

Essential Readings
for the Study of History

Humanitas

American Origins

BOOK

2



Enlightenment to Revolution

Christopher Maiocca, Series and Volume Editor



Humanitas: American Origins, Book 2: Enlightenment to Revolution

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Update

A fine, intelligent, and new approach to history that will find a wide audience. The readings are apposite, the design is excellent, and the illustrations are beautiful. A first-rate work.

Sir Harold Evans
Editor-at-Large, Reuters (2011–2020)

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To Mitten, Bee, Ki-Ki, Phebes, B'miah, and EE

ACKNOWLEDGMENTS

Several years ago, my former boss, Dr. Jeff Pratt, challenged me to create a humanities curriculum that (1) used only source documents and (2) was designed for discussion-based classrooms. The *Humanitas* series is the fruit of his provocations. Thinking of Jeff reminds me of the gratitude I owe to so many from the Horizon Prep community—to Heather Dalton, who first got me interested in curriculum writing; to Brent Hodges, who sent me to Philips Exeter Academy in order to have my pedagogy reoriented; and to Tony Groesbeck, who was hugely influential to my early understanding of Socratic discussion and student-led inquiry. I owe thanks also to graphic designer extraordinaire, the one and only Jamie Urbina, whose early design help was invaluable. Thank you to Dr. Alex Kim, a true patron of the arts and a champion of the great renewal in education. Keep fighting the good fight.

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CHRONOLOGY

- 1509** Henry VIII becomes king of England.
- 1517** Martin Luther nails his "Ninety-Five Theses" to the door of Castle Church in Wittenberg, marking the commencement of the Protestant Reformation.
- 1523** Luther pens his famous treatise *On Secular Authority*, addressed to the German nobility, in which he defines the limits of human governments.
- 1534** England's Parliament passes the Act of Supremacy, declaring King Henry—and not the pope—to be supreme head of the Church of England.
- 1536** John Calvin publishes *Institutes of the Christian Religion*, the most widely read theological work in the Western world.
- 1546** Martin Luther dies.
- 1547** Edward VI, the "incomparable prince," becomes king of England and a great champion of the Protestant cause.
- 1553** After Edward's death, "Bloody" Mary becomes queen of England and begins a brutal persecution of Protestant Christians.
- 1555** Hugh Latimer and Nicholas Ridley are burned to death at Oxford University, becoming two of the most prominent Protestant ministers killed by Mary.
- 1556** John Ponet, the bishop of Winchester, pens his famous essay, *A Short Treatise of Political Power*, while in exile. This work argued for the physical removal of despotic monarchs.
- 1558** Elizabeth I becomes queen of England after her half sister, "Bloody" Mary, dies.
- 1564** John Calvin dies.
- 1598** James Stuart, king of England and commissioner of the King James Bible, publishes *The True Law of Free Monarchies* in defense of the divine right of kings theory.
- 1607** The Jamestown Colony is established near the Chesapeake Bay in Virginia, becoming the first English settlement in America and marking the beginning of the British Empire.
- 1608** Pilgrims reach Holland after fleeing England.
- 1610** "Starving Time" for the Jamestown Colony results in nearly 90 percent of settlers dying during their first winter.
- 1620** Pilgrims reach America and establish the Plymouth Colony.

- 1622** Powhatan Indians massacre 347 English settlers in Jamestown, Virginia, decimating the population of the infant colony.
- 1631** John Winthrop becomes the first governor of Massachusetts.
- 1636** Harvard College is established in Cambridge, Massachusetts.
- 1641** Charles I appoints Sir William Berkeley as governor of Virginia.
- 1642** Charles raises an army, claiming that Parliament is in rebellion against him. This marks the beginning of the English Civil War, pitting monarchists against supporters of Parliament.
- 1644** Samuel Rutherford pens one of the most famous political works in history, the treatise entitled *Lex, Rex*, in which he argues that kings do not rule by any special command of God.
- 1649** Charles I is captured, tried, and executed by parliamentary forces, bringing an end to the English monarchy for over a decade.
- 1660** The monarchy is restored in England, Scotland, and Ireland, with the rise of Charles II to the throne. Many who conspired against his father, Charles I, were put to death.
- 1661** Rutherford dies in prison awaiting trial.
- 1673** Jesuit missionary Jacques Marquette becomes the first European to explore the interior of the Mississippi River.
- 1675** Several New England colonies enter a brutal, three-year war with local American Indians. This conflict is known as King Philip's War.
- 1676** Nathaniel Bacon rebels against the government of Virginia, bringing ruin to that colony.
- 1682** William Penn leaves England and establishes Pennsylvania as a refuge for Quakers.
- 1689** John Locke writes *Two Treatises of Government*, a pair of essays that will greatly influence America's Founding Fathers and their understanding of the state's role in safeguarding inalienable rights.
- 1692** The Salem witch trials begin.
- 1693** William and Mary College is founded in the Virginia Colony, making it the second oldest institution for higher education in America.
- 1701** Yale College is established in New Haven, Connecticut.
- 1741** The Great Awakening begins to crest under the influence of George Whitefield and Jonathan Edwards.
- 1748** Charles Montesquieu writes *De l'esprit des Lois*, an essay in which he explains the need for the three powers of government to be balanced.
- 1752** Benjamin Franklin performs the kite experiment, proving the electric nature of lightning.
- 1754** John Woolman writes his influential treatise *Some Considerations on the Keeping of Africans*, and becomes one of the prominent voices for abolition in America.

- 1756** England and France pull Europe into a global conflict known as the Seven Years' War.
- 1762** Jean-Jacques Rousseau pens *Principes du droit politique*, a treatise in which he explains how social contract can be applied to democratic governments.
- 1763** England wins the Seven Years' War but accrues massive amounts of debt in the process. They attempt to alleviate this debt by taxing the American colonies.
- 1764** Thomas Pownall writes *The Administration of the Colonies*. This essay warns Parliament that the American colonies will not accept taxation without representation.
- 1765** For the first time in history, England imposes a direct, internal tax on the American colonies for the express purpose of raising revenue. This legislation is called the Stamp Act, and it requires printed materials in the colonies to be produced on stamped paper manufactured in London.
- 1766** Parliament repeals the Stamp Act in response to protests from merchants and manufacturers with colonial interests.
- 1767** Parliament imposes a new wave of taxation, known as the Townshend Acts, which places import duties on items such as paint, lead, glass, and tea.
- 1767–1768** John Dickinson writes a series of essays entitled *Letters from a Farmer in Pennsylvania*, which greatly unite the colonies against the Townshend Acts.
- 1768** British troops arrive in Boston with the goal of forcing compliance with the Townshend Acts.
- 1770** British soldiers open fire and kill several aggressive protesters. The incident is publicized as the Boston Massacre.
- 1772** The first violent uprising against the British Crown in America occurs when a group of men attack and burn the *Gaspee*—a British schooner sent to address commodities being smuggled into the harbors of Rhode Island.
- 1773** A group of colonists, disguised as Indians, board British ships and destroy the cargo by dumping it into the Boston Harbor. The event is subsequently called the Boston Tea Party.
- 1774** In response to the Boston Tea Party, Parliament issues a sweeping wave of punitive legislation, known as the Intolerable Acts, which shuts down the economy of the colonies and takes away their rights of self-governance.
- 1774** Facing increased British aggression, the colonies respond by sending delegates to Philadelphia. This gathering is known as the First Continental Congress.
- 1775** In April, British and Continental forces formally engage each other for the first time at the Battles of Concord and Lexington.
- 1775** In early May, the Second Continental Congress gathers in Philadelphia and, two months later, publishes their intent to take up arms against Great Britain.

- 1775 In June, George Washington is appointed commander in chief of the Continental army.
- 1775 Later that month, British forces win a Pyrrhic victory at the Battle of Bunker Hill.
- 1775 In October, William Howe replaces Thomas Gage as commander of the British forces in North America.
- 1776 In January, Thomas Paine publishes *Common Sense*, the most widely read political pamphlet of the Revolutionary period.
- 1776 After a yearlong siege, British forces evacuate Boston in March.
- 1776 Continental Congress publishes the Declaration of Independence in July.
- 1776 In late August, Britain delivers a severe blow to Continental forces at the Battle of Long Island.
- 1776 Washington crosses the icy Delaware River in December and surprises British troops at Trenton and then soon after at Princeton, giving Continental forces a desperately needed victory.
- 1776 England wins an overwhelming victory at the Battle of Fort Mifflin, securing the surrender of 3,000 American soldiers and solidifying their control of New Jersey and New York.
- 1777 Washington is forced out of New Jersey and moves his detachment south in an attempt to frustrate Howe's plans for the capture of Philadelphia.
- 1777 In September, Washington is defeated by Howe at the Battle of Brandywine.
- 1777 Later in September, British forces capture Philadelphia without resistance.
- 1777 Howe defeats Washington again at the Battle of Germantown in October.
- 1777 In October, General Horatio Gates turns the tides of the war in the Northern Department and forces General John Burgoyne to surrender approximately 6,000 troops to the American forces at the Battle of Saratoga.
- 1777 Washington winters his troops at Valley Forge in December. Over the next several months, around 2,500 American soldiers die from disease, starvation, or exposure to the elements.
- 1778 At the turn of this year, Washington responds to a consorted effort by some of his leading officers to have him replaced as commander in chief. Historians refer to this incident as the Conway Cabal—named after General Thomas Conway, whose letters criticizing Washington were forwarded to the Second Continental Congress.
- 1778 France formally enters the war in February, joining forces with America.
- 1778 The Battle of Rhode Island commences in late August. It proves to be a disastrous first attempt of military cooperation between America and France, as the French fleet of ships retreat without engaging the enemy.
- 1779 Spain declared war against England on June 21.

