundations, the law of nature and the law of revelation, depend all human laws."{15}

Samuel Adams argues in "The Rights of the Colonists" that they had certain rights. "Among the natural Rights of the Colonists are these: First, a Right to Life; second, to Liberty; third, to Property; . . . and in the case of intolerable oppression, civil or religious, to leave the society they belong to, and enter into another. When men enter into society, it is by voluntary consent."{16} This concept of natural rights also found its way into the Declaration of Independence and provided the justification for the American Revolution.

The Declaration was a bold document, but not a radical one. The colonists did not break with England for "light and transient causes." They were mindful that they should be "in subjection to governing authorities" which "are established by God" (Rom. 13:1). Yet when they suffered from a "long train of abuses and usurpations," they believed that "it is the right of the people to alter or abolish [the existing government] and to institute a new government."

Constitution

The Christian influence on the Declaration is clear. What about the Constitution?

James Madison was the chief architect of the Constitution as well as one of the authors of the *Federalist Papers*. It is important to note that as a youth, he studied under a Scottish Presbyterian, Donald Robertson. Madison gave the credit to Robertson for "all that I have been in life."{17} Later he was trained in theology at Princeton under the Reverend John Witherspoon. Scholars believe that Witherspoon's Calvinism (which emphasized the fallen nature of man) was an important

source for Madison's political ideas.{18}

The Constitution was a contract between the people and had its origins in American history a century earlier:

> *One of the obvious by-products [of the Reformation] was the notion of a contract entered into by two people or by the members of a community amongst themselves that needed no legal sanctions to make it binding. This concept of the Reformers made possible the formation of contractuals or, as the Puritans called them, "covenanted" groups formed by individuals who signed a covenant or agreement to found a community. The most famous of these covenants was the Mayflower Compact. In it the Pilgrims formed a "civil body politic," and promised to obey the laws their own government might pass. In short, the individual Pilgrim invented on the spot a new community, one that would be ruled by laws of its making.{19}*

Historian Page Smith believes, "The Federal Constitution was in this sense a monument to the reformed consciousness. This new sense of time as potentiality was a vital element in the new consciousness that was to make a revolution and, what was a good deal more difficult, form a new nation."{20}

Preaching and teaching within the churches provided the justification for the revolution and the establishment of a new nation. Alice Baldwin, writing in *The New England Clergy and the American Revolution*, says,

> *The teachings of the New England ministers provide one line of unbroken descent. For two generations and more New Englanders had . . . been taught that these rights were sacred and came from God and that to preserve them they had a legal right of resistance and, if necessary a right to . . . alter and abolish governments and by common consent establish new ones.{21}*

Christian ideas were important in the founding of this republic and the framing of our American governmental institutions. And I believe they are equally important in the maintenance of that republic.

Notes

1. John Adams, October 11, 1798, in a letter to the officers of the First Brigade of the Third Division of the Militia of Massachusetts. Charles Francis Adams, ed., *The Works of John Adams – Second President of the United States: with a Life of the Author, Notes, and Illustration* (Boston: Little, Brown, & Co., 1854), Vol. IX, 228-229.
2. George Washington, Farewell Address (September 19, 1796). Address of George Washington, President of the United States, and Late Commander in Chief of the American Army. To the People of the United States, Preparatory to His Declination.
3. Daniel Webster, December 22, 1820. *The Works of Daniel Webster* (Boston: Little, Brown and Company, 1853), Vol. I, 48.
4. Benjamin Rush, "Thoughts upon the Mode of Education Proper in a Republic," Early American Imprints. *Benjamin Rush, Essays, Literary, Moral and Philosophical* (Philadelphia: Thomas and Samuel F. Bradford, 1798), 8.
5. Ibid.
6. Webster, *The Works of Daniel Webster,* 22ff.
7. John Jay, October 12, 1816, in *The Correspondence and Public Papers of John Jay,* Henry P. Johnston, ed., (New York: G.P Putnam & Sons, 1893; reprinted NY: Burt Franklin, 1970), Vol. IV, 393.
8. William Penn, April 25, 1682, in the preface of his Frame of Government of Pennsylvania. A Collection of Charters and Other Public Acts Relating to the Province of Pennsylvania (Philadelphia: B. Franklin, 1740), 10-12.
9. C. Gregg Singer, *A Theological Interpretation of American History* (Nutley, NJ: The Craig Press, 1964), 284-5.
10. Page Smith, *Religious Origins of the American Revolution*