- 1780** Benedict Arnold is court-martialed on several serious charges but remains in the service of Washington.
- 1780** The war moves south, and the American forces soon suffer a tremendous blow, as General Benjamin Lincoln surrenders well over 3,000 troops to British General Henry Clinton at the Siege of Charleston.
- 1780** In September, a plot by Benedict Arnold to hand West Point over to the British is foiled by the capture of his co-conspirator, Major John André.
- 1780** As the year draws to a close, American forces string together several critical victories in the South, such as the Battle of King's Mountain and the Battle of Cowpens, encouraging them that the war can still be won.
- 1781** Washington orchestrates a "perfect storm" at the Siege of Yorktown, when his army traps British forces against the Chesapeake Bay as two French fleets cut off any hope of escape. General Lord Charles Cornwallis surrenders more than 7,000 British troops, effectively ending the Revolutionary War.
- 1782** In February, the British House of Commons votes against further war.
- 1782** British evacuate Charleston, South Carolina, on December 14.
- 1783** The Treaty of Paris ends the American Revolutionary War.
- 1783** On November 25, British troops evacuate New York, marking the end of English rule and occupation.
- 1783** General George Washington resigns as commander in chief of the Continental army on December 23.
- 1789** Olaudah Equiano publishes his autobiography, which details the horrors of the slave trade. This work greatly energizes the abolition movement in England.

A NOTE FROM THE PUBLISHER

The classical tradition of education has regularly emphasized the importance of approaching the great ideas of human wisdom *ad fontes*, going “to the fountains or sources” themselves. The reasoning for this is that, though secondary sources certainly have their place, we ought not make what is secondary primary.

Consider, for example, that students are reading about Benjamin Franklin. While reading about him can be a pleasure, reading Franklin’s own words is an even greater delight. What is more, it is often true that the works *of* a writer such as Franklin are just as accessible as writings *about* Franklin, if not more so. A source such as Franklin’s *Autobiography* deserves its rank as primary—first in importance, influence, and consequence. Secondary sources may help us understand Franklin, but no one can aid us in that understanding better than Franklin himself. While secondary writings about Franklin will come and go with each generation, Franklin’s voice will endure.

The *Humanitas* series attempts to bring primary source writings to high school students so that they may hear from the great authors themselves, thus gaining an understanding of history from those who lived it. Put another way, this series seeks to keep what is primary, primary.

As much as we believe that students should hear directly from original sources and writers, we also know that it is very helpful to provide some orientation to these sources as well as some practical guidance throughout their reading. In this series, we have carefully arranged the sequence of readings but also included brief introductions to each reading as well as many explanatory annotations to provide clarity and context for students. Our goal has been to create just the right blend of the primary (original source readings) and the secondary (introductions, annotations, timelines, questions).

We are convinced that students who study the sources in this series will be led through a rich collection of important ideas and questions that have shaped our past and present. This journey will impart the prudence and wisdom students will need to lead and serve future generations. Our great hope is that students will come to understand humanity well, and therefore serve it well in the years to come.

A NOTE FROM THE SERIES EDITOR

 As I recall the first time I heard of classical education, I can remember exactly where I was: driving down Washington Street in San Diego, about a quarter mile from Bronx Pizza. I was in my company car, listening to R. C. Sproul's radio broadcast "Renewing Your Mind." His guest that day was a man named Doug Wilson, and they were talking about a school Wilson had started somewhere in Idaho. As I listened to Sproul and Wilson unpack the contours of classical education and how this school in Idaho was attempting to revive that model, "I felt my heart strangely warmed," to use Wesley's words.

I was raised just outside of Boston and, like most New Englanders, I always held a deep respect and even a romantic reverence for the academy. Yet even this could not account for what happened to me that day. Completely unaware that there was another model of education, I assumed that what schools did *now* was exactly what they had always done. Looking back from the vantage of hindsight, it is evident that as I was being awakened to this new universe, I was also receiving what the Reformers called a *vocatio*, that is, a call or summons to a particular occupation.

In response to that call, I returned to the Boston area two years later to pursue graduate work at Gordon-Conwell Theological Seminary. There, studying among great scholars, amidst ivy-covered buildings and rolling landscapes dotted with ancient trees, the memories of that radio program would often return to my mind.

Upon graduation, I went to work at Harvest Academy, a classical school in Sonoma County, California. Those were precious years of raising a family in a beautiful part of the country. It was also the birthplace of my family's non-profit called Bread for Life, which is now in its twelfth year and has raised almost a million dollars in order to build bakeries and schools and to assist farmers in Uganda, Africa.

After my time at Harvest Academy, I received an invitation to create and chair a humanities department at Horizon Prep, a school in Southern California that had recently converted to the classical model. These also were tremendous years during which I had the opportunity to introduce an entire community of hungry teachers, willing students, and excited parents to classical education. Yet as fate would have it, although I was brought there to train others, I was the one who was about to get schooled.

The same year I had arrived at Horizon Prep, a new dean of students had also been hired. Unbeknownst to me, this gentleman had a son who was

attending the great Phillips-Exeter Academy in New Hampshire. Seeing the intellectual transformation that this school had wrought on his own progeny, he secured two of their department heads to come train his new staff in the art of Socratic discussion. Those were some of the most powerful days I had ever experienced in my life.

As simple as it may sound, the unadorned act of sitting around a table, in community, musing over some great poem, work of art, historical treatise, or piece of literature, was utterly transformative. I realized then that my unexamined commitment to the lecture model of teaching had robbed my students, and myself, of what was unquestionably the intellectual engine behind Western civilization: discussion-based education. In terms of my pedagogy, this was not simply a Copernican revolution, but it would set into motion a sequence of events that ultimately led to the creation of the *Humanitas* series.

I committed myself to teaching students primarily through discussion rather than declamation, but I immediately ran into a problem. Most of my classes at Horizon Prep were in the area of history—American, ancient, and medieval. Committed to the Socratic model, I tried having discussions using traditional textbooks, but it did not work. We needed to wrestle with *ideas* and *events*, not summaries of decades-long epochs condensed into a couple of paragraphs. Truth be told, my first year experimenting with this new pedagogy was a dud.

Recognizing that I needed some fresh vision, my dean was kind enough to send me off to the summer Humanities Institute at Phillips-Exeter Academy. There I spent a week with dozens of other educators who were equally blown away by the power and simplicity of sitting around a table and discussing great texts. It was like I died and went to heaven.

Toward the end of my time there, I was sitting next to a teacher from Philadelphia who verbalized exactly what I was thinking: “The key to making this whole thing work is showing up to class with the best possible texts for our students to discuss.” At that moment I realized that the only way I could pull this off in a history class was to begin compiling a collection of source documents, such as the Declaration of Independence, Pericles’s *Funeral Oration*, and Martin Luther’s famous treatise *On Secular Authority*, with which my little community of students could begin interacting.

With these tools in hand, my second year experimenting with Socratic methods went much better than my first, but I was still running into two major obstacles. First, it was exhausting trying to find all these primary source documents. For starters, one had to be a scholar in the different epochs of history to know what documents should be read, or even where to look. And while it is true that there are scores of online sourcebooks, I found that they were often disorganized messes of broken links, terrible translations, and shallow redactions.

Second, even when these sources could be secured, I realized that there was a big difference between having a good *class* and teaching a good *course*. In other words, while it is true that we had many wonderful class discussions, at the end of the year, I knew my students were not getting a sense of having been exposed to an unfolding, cohesive, and chronological narrative. In that sense, I was still falling short as a teacher. These were, after all, courses in *history*.

Then came the great supposal: What if we could create a resource that had all the accouterments of a traditional text—beautiful art, copious annotations, clear prose, explanatory essays, and an obvious, historical progression—yet that was completely built around the source documents that turned the wheels of history in the first place? That is, what if we could get the *sources* to tell the story and send the pedagogue into the background where he belongs? Then, instead of our students spending hours reading the thoughts and opinions of Mr. or Mrs. Scholar from such-and-such university, they will instead be in direct dialogue with the likes of John Locke, Susan B. Anthony, and Frederick Douglass. If this could happen, then students will have received, in the truest sense of the word, an *education*.

As C. S. Lewis once observed in his introduction to Athanasius’s *On Incarnation*, “The simplest student will be able to understand, if not all, yet a very great deal of what Plato said; but hardly anyone can understand some modern books on Platonism. It has always therefore been one of my main endeavors as a teacher to persuade the young that firsthand knowledge is not only more worth acquiring than secondhand knowledge, but is usually much easier and more delightful to acquire.”¹

In this vein, we humbly offer you the *Humanitas* series: texts filled with beautiful art, instructive annotations, and thoughtful commentary, all of which serve to adorn the source documents themselves. We designed the books so students and teachers can experience unfettered delight in *discussing* the most profound specimens of firsthand knowledge in the Western historical cannon. This is the story of humanity, told in an unfolding narrative, through primary sources. This, in the simplest terms, is *Humanitas*.

—Christopher John Maiocca
Series Editor



Christopher Maiocca received a master of arts from Gordon-Conwell Theological Seminary in South Hamilton, Massachusetts. Since graduating, he has taught at three classical schools and currently resides in Boise, Idaho. He is married to Robin, his wife of twenty years, with whom he has four children—Hannah, Christopher, Phoebe, and Jeremiah.

1. C. S. Lewis, introduction to *On the Incarnation*, by Athanasius, trans. Religious of C.S.M.V. S.Th. (Louisville, KY: GLH Publishing, 2018), 5.

Introduction to *Humanitas*: *American Origins, Book 2*

In this installment of the *Humanitas* series, we begin with the intellectual renaissance known as the Enlightenment and then move into a select tour of the peoples, ideas, and events that led up to and were involved in the American Revolution.

UNIT V *New Thought*

While America was being settled and explored, Europe found itself in the midst of an intellectual renaissance that scholars have dubbed the Enlightenment. Not only were tremendous discoveries being made in the natural world, but liberal studies, especially in the field of statecraft, were receiving the attention of the world's greatest minds. Men

such as John Locke, Jean-Jacques Rousseau, and Montesquieu began suggesting new models for political societies that would completely revolutionize the modern world and serve as a blueprint and inspiration for America's Founding Fathers.

UNIT VI *The American Revolution*

It is unsurprising that many of the European empires that were competing for global dominance would eventually go to war. This happened in 1756, as the world's first comprehensive conflict broke out, pitting England and its cobelligerents against France and its allies. The North American theater of the struggle was called the Seven Years' War, and though it terminated in a resounding victory for England, the story did not end there.

In an attempt to recoup the expenditures of this war, Great Britain levied novel and exorbitant taxes on her American colonies. The latter greatly resented this, leading to a decade-long war of words that eventually devolved into an appeal to arms known as the American Revolution.



This icon notes a facet in a source document that anticipates or foreshadows something that appears in a source document later in the book or series. The information about what is being anticipated or foreshadowed will appear in the teacher's guide that goes along with this text (available as a downloadable PDF for purchase at www.ClassicalAcademicPress.com).



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Welcome to *Humanitas*

The *Humanitas* series seeks to provide high school students and educators with a comprehensive course in the human story, told through primary sources. The importance of exposing students *directly* to the great works and minds of the last 2,500 years is summed up neatly by C. S. Lewis in his introduction to Athanasius's *On the Incarnation*:

There is a strange idea abroad that in every subject the ancient books should be read only by the professionals, and that the amateur should content himself with the modern books. Thus, I have found as a tutor in English literature that if the average student wants to find out something about Platonism, the very last thing he thinks of doing is to take a translation of Plato off the library shelf and read the *Symposium*. He would rather read some dreary modern book ten times as long, all about "isms" and influences and only once in twelve pages telling him what Plato actually said. The error is rather an amiable one, for it springs from humility. The student is half afraid to meet one of the great philosophers face to face. He feels himself inadequate and thinks he will not understand him. But if he only knew, the great man, just because of his greatness, is much more intelligible than his modern commentator. The simplest student will be able to

understand, if not all, yet a very great deal of what Plato said; but hardly anyone can understand some modern books on Platonism. It has always therefore been one of my main endeavors as a teacher to persuade the young that firsthand knowledge is not only more worth acquiring than secondhand knowledge, but is usually much easier and more delightful to acquire.¹

This emphasis on the importance of firsthand knowledge has been traditionally communicated by the term *ad fontes*. A Latin phrase meaning "to the fountains," it was used as a banner by both humanist scholars and reformers of the High Medieval Period to describe their renewed interest in studying the primary documents that contained the ideas most responsible for precipitating the civilizations and cultural milieus in which they found themselves.

Any teacher who has ever been present with students as they awaken to some revolutionary new idea through reading one of the great geniuses of history can attest to the truth of Lewis's words, that "firsthand knowledge is not only more worth acquiring than secondhand knowledge, but is usually much easier and more delightful to acquire." In other words, it is exponentially more powerful for students to study Montesquieu, Socrates, and Lincoln *directly* than it is for them to read books *about* those great men.

Those teachers who have learned to instruct their students using primary sources are easy to

1. Lewis, introduction to *On the Incarnation*, 5.

recognize. They can usually be seen at the copier, frantically reproducing a set of recently discovered source documents that they are deeply excited to introduce to their students.

Herein lies one of the fundamental reasons we felt that *Humanitas* needed to see the light of day. Source documents are (1) often very difficult to find, (2) sometimes written or translated in a form of English that is no longer intelligible, and (3) filled with mountains of chaff that students cannot be expected to sift through in order to get to the kernel of the author's mind.

Samuel Rutherford's *Lex, Rex* is a case in point. It is one of the most important treatises of the last 500 years, yet in its original form, it is long, laborious, and nearly impossible to read. Unless someone can cut away the fat, update the language, and present to students the absolute center of Rutherford's great idea (that political authority resides in the community), it will forever remain a closed treasure chest. Thus, *Humanitas* has sought to accomplish what no teacher really has the time to do—prepare, clean up, and present these great documents in a format that students can both engage with and digest.

There is another problem that comes with teaching exclusively from primary sources, one that every teacher who has attempted it has encountered. It is this: What makes for a great lesson does not always make for a great course. In other words, an instructor (and her students) may have a grand time discussing the significance of Locke's doctrine of inalienable rights, but unless this doctrine is placed in its natural context and proper historical chronology, the students will have no sense of how it belongs in the larger, unfolding narrative.

The final reason we felt it imperative to publish *Humanitas* is the recent and happy re-emphasis on discussion-based classrooms. Learning is best accomplished in community and in conversation and least through lectures and monologues. The

greatest moments in the classroom will always occur as some great idea is discussed around the table. Conventional textbooks were not designed to facilitate this type of learning—and thus *Humanitas* was born.



Each book is centered around a select number of source documents that have been carefully chosen to help students gain a mastery-level understanding of the human story for the particular epoch covered.

In turn, each source document has been painstakingly edited so that students, unencumbered by archaic language or superfluous material, will understand the great idea or events the document purports to explain.

To help further facilitate an understanding of the source document, the text has been enhanced with scores of annotations. Hard-to-understand terms, difficult trains of thought, critical background information, and pertinent historical context are all conveniently addressed in the margin of the text. In order to further facilitate ease of reading, descriptive section headings have also been added to each document.

Each chapter introduction presents a robust explanation of how the document connects with what has gone before, and how the idea it expounds, or the event it describes, dramatically altered the course of the human story. Then, after students interact with the document, they will read an afterword that explains how the document anticipates what they will encounter in the next chapter and how the two documents are related.

Beyond all of these aids, students will discover that each chapter is brimming with information about the culture of that period and with examples of some of its most beautiful and important art.

A faded portrait of John Locke, an English philosopher, is visible in the background on the left side of the page.

25

Inalienable Rights

Locke's little book on government is just about perfect.

—Thomas Jefferson

INTRODUCTION

The purpose of our previous unit (in *American Origins Book 1*) was to provide several firsthand accounts of what life was like in the colonies. We began by looking at the complicated and often violent interactions that transpired when Indians and Euro-Americans attempted to live in close proximity with each other. Unfortunately, these challenges persisted for at least the next two hundred years.

Next, we sought to better understand the spiritual character of early America. To be sure, the continent was viewed as a fertile mission field by both Catholics and Protestants alike. Zealous disciples wanted to be the first to share Christianity with the American Indians and to claim them for their own sect. In addition to all this missionary activity, there were constant reports of colonists having deep and very personal experiences with the divine. Throughout one period these claims became so universal that historians have since referred to the mid-eighteenth century as simply The Great Awakening. In terms of the spiritual formation of the colonies and the establishment of its early Protestant character, the influence of the Awakening was unprecedented and can still be felt today.

We also saw a growing concern over the practice of slavery; and while complete emancipation was still over 150 years away, the pangs of conscience

were growing louder with each passing year. Many knew in their hearts that this wicked institution must eventually be put to an end.

Finally, we paused to consider what colonial intellectual life looked like around the turn of the seventeenth century. These earlier settlers—whether formally educated at Harvard, or self-taught in small clubs such as the *Junto*—believed strongly in the power of learning and self-improvement to work deep changes in their culture.

Before we move on to our final unit, which explains the causes, battles, and outcomes of the American Revolution, it will be critical that we pause and consider the source of those ideas which gave birth to the Revolution in the first place.

The European Enlightenment was an intellectual movement birthed from three prior and equally important cultural renewals. The first was the Renaissance, with its emphasis on the revival of learning through the seven liberal arts and the pursuit of primary knowledge. What this boiled down to was the idea that scholars should interact with the great works of Western civilization *themselves* instead of relying on the countless medieval commentaries on those works. The result was that the Renaissance greatly purified Christianity, and

dispelled countless errors that had accrued over the years, and led to an explosion of intellectual inquiry.

The most conspicuous fruit of the Renaissance was another critical epoch known as the Scientific Revolution. This period appropriated the prior emphasis on the pursuit of knowledge and applied it to the fields of mathematics, physics, and astronomy. However, unlike the Renaissance, the emphasis was not a return to the old, but rather a progression toward the new. Treatises by men such as Copernicus, Galileo, and Newton fundamentally revolutionized the way we view the universe and called many settled facts into serious question.

The Scientific Revolution led to a third important movement known as philosophical skepticism. The father of this school was a man named René Descartes and its basic idea was to question everything we thought we knew. After months of reflection, Descartes concluded that only two things in life were certain. The first was that he was thinking, and the second was that if he was in fact thinking, he could conclude that he must exist.

Thus, the renewal of learning brought about by the Renaissance, the discovery of new truths through the Scientific Revolution, and the emphasis on questioning everything by way of philosophical skepticism all seemed to combine and give birth to what historians now call the European Enlightenment.