(Missoula, MT: Scholars Press, 1976), 1.
11. Ibid, 2.
12. Ibid., 3.
13. Ibid, 185.
14. William Blackstone, “Of the Nature of Laws in General,” *Commentaries on the Laws of England,* Book 1, Section II.
15. Ibid.
16. Samuel Adams, “The Rights of the Colonists” (Boston, 1772), The Annals of America, Vol. II, 217.
17. John Eidsmoe, *Christianity and the Constitution* (Grand Rapids, MI: Baker Books, 1987), 94.
18. James H. Smylie, “Madison and Witherspoon: Theological Roots of American Political Thought,” *American Presbyterians*
19. Smith, Religious Origins,
20. Ibid., 4
21. Alice M. Baldwin, The New England Clergy and the American Revolution (Durham: Duke University Press, 1928), 169.

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The Declaration and Constitution: Their Christian Roots

The Declaration of Independence

Many are unaware of the writings and documents that preceded these great works and the influence of biblical ideas in their formation. In the first two sections of this article, I would like to examine the Declaration of Independence. Following this, we’ll look at the Constitution.

On June 7, 1776, Richard Henry Lee introduced a resolution to the Continental Congress calling for a formal declaration of independence. However, even at that late date, there was significant opposition to the resolution. So, Congress recessed for three weeks to allow delegates to return home and discuss the proposition with their constituents while a committee was appointed to express the Congressional sentiments. The task of composing the Declaration fell to Thomas Jefferson.

Jefferson's initial draft left God out of the manuscript entirely except for a vague reference to "the laws of nature and of nature's God." Yet, even this phrase makes an implicit reference to the laws of God.

The phrase "laws of nature" had a fixed meaning in 18th century England and America. It was a direct reference to the laws of God in a created order as described in John Locke's *Second Treatise on Civil Government* and William Blackstone's *Commentaries on the Laws of England*.

What Jefferson was content to leave implicit, however, was made more explicit by the other members of the committee. They changed the language to read that all men are "endowed by their Creator" with these rights. Later, the Continental Congress added phrases which further reflected a theistic perspective. For example, they added that they were "appealing to the Supreme Judge of the World for the rectitude of our intentions" and that they were placing "firm reliance on the protection of divine Providence."

The Declaration was not drafted in an intellectual vacuum, nor did the ideas contained in it suddenly spring from the minds of a few men. Instead, the founders built their framework upon a Reformation foundation laid by such men as Samuel Rutherford and later incorporated by John Locke.

Rutherford wrote his book *Lex Rex* in 1644 to refute the idea

of the divine right of kings. *Lex Rex* established two crucial principles. First, there should be a covenant or constitution between the ruler and the people. Second, since all men are sinners, no man is superior to another. These twin principles of liberty and equality are also found in John Locke's writings.

John Locke and the Origin of the Declaration

Although the phrasing of the Declaration certainly follows the pattern of John Locke, Jefferson also gave credit to the writer Algernon Sidney, who in turn cites most prominently Aristotle, Plato, Roman republican writers, and the Old Testament.

Legal scholar Gary Amos argues that Locke's *Two Treatises on Government* is simply Samuel Rutherford's *Lex Rex* in a popularized form. Amos says in his book *Defending the Declaration,*

> *Locke explained that the "law of nature" is God's general revelation of law in creation, which God also supernaturally writes on the hearts of men. Locke drew the idea from the New Testament in Romans 1 and 2. In contrast, he spoke of the "law of God" or the "positive law of God" as God's eternal moral law specially revealed and published in Scripture.*[{1}]

This foundation helps explain the tempered nature of the American Revolution. The Declaration of Independence was a bold document, but not a radical one. The colonists did not break with England for "light and transient causes." They were mindful that they should be "in subjection to the governing authorities" which "are established by God" (Romans 13:1). Yet when they suffered from a "long train of abuses and usurpations," they argued that "it is the right of the people

to alter or to abolish it, and to institute a new government."