Though making its mark on every sphere of human inquiry, our particular interest in the Enlightenment was its effect on the field of political science and consequently, on the Founding Fathers. That the architects of America got their blueprints for government from the Enlightenment thinkers is so well documented that our purpose in this unit is simply to call attention to the three or four doctrines that formed the pillars of what would become the American experiment.

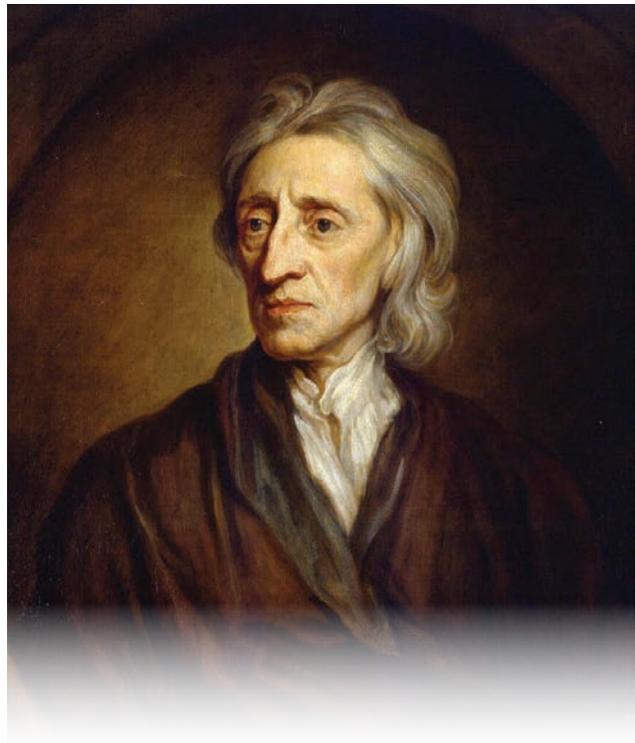
The first is a notion known as inalienable rights. The idea is simply that humans are born with certain natural prerogatives, such as the right to property, to self-defense, and to freedom. In other words, these things belong to all men, *by nature* and no one gives it to them. Therefore, the primary purpose of governments seems to be the protection of those

rights. If it were not, men would have no reason to join a political society in the first place, but would instead be better off living on their own. Although this line of reasoning may seem intuitive from our vantage, at the turn of the eighteenth century, it was a novel and dangerous idea. Up to this point, it was almost universally assumed that subjects existed to serve their governments, and not vice versa.

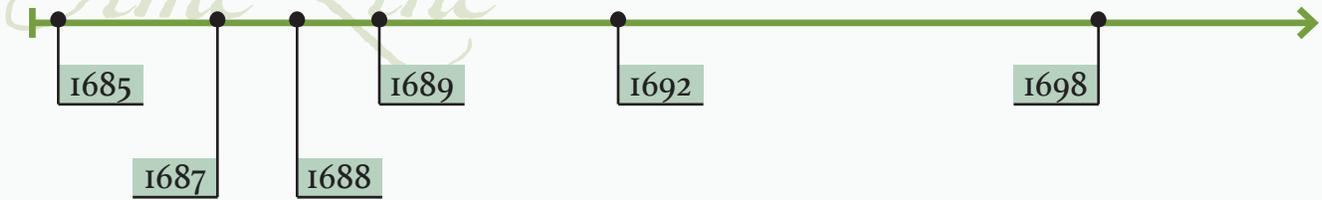
The man most responsible for expounding the idea of inalienable rights was John Locke. His volume *Two Treatises of Government* had the same revolutionizing effect on politics as Newton's *Principia Mathematica* did on physics. In terms of Locke's influence on the America's Founding Fathers, one need only read the prologue to the Declaration of Independence to understand that:

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 . . .

We now turn to John Locke and the essay that perhaps most influenced the Founding Father's notion of what a healthy political society should look like.



Time Line



1685 — Charles II, son of beheaded king Charles I, dies. His brother James II follows and is rumored to want to restore Catholicism in England. A majority Protestant Parliament increasingly resents the dynasty's divine right views and actions.

1687 — James II issues the Declaration of Indulgence, granting liberty of conscience. James's opponents in Parliament interpret this as his way of encouraging Catholics in England to openly defy the Church of England.

1688 — Glorious Revolution! After James announces his infant son will be raised a Catholic, an angry Parliament deposes him and offers the crown to William and Mary, both known Protestants. James is driven from England with minimal fighting. Because there was little of the violence the nation had endured in the English Civil War, the victory of Parliament and limited monarchy is nicknamed the “Bloodless Revolution.”

1689 — The English Bill of Rights is adopted by Parliament. This fundamental statement of inalienable rights enters the fabric of English political tradition, while also disqualifying any Catholic

from the line of succession. It is a Protestant document.

1689 — *Two Treatises of Government* is published by John Locke, defending the Glorious Revolution. This landmark book lays the foundation for the United States Declaration of Independence and leads Benjamin Franklin to declare that Locke is one of the three greatest minds that ever lived.

1689–1692 — Locke writes *A Letter Concerning Toleration*, in which he argues that no earthly government is capable of judging rival claims to religious truth. Furthermore, religious belief cannot be established by force, nor is it desirable to attempt to enforce religious conformity. This piece is a milestone in the development of the idea of separation of church and state.

1698 — Algernon Sydney's *Discourses Concerning Government* is published nearly two decades after his death. Sydney, executed on suspicion of plotting against Charles II, also defended consent and the rights of Parliament against the king. His unjust execution and then his defense of Parliament made Sydney a martyr to the cause of popular liberty in England and America.

Second Treatise on Government

John Locke

1689

naturally

This is difficult to imagine, since we are all born into some kind of governed society. Yet by nature, we are indeed completely free. Governments are the inventions of men.

exception

There are examples in Scripture of God setting kings, judges, and prophets over people, but this is not repeatable today.

equality of men

*Throughout his Second Treatise, Locke quotes heavily from Richard Hooker, Anglican priest and author of *Of the Laws of Ecclesiastical Policie*, which is where this thought comes from. These quotations have been omitted to condense the work.*

CREATION OF MAN

Because man is made in God's image, he is born with a number of natural rights.

The founders of America certainly believed this; one of the first clauses of the Declaration asserts that "to secure these rights, governments are instituted among men."

^A1 Corinthians 10:23

nobler

For example, someone could willingly lay down their life if doing so could save another. (See John 15:13.)

reason

also called conscience—our innate understanding of right and wrong (cf. Romans 2:14-15)

To understand political power rightly, and in order to find out its original purpose, we must first consider what state all men are naturally in, and that is a state of *perfect freedom* to order their actions and to dispose of their possessions and persons as they think fit, within the bounds of the law of nature and without asking or depending upon the will of any other man.

Men are also, by nature, in a state of equality and so no one has more power or jurisdiction than another. Indeed, nothing is more evident that creatures of the same species, born with all the same advantages of nature and the use of the same faculties, should also be equal among one another without subordination or subjection. The only **exception** to this would be if the Lord and Master of them all should, by any revealed declaration of His will, set one above another and confer on him by an evident and clear appointment, an undoubted right to dominion and sovereignty. Therefore, this **equality of men** by nature is so evident in itself, and beyond all question, that it is the foundation of the obligation that men have to love one another.



Although this is a state of liberty, it is not a state of license.^A In the state of nature, man has an unrestrained liberty to do whatever he will with his person and possessions, yet he has not the liberty to destroy himself or any other creature in his possession, unless some **nobler** use beyond its bare preservation calls for it. It is also clear that the state of nature has a law of nature to govern it and **reason** is that law. It teaches all mankind (who are willing to consult it) that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.

We are all the workmanship of **One** omnipotent and infinitely wise Maker and are sent into the world by His will, and we must be about His business.^B We are His property and His workmanship, and therefore we are here to serve His pleasure and not anyone else's. Moreover, since we are furnished with like faculties and share in the same nature, there cannot be any subordination among us that says we may destroy one another, as if we were made for each other as the inferior ranks of creatures are made for us. For this reason, everyone is bound to preserve himself and must not give up his life willfully. In the same manner, when his own preservation is not at risk, he must, as much as possible, seek to preserve the rest of mankind. He may not—unless to do justice to an offender—take away or impair the life or what contributes to the preservation of the life, the liberty, health, limb, or goods of another.

ON PROPERTY

God, who has given the world to all men, has also given them reason to use it to the fullest potential for their life and comfort. The earth, and everything in it, is given to men for the support and benefit of their being, and although all the fruits it naturally produces belong to mankind in common (since they are produced by the spontaneous hand of Nature), this means that nobody originally had a private ownership, **exclusive** of the rest of mankind over anything that is in its natural state. However, all goods have to be appropriated in some way or other before they can be of any use or of benefit to any particular man.

Though the earth and all inferior creatures are common to all men, every man has a property in his own **person**. This, nobody has any right to but himself, and therefore we say that the labor of his body and the work of his hands are properly his. Thus, whatever he removes out of that **state** which nature has left it in, and then mixes his labor with it, he has now joined to it something of his own and thereby makes it *his* property. Thus, removing it from the common state which nature has placed it in, by adding his labor, he has attached something to it that excludes the common right of other men, for because this labor is the unquestionable property of the laborer, no man can have a *natural* right to what another has produced by his own work.

ON THE BEGINNING OF POLITICAL SOCIETIES

Since all men are by nature free, equal, and independent, no one can be put out of this standing and subjected to the political power of another without his own consent. This is done when he agrees with other men, to join and unite into a community for their comfortable, safe, and peaceable living—one amongst another—in a secure enjoyment of their properties and having a greater security against any that would seek to harm them than if they remained in a state of nature. Any number of men may enter into such a community, since it does not injure the freedom of the rest, who are free to remain in the state of nature if they so choose.

One
Locke's entire system rests on the assumption that human beings are created by God and accountable to Him.

^B**Ephesians 2:10**

exclusive
In the minds of most European immigrants, untended land was available to the first person to claim it. This concept of private property brought them into endless contention with Native tribes.

person
We come into this world simply with our bodies; therefore, that is all that belongs to us by nature.

 **state**
For example, if someone found a blueberry bush growing wild in the woods, that fruit would be in a state of nature, and you could freely pick from it. However, if someone planted it there and tends to it, then it is no longer in a state of nature, since human labor added the bush to the land.

political body

Men leave the radical freedom that the state of nature affords and submit to a government in order to better secure their natural rights against aggressors.

power

In the state of nature, a person only has to consider himself. If that person belongs to a community, they must submit to the will of the community in many areas. For example, if the community decides to go to war, the person must comply with that decision.

TOWER OF BABEL

According to Genesis 11:1-9, the first human society was formed at the Tower of Babel. We are not told what form their government took, only that it ended badly.



goal

Political societies exist to provide law and order.

laws

Locke speaks of two fundamental laws that must be present in any political society. Positive law refers to laws that are written by legislative bodies to govern society. Natural law refers to the innate knowledge of right and wrong that each human possesses as a creature made in God's image.

Now, when any number of men have consented to make one community or government, they become incorporated, and are now one **political body** where the majority have a right to act and decide for the rest. For when any number of men have, by the consent of every individual, made a community, they have thereby become one body with a power to act as one body, which happens only by the will and determination of the majority.

Thus, every man, by consenting with others to make one political body under one government, puts himself under an obligation to everyone of that society by submitting to the determination of the majority, agreeing to be ruled by it. If this were not the case, then the original contract, whereby he incorporated with others into one society, would be meaningless, as he would be back in the state of nature. For if he will not submit to this political body, what would be the purpose of entering into an agreement with them? If he only obligated himself to those decrees that he saw as fit, what evidence would there be that he has entered into a political society at all? He would be in the same primal liberty he had before his contract, when he was in the state of nature and only consented to those acts and decrees which this fit.

Thus, whoever freely comes out of the state of nature and unites himself to a community must understand that he is giving up all the **power** required in order to accomplish the goals for which they united into a society. This is done by agreeing to unite into one political body and this is all the contract entails between the individuals that set up a commonwealth. Therefore, that which begins and constitutes any political society is nothing more than the consent of any number of freemen capable to unite and incorporate the majority into such a society. It is this, and only this, which has ever, or could ever, give beginning to any lawful government in the world.

ON THE EXTENT OF LEGISLATIVE POWER

The great **goal** of entering into society is that men may enjoy their possessions in peace and safety. The great instrument of this peace and safety are the **laws** that their society establishes. The first and fundamental positive law of all commonwealths is the establishing of the **legislative** power and the first and fundamental natural law which is to govern even the legislative itself is the preservation of the society, and (as far as will be consistent with the public good) of every person in it. This legislative is not only the supreme power of the commonwealth, but it is sacred and unalterable in the hands of whom the community has placed it.

HISTORY HIGHLIGHTS

◆ Puritan Pedigree

Both of John Locke's parents were Puritans. His father served as a captain in the army that fought for Parliament against King Charles I. Locke once said that he appreciated the strictness of his upbringing, but he was grateful that his father became his friend as he grew into maturity. The Lockes' sympathy for the cause of Parliament started John on the path of resistance to the divine right of kings.¹



◆ Confirmed Bachelor

While a tutor at Oxford, Locke engaged in a brief romantic relationship. Later he reported that the infatuation “robbed me of the use of my reason.” The moonstruck young teacher recovered his reason, but lost his lover. Locke, one of the most brilliant thinkers of the English Enlightenment, never married.²



◆ Constitution Writer

Serving as assistant to the English Board of Trade, Locke helped to draft *The Fundamental Constitutions of Carolina* in 1669. This document granted freedom of worship to any group of seven or more persons who believed in God, practiced public worship, and had a set of rules for professing their faith. Years later, Locke would expand his views in his *Letter Concerning Toleration*, writing that civil government must not try to compel religious belief.³

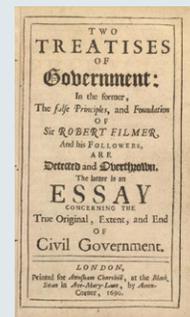
◆ Overseer

Ironically, the eloquent champion of inalienable rights later served on the Board of Trade and Plantations from 1696 to 1700. As the English governing body for colonies, this agency supervised, among other areas, the slave trade in the Americas. Locke, who argued that no human may justly surrender his right to liberty, helped formulate policy for slaveholding in America.⁴



◆ Rival Work

Robert Filmer in 1680 published *Patriarchy, or, The Natural Power of Kings*. Rejecting the social contract theory popular in the era, the author pointed out that people are born into already structured societies without their consent. Furthermore, he argued that all government grows out of the parental rule found in the Bible. This claim equated the authority of a king to that of a father, who answers to God, not to his children—another variant on the divine right of kings. Locke's *Two Treatises* furnished Parliament with a rebuttal of Filmer.⁵



No edict from any person, in whatever form that could be conceived, or by whatever power that could be imagined, can have the force of a law if it is not sanctioned by that legislative body, which the public has chosen and appointed. Lacking this sanction, this decree could not have that which is absolutely necessary to its being a law, namely, the consent of the society. Over this society,

legislative
the body of government that is responsible for making laws—in the United States, this job belongs to the Congress

ATHENS

Generally considered the world's first democracy, the Greek city of Athens became a model for countless other governments throughout history.



arbitrary

based on random choice or personal whim rather than any reason or system

legislator

Through Locke, the Founding Fathers developed their conviction that to be under a government in which they were not represented was despotism.

extemporary

random; unwritten; made without preparation or forethought

unwritten

For example, we know intrinsically that stealing is wrong, but unless laws against thievery are written and courts established to enforce those laws, someone could say that he simply borrowed something from his neighbor.

nobody has the power to make laws except by their own consent and by the authority received from them. Therefore, all the obedience, which anyone can be obliged to pay, ultimately terminates in this supreme power and is directed by those laws, which it enacts. Nor can any oaths to any foreign power whatsoever, or any lesser domestic power whatsoever, discharge any member of the society from his obedience to the legislative, nor oblige him to any obedience contrary to the laws so enacted, or farther than they do allow. It is ridiculous to imagine that one can be forced to obey any power in the society which is not supreme.

Though this legislative power—whether it is placed in one or more and whether it be always in existence or only by intervals—though it be the supreme power in every commonwealth, there are four important matters to consider:

First, it is not, nor can it possibly be, absolutely **arbitrary** over the lives and fortunes of the people. Since it is but the joint power of every member of the society given up to that person or assembly which is **legislator**, it can be no more than those persons had in a state of nature before they entered into society and gave it up to the community. For nobody can transfer

to another more power than he has in himself and nobody has an absolute arbitrary power over himself, or over any other, to destroy his own life or take away the life or property of another. A man, as we have proved, cannot subject himself to the arbitrary power of another; and having, in the state of nature no arbitrary power over the rights of life, liberty, or possession of another, but only over so much as the law of nature gave him for the preservation of himself and the rest of mankind, this is all he does or can give up to the commonwealth, and by it to the legislative power, so that the legislative can have no more than this.

This legislative power is limited to the public good of the society. It is a power that has no other goal but preservation and therefore can never have a right to destroy, enslave, or to intentionally impoverish its subjects. The obligations of the law of nature cease not in society, but only in many cases are drawn closer, and have by human laws known penalties annexed to them to enforce their observation. Thus, the law of nature stands as an eternal rule to all men—legislators as well as others. The rules that they make for other men's actions must be conformable to the law of Nature—that is, to the will of God, of which the fundamental law is the preservation of mankind. Therefore, no human sanction can be good or valid against it.

Second, the legislative or supreme authority cannot assume to itself a power to rule by **extemporary**, arbitrary decrees, but rather is required to dispense justice and decide the rights of the subject by published, standing laws, and by known, appointed judges. For since the law of nature is **unwritten**, and so

nowhere to be found except in the minds of men, they, who through passion or selfish interest, misquote or misapply it, cannot easily be convinced of their mistake where there is no established judge and no written laws. In this case, laws will not serve as they ought, that is, to determine the rights and protect the properties of those who live under it, especially where everyone is the judge, interpreter, and executioner of it.

To avoid these inconveniences that disorder people's lives and possessions in the state of nature, men unite into commonwealths so they may have the **combined** strength of an entire society to secure and defend their rights, and so they may have written rules to guide it, that everyone knows their place. For these reasons, men give up all their natural power to the society they enter into, and then that society puts the legislative power into such hands as they think fit, with the understanding that they shall be governed by declared laws. If this were not the case, then there would be no purpose to form a society; for peace, quiet, property, and rights would still be in the same uncertainty as they were in the state of nature.