The Declaration also borrowed from state constitutions that already existed at the time. In fact, the phraseology of the Declaration greatly resembles the preamble to the Virginia Constitution, adopted in June 1776. The body of the Declaration consists of twenty-eight charges against the king justifying the break with Britain. All but four are from state constitutions.{2}

Jefferson no doubt drew from George Mason's Declaration of Rights (published on June 6, 1776). The first paragraph states that "all men are born equally free and independent and have certain inherent natural Rights; among which are the Enjoyment of Life and Liberty, with the Means of Acquiring and possessing property, and pursuing and obtaining Happiness and Safety." Mason also argued that when any government is found unworthy of the trust placed in it, a majority of the community "hath an indubitable, inalienable, and indefensible Right to Reform, alter, or abolish it."

Constitution and Human Nature

The influence of the Bible on the Constitution was profound but often not appreciated by secular historians and political theorists. Two decades ago, Constitutional scholars and political historians (including one of my professors at Georgetown University) assembled 15,000 writings from the Founding Era (1760-1805). They counted 3154 citations in these writings, and found that the book most frequently cited in that literature was the Bible. The writers from the Foundering Era quoted from the Bible 34 percent of the time. Even more interesting was that about three-fourths of all references to the Bible came from reprinted sermons from that era.{3}

Professor M.E. Bradford shows in his book, *A Worthy Company*, that fifty of the fifty-five men who signed the Constitution

were church members who endorsed the Christian faith.{4}

The Bible and biblical principles were important in the framing of the Constitution. In particular, the framers started with a biblical view of human nature. James Madison argued in *Federalist* #51 that government must be based upon a realistic view of human nature.

> *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.{5}*

Framing a republic requires a balance of power that liberates human dignity and rationality and controls human sin and depravity.

> *As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature, which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form.{6}*

A Christian view of government is based upon a balanced view of human nature. It recognizes both human dignity (we are created in God's image) and human depravity (we are sinful individuals). Because both grace and sin operate in government, we should neither be too optimistic nor too pessimistic. Instead, the framers constructed a government with a deep sense of biblical realism.

Constitution and Majority Tyranny

James Madison in defending the Constitution divided the problem of tyranny into two broad categories: majority tyranny (addressed in *Federalist* #10) and governmental tyranny (addressed in *Federalist* #47-51).

Madison concluded from his study of governments that they were destroyed by factions. He believed this factionalism was due to "the propensity of mankind, to fall into mutual animosities" (*Federalist* #10) which he believed were "sown in the nature of man." Government, he concluded, must be based upon a more realistic view which also accounts for this sinful side of human nature.

A year before the Constitutional Convention, George Washington wrote to John Jay that, "We have, probably, had too good an opinion of human nature in forming our federation." From now on, he added, "We must take human nature as we find it."

Madison's solution to majority tyranny was the term *extended republic*. His term for the solution to governmental tyranny was *compound republic*. He believed that an extended republic with a greater number of citizens would prevent factions from easily taking control of government. He also believed that elections would serve to filter upward men of greater virtue.

Madison's solution to governmental tyranny can be found in *Federalist* #47-51. These include separation of powers, checks and balances, and federalism.

Madison realized the futility of trying to remove passions (human sinfulness) from the population. Therefore, he proposed that human nature be set against human nature. This was done by separating various institutional power structures. First, the church was separated from the state so that ecclesiastical functions and governmental functions would not interfere with religious and political liberty. Second, the federal

government was divided into three equal branches: executive, legislative, and judicial. Third, the federal government was delegated certain powers while the rest of the powers resided in the state governments.

Each branch was given separate but rival powers, thus preventing the possibility of concentrating power into the hands of a few. Each branch had certain checks over the other branches so that there was a distribution and balance of power. The effect of this system was to allow ambition and power to control itself. As each branch is given power, it provides a check on the other branch. This is what has often been referred to as the concept of "countervailing ambitions."

Constitution and Governmental Tyranny

James Madison's solution to governmental tyranny includes both federalism as well as the separation of powers. Federalism can be found at the very heart of the United States Constitution. In fact, without federalism, there was no practical reason for the framers to abandon the Articles of Confederation and draft the Constitution.

Federalism comes from *foedus*, Latin for covenant. "The tribes of Israel shared a covenant that made them a nation. American federalism originated at least in part in the dissenting Protestants' familiarity with the Bible."{7}

The separation of powers allows each branch of government to provide a check on the other. According to Madison, the Constitution provides a framework of supplying "opposite and rival interests" (*Federalist* #51) through a series of checks and balances. This theory of "countervailing ambition" both prevented tyranny and provided liberty. It was a system in which bad people could do least harm and good people had the freedom to do good works.