Absolute arbitrary power and governing without settled laws are not consistent with the goals of society and government. Men would never leave the freedom of the state of nature and tie themselves to a government were it not to preserve their rights to life, liberty, and fortune by stated laws which secure their peace and quiet. It cannot be supposed that, in tying themselves to a government, they have now bestowed an absolute arbitrary power over their lives and property and put a force into the magistrate's hand to execute his unlimited will upon them. No, this would be putting themselves into a worse condition than in the state of nature, where they had a liberty to defend their rights against the injuries of others. Thus, we can never suppose that men give themselves up to the absolute arbitrary power and will of a legislator when they enter into a society. In that case, they would have disarmed themselves and armed him to make a prey of them whenever he pleases.

Therefore, whatever form of government the commonwealth is under, the ruling power ought to govern by declared and received laws and not by extemporary dictates and undetermined resolutions. If a society fails to make clear, written laws,



JULIUS CAESAR

When Caesar failed to show the appropriate respect for the Senate, they accused him of tyranny and killed him. The plan backfired, as the assassination enraged the people of Rome, effectively bringing the Republic to an end.

combined

This was why early medieval Europe was so chaotic. Since there were no central governments to hold them accountable, barbarians and Vikings pillaged parishes and villages without consequence. Now, citizens—even if they are just within a small township—are held accountable to a central law backed by the rest of the society.

JUSTICE

The famous fresco, painted by Ambrogio in 1339, represents a healthy government. Notice how the scales of Justice (left) are balanced as Wisdom hovers above.



change

Inalienable rights are greatly endangered when individuals hold political offices for life.

MOSES

When God gave His law to Israel, He did not speak it to them, but rather wrote them in stone. Therefore, the Israelites could not say that the law was unclear or that they forgot it.



then mankind will be in a far worse condition than in the state of nature, for then they will have armed one or a few men to force a society to obey unlimited decrees of their sudden thoughts, or to their unrestrained, and till that moment, unknown wills, without having any measures set down which may guide and justify their actions. Thus, the foundation of any government must be those established and promulgated laws, so that the people may know their duty and so the rulers will be kept within their bounds and not be tempted, by the power they have in their hands, to employ it for wicked purposes.

Third, the supreme power cannot take from any man any part of his property without his own consent, for the preservation of property is the goal of government, and that for which men enter into society. It necessarily requires that people should have property, without which they must be supposed to surrender the one right which caused them to enter society in the first place. A more foolish thing can hardly be imagined. Men in society have a right to their property, which nobody has a right to take from them without their own consent. If this were not so, they would have no property at all, for nothing can be called “my property” which another can take from me as he pleases, against my consent. Thus, it is a mistake to think that the supreme or legislative power of any commonwealth can do what it will and dispose of the estates of its subjects arbitrarily, or take any part of them at pleasure.

This is not much to be feared in governments where the legislative body consists wholly or in part in assemblies which **change** every several years, and whose members, after they have served their terms, go back to become ordinary citizens and subjects under the common laws of their country equally with the rest. But in governments where the legislative body never changes, or in the case of an absolute monarchy, there is great danger that they will think themselves far superior to the rest of the community, and so will be apt to increase their own riches and power by taking what they want from the people. For a man’s property is not at all secure, though there be good and equitable laws to set the bounds of it between him and his fellow-subjects, if he who commands those subjects has power to take from any private man what part he pleases of his property, and use and dispose of it as he thinks good.

It is true that governments cannot be supported without great expense and therefore it is proper that everyone who enjoys the protection of the government should pay for this in proportion to the wealth of his estate. However, it must be with his consent, that is, with the consent of the majority, giving this consent either by themselves or by the representatives they have chosen. For if anyone shall claim a power to levy **taxes** on the people by his own authority and without

taxes

This was the issue which sparked the American Revolution—the high taxes that England levied on the colonies without proper representation or consent.

law

Locke is saying that nature has imprinted moral sensibilities on the human heart, which God further clarifies by His written law. Governments must do likewise as they write their own laws.

society

He is speaking of political societies. People give up some of the rights which are theirs by nature so that their governments can secure the rest.

Therefore

After reading these last several paragraphs, it should be clear to anyone familiar with the Declaration of Independence how deeply Locke influenced the Founding Fathers of America.

prevarications

lies; deviations from the truth

In summary, these are the bounds which the **law** of God and nature have assigned to the legislative power of every commonwealth, in all forms of government. *First*, they are to govern by published and established laws, not to be varied in particular cases — but to have one rule for the rich and poor; one for the favorite of the court and countryman at plough. *Second*, these laws also ought to be designed for no other goal but the good of the people. *Third*, they must not raise taxes on the property of the people without the consent of the people given by themselves or their deputies. *Fourth*, legislators cannot transfer the power of making laws to anybody else, or place it anywhere but where the people have.

ON THE DISSOLUTION OF GOVERNMENT

The reason why men enter into **society** is for the preservation of their property. This is why they choose and authorize a legislative body—so laws can be made and rules established as guards and fences to the properties of all the members of society. Because of this, it can never be supposed that the legislative body should have a power to destroy that which everyone hoped to secure by entering into society, and for which the people submitted themselves to legislators of their own making.

Therefore, whenever the legislators seek to take away and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people, who are now absolved from any further obedience and are left to the common refuge which God has provided for all men against force and violence. Indeed, if the legislative body shall transgress this fundamental rule of society and either by ambition, fear, folly, or corruption endeavor to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, estates, and rights of the people, by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends. Thus it falls to the people, who have a right to resume their original liberty, and by the establishment of a new legislative (such as they shall think fit), provide for their own safety and security, which is the goal for which they are in society.

Thus, if a long train of abuses, **prevarications**, and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, it is not to be wondered at that they should then route themselves and endeavor to put the rule into such hands, which may secure for them the ends of which their government was first erected.

What I have said here concerning the legislative body in general holds true also concerning a supreme executor who has a double trust put in him, both to have a part in the legislative body and in the supreme execution of the law. Thus, when he acts against both and when he sets up his own arbitrary will as the law of the society, he acts contrary to his trust. In other words, whenever a king corrupts the representatives and gains them to his purposes; when he only employs those whom he has bribed and who have promised beforehand to vote and to enact whatever the king desires—what is it but to cut up the government by the roots and poison the very fountain of public security?



Here is the question that is always asked at this point: Who shall **judge** whether or not the prince or legislative body have acted contrary to their trust? To this I reply, *the people shall judge*; for who else can decide whether his trustee or deputy acts well and according to the trust delegated to him, except he who has appointed him? And by virtue of having appointed him, who else has the power to discard him when he fails in his trust? If this be reasonable in particular cases of private men, why should it be otherwise in matters of the greatest importance, where the welfare of millions is concerned and also where the evil, if not prevented, is greater, and the redress very difficult, dear, and dangerous?

Finally, if a controversy arises between a prince and some of the people in a matter where the law is silent or doubtful, and the thing is of great consequence, I should think the proper umpire in such a case would be the body of the people. For in such cases where the prince had a trust delegated to him, if men find themselves aggrieved, and think that the prince has acted contrary to, or beyond that trust—who so proper to judge as the body of the people (who first placed that trust in him) how far they meant it to extend? But if the prince or the legislative body refuse to be accountable to the people in this manner, then the appeal lies nowhere but to Heaven. If the king or legislative body will not submit themselves to the commonwealth, then there is no known superior and the society should consider themselves in a state of war, where the final appeal lies only to Heaven. In this state, the **injured party** must judge for himself when to make that appeal and formally take up arms.

At this point, all authority reverts back to the society and the people have a right to act as supreme and to continue the legislative functions themselves or place it in a new form or into new hands, as they think good.

judge

As we recall from an earlier chapter, King Charles I very much disagreed with the notion that a king could be judged by any earthly power.

injured party

In the case of America, after Congress sent several remonstrances to King George III, they realized that he was irreparably obstinate. Thus, they penned the famous treatise Causes and Necessity of Taking up Arms, which argued that the time for diplomacy was over.

HOTEL DE VILLE

One of the major battles of the French Revolution was at the Hotel de Ville. John Locke's idea of inalienable rights greatly influenced the thinking of that nation and played no small part in the overthrow of the tyrannical French government.



AFTERWORD

The older governments of Europe focused on the rights that their monarchs had to rule over their subjects. As time went on, political writers began to argue that it was the rights of the people—not the rulers—that should comprise the central focus of all political societies. To this end, Locke insisted that the protection of personal property for the peace and prosperity of its citizens was the primary duty of human governments and the sole function of its laws. With this foundation laid, another

challenge that needed to be addressed was the tendency of those in political power to become corrupted and to act out of self-interest rather than the interest of the community they are representing. Locke suggested that if a government become radically corrupted, then the people should dissolve it and start afresh. However, this is so disruptive that would it not be better to devise a system which curbed this corruption in the first place? That is the subject of our next chapter.

QUESTIONS FOR DISCUSSION & WRITING

1. What were the three cultural renewals that led to the European Enlightenment? How did each renewal contribute to the birth of the European Enlightenment?
2. What is meant by the term “inalienable rights”? How did this new idea of inalienable rights challenge the assumptions of the eighteenth century?
3. How does Locke define his concept “equality of men by nature” and why is it so central to his argument about government?
4. Locke asserts that the fundamental thing we own is our bodies. Since we own our bodies, to what extent can governments regulate what citizens do with their bodies?
5. Locke states that “nobody originally had a private ownership, exclusive of the rest of mankind over anything that is in its natural state.” How did the concept of private property create conflict between Englishmen and American Indians?
6. According to Locke, the primary goal of all laws is the preservation of society. Name some laws that are clearly designed with this goal in mind. Are there laws that could be considered harmful to society?
7. Why is it so important for laws to be written down instead of being passed orally?
8. The Declaration of Independence begins with the following words: “When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another. . . .” What are some of the reasons Locke gives for “dissolving political bands”?
9. How do governments struggle to balance protecting the rights of their citizens with maintaining law and order?
10. After reading Locke’s treatise, do you have any grievances against your own government?