For example, the executive branch cannot take over the

government and rule at its whim because the legislative branch has been given the power of the purse. Congress must approve or disapprove budgets for governmental programs. A President cannot wage war if the Congress does not appropriate money for its execution.

Likewise, the legislative branch is also controlled by this structure of government. It can pass legislation, but it always faces the threat of presidential veto and judicial oversight. Since the executive branch is responsible for the execution of legislation, the legislature cannot exercise complete control over the government. Undergirding all of this is the authority of the ballot box.

Each of these checks was motivated by a healthy fear of human nature. The founders believed in human responsibility and human dignity, but they did not trust human nature too much. Their solution was to separate powers and invest each branch with rival powers.

Biblical ideas were crucial in both the Declaration and the Constitution. Nearly 80 percent of the political pamphlets published during the 1770s were reprinted sermons. As one political science professor put it: "When reading comprehensively in the political literature of the war years, one cannot but be struck by the extent to which biblical sources used by ministers and traditional Whigs undergirded the justification for the break with Britain, the rationale for continuing the war, and the basic principles of Americans' writing their own constitutions."{8}

Notes

1. Gary Amos, *Defending the Declaration* (Brentwood, TN: Wolgemuth and Hyatt, 1989), 57.
2. Donald S. Lutz, *The Origins of American Constitutionalism* (Baton Rouge: Louisiana State University Press, 1988, 114.
3. Ibid., 140.

4. M.E. Bradford, *A Worthy Company: Brief Lives of the Framers of the United States Constitution* (Marlborough, NH: Plymouth Rock Foundation, 1982).
5. James Madison, *Federalist*, #51 (New York: New American Library, 1961), 322.
6. Ibid., *Federalist* #55, 346.
7. Lutz, *Origins*, 43,
8. Ibid., 142.

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Slavery in America – How Did the Founders and Early Christians Regard It?

Kerby Anderson presents a thoughtful review of the attitude towards slavery held by many of our founders and early Christian leaders. Although a tragic chapter in our history, he encourages us to understand that many opposed slavery from the beginning believing that all men are in fact created equal.

Introduction

Slavery has been found throughout the history of the world. Most of the major empires in the world enslaved millions. They made slaves not only of their citizens but of people in the countries they conquered.

Slavery is also a sad and tragic chapter in American history that we must confront honestly. Unfortunately, that is often not how it is done. History classes frequently teach that the

founders and framers were evil men and hypocrites. Therefore, we no longer need to study them, nor do we need to study the principles they established in founding this country and framing the Constitution.

In fact, I have met many students in high school and college who have no interest in learning about the founders of this country and the framers of the Constitution merely because some were slaveholders. But I have also found that they do not know the whole story of the struggle over slavery in this country.

In reaction to this secular revisionist teaching in the public schools and universities, a Christian perspective has been offered that does not square with history. Some Christians, wanting to emphasize the biblical principles of the founding of this country, seem to have turned a blind eye to the evil of slavery. Slavery was wrong and represented an incomplete founding of liberty in this country.

In this article we will look at slavery in America and attempt to tell the story fairly and honestly. At the same time, we will bring forth facts and stories that have been lost from the current revisionist teaching on slavery.

First, let's put slavery in America in historical perspective. Historians estimate that approximately 11 million Africans were transported to the New World. Of these 4 million went to Brazil, 2.5 million to Spanish colonies, 2 million to the British West Indies, and 500,000 to the United States.

Although it is sometimes taught that the founders did not believe that blacks were human or deserved the same rights as whites, this is not true. Actually, the founders believed that blacks had the same inalienable rights as other persons in America. James Otis of Massachusetts said in 1764 that "The colonists are by the law of nature freeborn, as indeed all men are, white or black."{1}

Alexander Hamilton also talked about the equality of blacks with whites. He said, “their natural faculties are probably as good as ours. . . . The contempt we have been taught to entertain for the blacks, makes us fancy many things that are founded neither in reason nor experience.”{2}

As we will see, many worked tirelessly for the abolition of slavery and wanted a society that truly practiced the belief that “all men are created equal.”