26

Separation of Powers

Montesquieu's immortal work on the Spirit of laws could not fail of course to furnish matter for profound consideration.

—Thomas Jefferson

INTRODUCTION

In explaining the purpose of human governments, John Locke argued that people are born with a right to property and that property consists mainly of two things. The first is our person. This should be an obvious starting point. We own ourselves. Since this is true, we would also own anything that we take out of nature (that is not owned by anyone else) and to which we add our own labor. So, for instance, if we cut down trees and build a log cabin, the cabin is ours, since we built it with our own hands. Of course, we could pay someone to build it, but that amounts to the same thing, since the money we would use would be earned through the labor of our own hands.

Locke goes on to say that if we lived in a state of nature, far away from any political societies, our primary concern would be protecting our lives and our property. As such, he concludes that the reason a government exists is to preserve the life and property of its citizenry. If this were not the case, there would be no reason to give up the freedoms we would enjoy in a state of nature.

So, in terms of political science, Enlightenment thinkers such as Locke first sought to explain the ultimate purpose for which governments exist. Once this point was established—that the primary

function of a government is to secure and protect the rights of its citizens—the next task was to explain the anatomy of political societies, that is, how they functioned and what could cause them to break down. In other words, just as scientists have described the several systems of the human body—how they work together and what can cause them to become diseased—it is clear that if the goal is to truly understand human governments, we must first comprehend what they are comprised of, and how they work. The Enlightenment thinker who did this better than anyone else was a man named Charles Montesquieu.

Just like those in the Renaissance period, thinkers during the Enlightenment looked back to the classical civilizations of the past and inquired as to what made them so prosperous, and what made them ultimately fail. It should come as no surprise that the two cultures they spent the most time reflecting on were Greece and Rome, the twin marvels that were the fountainhead of Western civilization. This is precisely what Montesquieu has done in his tremendous treatise *De l'esprit des lois*, or *The Spirit of the Laws*.

The central concern of this work is to inquire what a government would look like if the direct goal

of its constitution were political liberty. Through a comprehensive survey of the Greek and Roman systems, Montesquieu takes careful note of what principles were in place when their governments were flourishing and securing at least a tolerable amount of freedom for their citizens. He also observes what errors were present when their administrations decayed and their subjects' quality of life declined. The conclusion he came to was that only when a government manages to balance its powers does a nation have any hope of securing a reasonable degree of liberty.

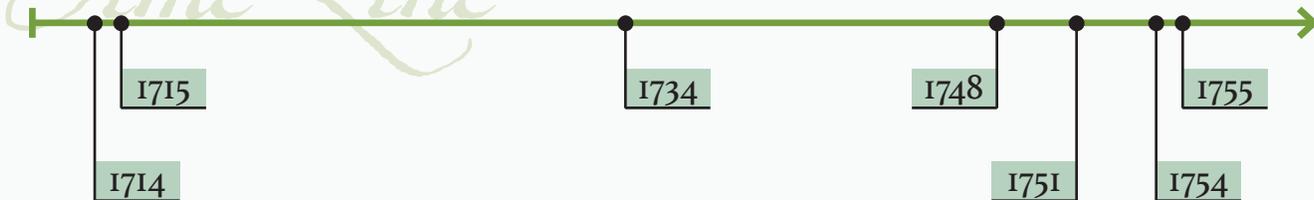
We call your attention to this essay for several reasons. First, it is very important to understand how governments work. Montesquieu does a masterful job of explaining that all political societies have three basic functions: to write laws, to enact them, and to judge whether they have been broken. Respectively, he calls these the legislative, the executive, and the judicial powers.

Second, the essay illustrates that whenever the members of a political society—be it a town, state, or country—begin to lose their liberty, the fundamental reason will always be a failure to balance these powers. Montesquieu goes through many examples of this from the ancient world. Indeed, nearly every rebellion, revolt, or political assassination transpired because in someone's mind, the balance of powers was lost.

The third reason to study *De l'esprit des lois* is the influence it had on the American founders. Although there were many contributing factors, as we move further into exploring the causes behind the Revolutionary War, we find that the all-encompassing rally cry was the desire for liberty. This explains why the Founding Fathers constantly referenced an essay offering a blueprint on how to design a government that offers its citizenry maximum freedom. For example, in his correspondence, Thomas Jefferson mentions Montesquieu nearly a hundred times, and as Washington lays out his vision for a new model of government, it is clear that Montesquieu is his principal guide.



Time Line



1714 — Elector George of Hanover becomes King George I of England upon the death of Queen Anne, last of the Stuart rulers of England. Thanks to the limitations set on the monarchy of the House of Hanover by Parliament, England will be Montesquieu’s favorite example of a contemporary government that separates powers.

1715 — Louis XIV dies, ending the seventy-two-year reign of the modern European king who was most successful in gathering all power into his own hands.

1734 — Montesquieu publishes a study of the causes of the greatness and decline of the Romans. This discussion of Roman history and constitutional development prepares him for his later work on separation of powers, which he sees as the key to the political success of the Roman Republic.

1748 — Charles, Baron de Montesquieu, publishes *On the Spirit of the Laws*. Montesquieu shows that dividing executive, legislative, and judicial powers among distinct branches is the best structural mechanism for protecting liberty. Competition for power among the branches compels the government to limit itself. Widely quoted by Thomas Jefferson and James Madison, among other American founders, Montesquieu restores into modern political thinking the ancient theories of separation of powers, especially that of Polybius, the Greek historian of the rise of Rome.

1751 — Denis Diderot begins publication of the *Encyclopedia*, a twenty-eight-volume survey of all human knowledge—scientific, technical, and artistic. This secular study celebrates the progress of learning due to modern science and reason, while it ignores religion and traditional authorities.

1751 — David Hume publishes *An Enquiry Concerning the Principles of Morals*, which offers a thoroughly natural, “scientific” basis for morals. Hume, in his usual skeptical way, denies that beliefs about right arise from reason. Instead, he accounts for them as products of “sentiments” or feelings. Hume’s book continues the Enlightenment trend to explain human experience entirely in natural, nontheological terms.

1754 — Jean-Jacques Rousseau publishes his *Discourse on the Origin of Inequality*, one of several Enlightenment attempts to defend the basic goodness of human nature and its capacity for progress. For Rousseau, the “fall” of man is not disobedience to God. Instead, he attributes all human evil, suffering, and conflict to the social arrangement of private possessions. Like modern progressives, Rousseau will want to reorganize society in order to cure the evils of the world.

1755 — Montesquieu dies, having contributed a modern argument for separation of powers and checks and balances that will shape American and European thinking about government into “a new science of politics.”

De l'esprit des Loix

Charles Montesquieu

1748

Though all governments have the same general goal, which is that of preservation; yet each has its own particular purpose. Increase of dominion was the object of Rome; war, that of Sparta; religion, that of Israel; commerce, that of Marseilles; public tranquility, that of China; navigation, that of Rhodes; the pleasures of the prince, that of despotic states; the prince's and the kingdom's glory, that of monarchies. XI.5

We now seek to inquire, however, what a government would look like if the direct goal of its constitution was political **liberty**. In order to do that, we shall presently examine the principles on which liberty is founded. If they are sound, liberty will appear in its highest perfection, and then, to discover political liberty in a constitution, no great labor would be required. If we are capable of seeing it where it exists, it is soon found, and we need not go far in search of it. XI.5

THE QUEST FOR LIBERTY

There is no word that admits of more various meanings and has made more varied impressions on the human mind, than that of *liberty*. Some have taken it as a means of deposing a person who had become a tyrannical authority; others for the power of choosing a ruler; others for the right of bearing arms, and of being thereby enabled to use violence; others for the privilege of being governed by a native of their own country, or by their own laws. A certain nation for a long time thought liberty consisted in the privilege of wearing a long beard [Russia under Peter the Great]. Some have even attached this name to one form of government exclusive of others. Those who had a republican taste, applied it to that species of governance, while those who liked a monarchical system gave it to the throne. Thus, they have all applied the name of liberty to the government most suitable to their own customs and inclinations. XI.2

In republics, it has been argued that magistrates tend to act only in conformity to established laws, therefore liberty is generally said to reside in republics, and to be impossible in monarchies. Others say in democracies, where people can do whatever they please, that this type of government is the most free, and while it is true that in democracies, people seem to do as they please, political liberty does not consist in an *unlimited* freedom. In governments, that is, in societies directed by laws, liberty can consist only in having the power to do what we *ought* to do—it does not consist in having the power to do whatever we want to do. Therefore, we must always be clear about the difference between liberty and chaos. Liberty is a right to do whatever the laws permit; chaos is a right to do what the law forbids, or at least what it should forbid. The former is a state of freedom and the latter is a state of **bondage**, because in either case, all citizens would have the same power. XI.3

Democratic and monarchic states do not tend to liberty in their own nature. Political liberty is to be found only in **moderate** governments; and even in these it is not always found. Is it strange, though true, that even lawful power has need

liberty

Following the American Revolution, the great debate between the Federalists and the Anti-Federalists centered on this question of liberty, and while the writers of the Constitution were able to strike an admirable, and even an unprecedented, balance of powers, men such as Patrick Henry and James Monroe were concerned that it granted too much power to the federal level of government and that this would eventually threaten regional and even personal liberty.

bondage

Total freedom always produces complete bondage, as everyone becomes a king.

moderate

In other words, the secret of governing well is to only govern a little.

of limits, and only when there is no abuse of power, can liberty truly be found. However, constant experience shows us that every man invested with power is apt to **abuse** it, and to carry his authority as far as it will go. To prevent this abuse, it is necessary, from the very nature of things, that there should be a separation of powers in all political bodies, for only in a society where there is a balance of authority can man live in a state of liberty. How this may be accomplished, we shall now inquire. XI.4



abuse
History records precious few examples of monarchs who did not egregiously abuse their powers.