The Founders’ View of Slavery

Let’s see what the founders and framers really thought about slavery and what they did to bring about its end. Here are a few of their comments.

Slavery was often condemned from the pulpits of America as revolutionary preachers frequently spoke out against it. One patriot preacher said, “The Deity hath bestowed upon them and us the same natural rights as men.”{3}

Benjamin Franklin said that slavery “is an atrocious debasement of human nature.”{4} He and Benjamin Rush went on to found the Pennsylvania Society for Promoting the Abolition of Slavery.

Benjamin Rush’s desire to abolish slavery was based on biblical principles. He stated: “Domestic slavery is repugnant to the principles of Christianity.” He went on to say, “It is rebellion again the authority of a common Father. It is a practical denial of the extent and efficacy of the death of a common Savior. It is an usurpation of the prerogative of the great Sovereign of the universe who has solemnly claimed an exclusive property in the souls of men.”{5}

John Adams said, “Every measure of prudence, therefore, ought to be assumed for the eventual total extirpation of slavery from the United States . . . . I have, through my whole life,

held the practice of slavery in . . . abhorrence."{6}

James Madison in his speech before the Constitutional Convention said, "We have seen the mere distinction of colour made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man."{7}

During the American Revolution, many slaves won their freedom. Alexander Hamilton served on George Washington's staff and supported the plan to enlist slaves in the army. He wrote to John Jay that "An essential part of the plan is to give them their freedom with their muskets . . . for the dictates of humanity and true policy equally interest me in favor of this unfortunate class of men."{8} Blacks from every part of the country (except South Carolina and Georgia) won their freedom through military service.{9}

After the Revolution, many Americans who were enjoying new freedom from England were struck by the contradiction that many blacks were still enslaved. John Jay said "That men should pray and fight for their own freedom and yet keep others in slavery is certainly acting a very inconsistent as well as unjust and perhaps impious part."{10}

In *Federalist* #54, James Madison stated that Southern laws (not nature) have "degraded [the slaves] from the human rank" depriving them of "rights" including the right to vote, that they would otherwise possess equally with other human beings. Madison argued that it was a "barbarous policy" to view blacks "in the unnatural light of property" rather than persons entitled to the same rights as other men.

Slavery and the Founders

When America was founded, there were about half a million slaves. Approximately one third of the founders had slaves (George Washington and Thomas Jefferson being the most notable). Most of the slaves lived in the five southern

colonies.

Benjamin Rush and Benjamin Franklin (both signers of the Declaration of Independence) founded the Pennsylvania Society for Promoting the Abolition of Slavery in 1774. Rush went on to head a national abolition movement.

John Jay was the president of a similar society in New York. He said: “To contend for our own liberty, and to deny that blessing to others, involves an inconsistency not to be excused.” John Adams opposed slavery because it was a “foul contagion in the human character” and “an evil of colossal magnitude.” His son, John Quincy Adams, so crusaded against slavery that he was known as “the hell-hound of abolition.”

It’s important to note that when these anti-slavery societies were founded, they were clearly an act of civil disobedience. In 1774, for example, Pennsylvania passed a law to end slavery. But King George vetoed that law and other laws passed by the colonies. The King was pro-slavery, and Great Britain (at that time) practiced slavery. As long as the colonies were part of the British Empire, they would also be required to permit slavery.

When Thomas Jefferson finished his first draft of the Declaration of Independence, it included a paragraph condemning the King for introducing slavery into the colonies and continuing the slave trade. It said: “He [King George] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere or to incur miserable death in their transportation thither.” Unfortunately, this paragraph was dropped from the final draft because it was offensive to the delegates from Georgia and South Carolina.

After America separated from Great Britain, several states

passed laws abolishing slavery. For example, Vermont's 1777 constitution abolished slavery outright. Pennsylvania passed a law in 1779 for gradual emancipation. Slavery was abolished in Massachusetts and New Hampshire through a series of court decisions in the 1780s that ruled that "all men are born free and equal." Other states passed gradual abolition laws during this period as well. By the time of the U.S. Constitution, every state (except Georgia) had at least prohibited slavery or suspended the importation of slaves.

Most of the founders (including many who at the time owned slaves) wanted to abolish the slave trade, but could not do so at the founding of this country. So, what about the compromises concerning slavery in the Constitution? We will look at that topic next.

Slavery and the Framers

We have noted that some of the founders were slaveholders. Yet even so, many of them wanted to abolish slavery. One example was George Washington.

In 1786, Washington wrote to Robert Morris that "there is not a man living who wishes more sincerely than I do, to see a plan adopted for the abolition of [slavery]."{11} Later in his life he freed several of his household slaves and decreed in his will that his slaves would become free upon the death of his wife. Washington's estate even paid for their care until 1833.

What about the compromises in the U.S. Constitution? When the delegates came to Philadelphia, there were strong regional differences between northern and southern states concerning slavery.{12}

The first compromise concerned enumeration. Apportionment of representatives would be determined by the number of free persons and three-fifths of all other persons. Many see this

as saying that blacks were not considered whole persons. Actually, it was just the opposite. The anti-slavery delegates wanted to count slaves as less in order to penalize slaveholders and reduce their influence in Congress. Free blacks were considered free persons and counted accordingly.

The second compromise dealt with the slave trade. Congress was prohibited until 1808 from blocking the migration and importation of slaves. It did not prevent states from restricting or outlawing the slave trade. As I pointed out previously, many had already done so. It did establish a temporary exemption to the federal government until President Jefferson signed a national prohibition into law effective January 1, 1808.

A final compromise involved fugitive slaves that guaranteed return of slaves held to service or labor "under the laws thereof." The wording did not imply that the Constitution recognized slavery as legitimate but only acknowledged that states had laws governing slavery.

It is notable that the words "slave" and "slavery" cannot be found in the U.S. Constitution. James Madison recorded in his notes on the constitutional convention that the delegates "thought it wrong to admit in the Constitution the idea that there could be property in men."

Slavery was wrong, and it is incorrect to say that the U.S. Constitution supported it. Frederick Douglas believed that our form of government "was never, in its essence, anything but an anti-slavery government." He argued, "Abolish slavery tomorrow, and not a sentence or a syllable of the Constitution need be altered."

Nevertheless, the seeds of a future conflict were sown in these compromises. The nation was founded on the ideal that "all men are created equal, that they are endowed by their Creator with certain unalienable rights." John Quincy Adams

later admitted that: “The inconsistency of the institution of slavery with the principles of the Declaration of Independence was seen and lamented.” The conflict eventually broke out into a great civil war.

The Bible and Slavery

How does the Bible relate to slavery in America? While it is true that so many of the leaders in the abolition movement were Christians, there were others who attempted to use their particular interpretation of the Bible to justify slavery. That should not be surprising since today we see people trying to manipulate the Bible to justify their beliefs about issues like abortion and homosexuality.

The Bible teaches that slavery, as well as other forms of domination of one person over another, is wrong. For example, Joseph was sold into slavery (Genesis 37), and the Egyptians oppressed the Israelites (Exodus 1). Neither these nor other descriptions of slavery in the Bible are presented in a favorable light.

The Old Testament law code made it a capital crime to kidnap a person and sell him into slavery (Ex. 21:16). It also commanded Israel to welcome a slave who escaped from his master and not be returned (Deut. 23:15-16).

Nevertheless, some pointed to other passages in the Old Testament to try to justify slavery. For example, those who needed financial assistance or needed protection could become indentured servants (Ex. 21:2-6; Deut. 15:12-18). But this was a voluntary act very different from the way slavery was practiced in America. Also, a thief that could not or would not make restitution could be sold as a slave (Ex. 22:1-3), but the servitude would cease when restitution had been made.

In the New Testament, we see that Paul wrote how slaves (and masters) were to act toward one another (Eph. 6:5-9; Col.

3:22-25, 4:1; 1 Tim. 6:1-2). Since nearly half of the population of Rome were slaves, it is understandable that he would address their attitudes and actions. Paul was hardly endorsing the Roman system of slavery.

Paul's letter to Philemon encouraged him to welcome back his slave Onesimus (who had now become a Christian). Christian tradition says that the slave owner did welcome him back as a Christian brother and gave him his freedom. Onesimus later became the bishop of Berea.

It is also true that many of the leaders of the abolition movement were Christians who worked to abolish slavery from America. Lyman Beecher, Harriet Beecher Stowe, William Lloyd Garrison, and Charles Finney are just a few of the 19th century leaders of the abolition movement. Finney, for example, not only preached salvation but called for the elimination of slavery. He said, "I had made up my mind on the question of slavery, and was exceedingly anxious to arouse public attention to the subject. In my prayers and preaching, I so often alluded to slavery, and denounced it."{13}

Slavery is a sad and tragic chapter in American history, and we must confront it honestly. But the way the subject of slavery is taught in America's classrooms today often leaves out many important facts. I encourage you to study more about this nation's history. Our founders have much to teach us about history, government, and morality.

Notes

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3. Samuel Stillman, *The Duty of Magistrates* (1779) in Frank Moore, ed., *Patriot Preachers of the American Revolution* (New York: Charles T. Evans, 1892), 285.
4. "An Address to the Public from the Pennsylvania Society for Promoting the Abolition Slavery" in J.A. Leo Lemay, ed., *Benjamin Franklin, Writings* (New York: Library of America, 1987), 1154.
5. Benjamin Rush, *Minutes of the Proceedings of a Convention of Delegates from the Abolition Societies Established in Different Parts of the United States Assembled at Philadelphia* (Philadelphia: Zachariah Poulson, 1794), 24.
6. John Adams to Robert J. Evans, June 8, 1819, in Adrienne Koch and William Peden, eds., *Selected Writings of John and John Quincy Adams* (New York: Knopf, 1946), 209.
7. Speech at Constitutional Convention, June 6, 1787 in Max Farrand, ed., *Records of the Federal Convention of 1787* (New Haven: Yale University, 1937), 1:135.
8. Hamilton, in Kurland and Lerner, eds., *The Founders' Constitution,* I:527.
9. Benjamin Quarles, *The Negro and the American Revolution* (Chapel Hill: University of North Carolina Press, 1961).
10. John Jay writing to Richard Price, September 27, 1785 in *The Founders' Constitution,* 538.
11. Letter of April 12, 1786, in W. B. Allen, ed., *George Washington: A Collection* (Indianapolis: Library Classics, 1989), 319.
12. Matthew Spalding, *The Founders' Almanac* (Washington, DC: Heritage, 2002), 285-6.
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The Bill of Rights

Introduction

The Bill of Rights is the first ten amendments to the Constitution. It establishes the basic civil liberties that the federal government cannot violate.

When the Constitution was drafted some were fearful that a federal government would usurp the rights and powers of the states and the people. Critics were fearful that the federal government would exceed its enumerated powers—a fear that in hindsight seems most reasonable. The Bill of Rights was designed to address those apprehensions. The states ratified the Bill of Rights in 1791, three years after the Constitution was ratified.

In this article we are going to provide a brief look at the ten amendments that comprise the Bill of Rights.

First Amendment

> *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.*

The First Amendment begins by preventing Congress from establishing religion or prohibiting the free exercise of religion. Originally the religion clause of the First Amendment was intended to prevent the federal government from establishing a national church. Some New England states

maintained established state-churches until the 1830s.

In the last century, the Supreme Court has extended the First Amendment to any religious activity by any governmental body. The establishment clause originally prohibited the establishment of a national church by Congress, but now has been broadened to prohibit anything that appears like a government endorsement of religious practice. The free exercise clause supposedly prohibits government from placing any burden on religious practice.

The second part of the First Amendment provides freedom of political participation. This includes freedom of speech, freedom of the press, and freedom of assembly with the right to petition the government for a redress of grievances. This quartet of freedoms allows citizens to be actively involved in electing representatives and influencing legislation.

Second Amendment

> *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.*

The Second Amendment gives Americans the right to keep and bear arms. Although the amendment clearly provides such rights, proponents of limiting a citizen’s right to arms attempt to argue that the amendment only applies to a militia like the National Guard.

Before the drafting of the Constitution, citizen-militias existed to guarantee order and domestic security. The framers envisioned an armed citizenry that was separate from a federal military that could be controlled by government authorities. They were well aware of the abuses that came when a King or Prime Minister could control a standing army. Armed citizens provided an important check and balance of power. The framers well understood the threat to freedom when gun ownership was a

government monopoly.

Third Amendment

> *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.*

The Third Amendment guarantees that no soldier may be quartered in any house without the consent of the owner. At its face, this would seem to be an obsolete amendment since the federal government has never placed soldiers in private homes.

Unfortunately this amendment has been used to make the case for a right to privacy in the U.S. Constitution. The Supreme Court cited this amendment in 1965 in the case of *Griswold v. Connecticut* involving the issue of contraceptives. This case provided the foundation for the infamous abortion case of *Roe v. Wade* in 1973.

Many legal scholars question whether the Constitution has an implicit right to privacy. Obviously the Third Amendment provides homeowners with protection against unreasonable military intrusion. But it is quite a stretch to manipulate this amendment into a justification for a right to privacy with regard to contraception or abortion.

Fourth Amendment

> *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.*

The Fourth Amendment requires that a specific warrant be obtained before a search is made of a person, their house, their papers, or personal effects. The framers wanted to ban the British practice of obtaining a general warrant which allowed the seizure of anything in the suspect's home. A search requires a specific warrant issued by a neutral magistrate.

In the last century, the Supreme Court has refined the amendment through what is called "the exclusionary rule." Evidence obtained outside the specific requirements of the warrant is inadmissible in a court of law. Cases in court often swing on whether evidence was obtained legally and whether the law enforcement officer acted in "good faith" in the securing of that evidence.

Fifth Amendment

> *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.*

The Fifth Amendment is best known for guaranteeing a citizen's right to refrain from answering a question that might be incriminating. Actually there is more to this amendment than "taking the fifth." The amendment also provides for due process, a grand jury, and freedom from double jeopardy.

Many citizens believe that the amendment guarantees your right to remain silent. Actually the amendment states that no person

should be compelled to be a witness against himself. The right to remain silent comes from the so-called Miranda warnings read by a police officer before questioning. The Supreme Court mandated these phrases in an attempt to further protect the rights of the accused.

Sixth Amendment

> *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 defense.*

The Sixth Amendment provides additional rights in a criminal trial. These include the right to an attorney, the right to a trial by jury, and the right to confront one's accusers.

The right to an attorney implies the right to "competent" counsel. Appeal courts have had to decide what constitutes competent or incompetent counsel. Usually a guilty verdict is allowed to stand if it seems that an attorney's actions did not significantly affect the judicial outcome.

The right to confront your accusers was a deliberate attempt to prevent the possibility of the U.S. some day having a Star Chamber as occurred previously in England. Witnesses must testify in open court and thus are available for cross-examination. The only cases where this is not done are in child abuse cases where child-victim testimony is allowed by videotape.

Seventh Amendment

> *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.*

The Seventh Amendment addresses civil cases. It provides for a jury trial (in cases involving more than $20) that involves suits at common law. Although this seems like a logical right that would already be assumed, it reflects the concerns of the framers that a federal judiciary would set aside jury verdicts and perhaps even eliminate juries altogether.

Eighth Amendment

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

The Eighth Amendment protects citizens against excessive actions. These include excessive bail, excessive fines, and cruel and unusual punishment. These were all provisions found in English law used to restrict the excesses of the English kings.

The Supreme Court on many occasions has been called upon to consider whether a particular punishment was proportional to the crime. This has also included a number of controversial rulings over the last few decades about whether long prison terms or capital punishment constitutes cruel and unusual punishment.

Ninth Amendment

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

> *people.*

The Ninth Amendment prevents the courts from thinking that the rights listed in the first eight amendments are exclusive and exhaustive. In other words, just because the Constitution does not specifically list a right does not mean that right is not retained by the people.

Judicial activists have used this amendment to justify their expansion of additional rights. The Supreme Court reasoned in this way concerning the so-called right to privacy. The Court argued that the First, Third, Fourth, and Fifth Amendments all protect privacy in some way. Therefore, they argued that the right to privacy does exist and should be protected by the Constitution.

Tenth Amendment

> *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.*

The Tenth Amendment protects the structure of federalism. Those powers not specifically delegated to the federal government are reserved to the States or the people. The framers intended that the people and the states would decide how power was to be delegated to the other levels of government (cities, towns, counties, etc.).

The Tenth Amendment was written to provide additional protection for federalism since many citizens were concerned with giving a national government too much power. Although the Tenth Amendment did provide some protection, its impact was undercut by the Fourteenth Amendment that effectively made the federal government the ultimate protector of states rights and has lessened its importance. **For Further Reading**

David M. Wagner, *Freedom Forum: A Commentary on the Bill of Rights*, Washington, DC: Family Research Council, 2000.

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