DISTRIBUTION OF POWER IN ANCIENT GREECE

In every government there are three sorts of power: the legislative, the executive, and the judicial. The first branch enacts temporary or perpetual laws, and amends or repeals those that have been already enacted. The second branch makes peace or war, sends or receives embassies, establishes the public's security, and is responsible to arm its country against foreign invasions. The third branch punishes criminals, interprets laws, and determines the disputes that arise between individuals. XI.6

In Ancient Greece, a kind of **monarchy** arose that was not of long duration, largely due to their inability to balance these powers. Those who had been great artists, who had fought in their country's cause, who had established societies, or distributed lands among the people—these obtained the royal power and passed it on to their children. They were the kings, priests, and judges. In this government, the three powers were distributed in such a manner that the people made up the legislative branch, while the king had dominion over the executive and judicial branches. XI.11

monarchy
Montesquieu is referring to the time of the archons, who served as the chief magistrates in the Archaic period of Ancient Greece.

Thus in the government of the kings of Ancient Greece, the three powers were not wisely distributed, and this is why those monarchies could not long survive, for the legislative power was structured in such a way that the king could not at all contradict it, therefore the royal authority was undermined even for the smallest matters and so the executive branch became jealous. The Greeks

DEATH OF SOCRATES
The state-sponsored execution of Socrates was a terrible stain on the magistrates of ancient Athens and a classic example of how tyranny can raise its ugly head even in moderate governments.



masterpiece

This indeed is the great challenge of designing a government, and many of America's founders felt that the US Constitution placed too much power in this branch. For example, Thomas Jefferson confessed to a friend that "the great object of my fear is our federal judiciary."

five kings

Romulus, Numa, Tullus, Ancus, Tarquinius

augurs

Someone who observed signs, particularly signs involving birds, and interpreted these "omens" as messages of divine approbation or warning.

Servius Tullius

Though a benevolent king, his comprehensive redistribution of wealth was viewed as an overreach of power and, according to Tarquinius—his son-in-law, successor, and eventual assassin—it was the reason why Servius was murdered.

patricians

the upper class of Rome

plebeians

the lower class of Rome

Tarquin

The seventh and last king of Rome. A true tyrant, he murdered Servius to gain the throne and then added the powers of both the legislative and judicial branches to his usurped office. His arrogance was so conspicuous, it earned him the nickname "Superbus," which is Latin for "arrogant."

also erred in what must be considered the **masterpiece** of all statecraft, that is, knowing where to properly place the judicial power. They placed it in the worst hands possible when they bestowed it on the king—the person to whom the executive power had been already committed. From that very instant the monarch became terrible, and unnecessarily provoked that he had no share in the legislature, and could make no defense against it. His power was in one sense too great, in another too little. XI.11

They had not yet discovered that the true function of a king was to appoint judges, and not to sit as judge himself. The opposite policy caused the government of a single person to be crushed under its own weight and soon the monarchy vanished. Therefore we may say that failing to know how to properly distribute these three powers in one government is the main cause why Homeric kings perished. XI.11

DISTRIBUTION OF POWER IN ANCIENT ROME

The government of Rome had some similarities to that of Greece. The crown was elected under the first **five kings**, and the senate had the greatest influence in those elections. Upon the king's death, the senate examined whether they should continue the established form of government. If they thought proper to continue it, they named a magistrate, taken from their own number, who then chose a king. The senate either approved or disapproved of the election, the people confirmed it, and the **augurs** declared the approbation of the gods. If any of these three conditions was lacking, they elected someone else. XI.12

Thus, at the time of the first kings, we may say that the constitution was a mixture of monarchy, aristocracy, and democracy, and as a result, there was such a harmony of power that there was no instance of jealousy in the first several reigns. The king commanded the armies, had a say in the religious ceremonies, had the power of determining civil and criminal causes, called the senate together, convened the people, laid some matters before the latter, and decided the rest with the senate. Likewise, the authority of the senate was very great, so that the king never laid any matter before the people till it had been previously debated in that august assembly. The people had the right of choosing magistrates, of consenting to the new laws, and, with the king's permission, of making war and peace. They were only deprived of the judicial power.

Then, however, the constitution altered very much under **Servius Tullius**. The senate had no part in his election, as he caused himself to be proclaimed king by the people. He resigned the power of hearing civil causes, reserving none to himself but those of a criminal nature, laying all these affairs directly before the people. Moreover, he eased them of supplying for the government and imposed the whole burden of taxes on the **patricians**, thus in direct proportion to his weakening of the royal and senatorial power, he increased that of the **plebeians**. XI.12

Under **Tarquin**, the government was altered further. He would neither be chosen by the senate nor by the people. He considered Servius Tullius as a usurper and seized the crown as his hereditary right. He killed most of the

HISTORY HIGHLIGHTS

◆ Rags to Riches

Although both of his parents came from noble families, Charles lived in relative poverty as a child. Fortune smiled upon him in 1715 when his bride, Jeanne de Lartigue, brought with her a large dowry. The very next year his uncle died, leaving him the vast properties and title of Baron de la Brede and de Montesquieu. This financial windfall enabled the young man to pursue a career of scholarship.

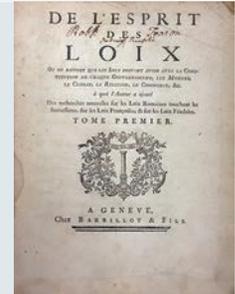


◆ Fashionable Critic

In the style popular at the time, Charles published a racy novel in 1721. *The Persian Letters* is written as a series of correspondences between two Muslims traveling in Europe and their friends back home in Persia. Beneath the provocative surface, Montesquieu's alien observers offer scathing satires upon Catholicism, monarchy, and the French aristocracy's behavior. Montesquieu's popularity rose in literary circles while it plunged among churchmen.¹

◆ Early Retirement

By 1726, after serving as deputy president of the provincial governing body of Bordeaux, the wealthy baron sold his office and retired at the age of thirty-seven. Montesquieu devoted the remainder of his life to study and writing. His supreme interest was Roman law and history, which after twenty-two years culminated in his masterpiece, *On the Spirit of the Laws*.²



◆ Banned Book

The Catholic Church found Montesquieu's classic about government too controversial and placed it on the index of forbidden books. While he acknowledged that religion is socially necessary for stability, the thoroughly secular author expressed his doubts about the truth of any religion. Montesquieu's clash with the church is another instance of the Enlightenment tendency to replace God and theology with solely natural interpretations of the world.³



◆ 24-Day Wonder

Between August 22 and September 14, 1741, George Frideric Handel composed his *Messiah* oratorio, which is somewhat like an opera except no one assumes character roles. Employing the King James Bible, Handel wrote lyrics directly from Old Testament prophecies of the coming Savior all the way to the Second Coming of Christ, harking back to an older, more religious mode of thinking. Beethoven later pronounced Handel "the greatest composer ever."⁴

senators and those who remained he never consulted, nor did he even so much as summon them to assist at his decisions. Therefore, his power increased, and the tyranny of that power increased as well, for he also usurped the authority of the people, enacting several laws to which they did not consent. Thus, the three powers united in Tarquin until the people, at the last moment,

LUCRETIA

The daughter of a prominent man in Rome and the wife of another, Lucretia was raped by Sextus, the son of King Tarquin. After the rape, she went to her father and pleaded for vengeance. She then committed suicide and died in her father's arms. This event began the revolution in Rome that overthrew the monarchy.

end

He murdered senators, he grabbed all the powers of government for himself, he taxed the people to death, he did nothing when his son raped the daughter of a leading politician—finally Rome had enough and expelled Tarquin, ending the monarchy and ushering in the age of the Republic.

decemvirs

a council of ten men who were given complete control of the Roman government during a crisis between the patricians and plebeians

consular

When the monarchy was overthrown, a new office was established called the “consul.” This was the highest elected office in Rome which would have functioned in a similar fashion to the office of a president of the United States.

tribunician

Montesquieu is speaking of a political body in Rome known as the “tribune of the plebs.” This office checked the power of the senate and could veto the decisions of the consuls.

provinces

Pontius Pilate would be a classic example of the power that Roman governors wielded in distant provinces.

distant

Rome could conquer distant lands; it just could not govern them effectively. According to the great historian Edward Gibbon, “The decline of Rome was the natural and inevitable effect of its immoderate greatness.” The same could be said of England, as she found it impossible to govern America from across the Atlantic.



remembered that that they were the true legislators of Rome and so made an **end** of Tarquin. XI.12

After the expulsion of the kings, divisions between the patricians and the plebeians became much greater, the latter insisting upon having fixed laws, so that public judgments would no longer be the result of capricious will or arbitrary power. The senate, after a great deal of resistance, acquiesced and **decemvirs** were nominated to compose those laws. It was thought proper to grant them an extraordinary power, because they were to give laws to parties whose views and interests it was almost impossi-

ble to unite. The nomination of all magistrates was suspended, and the decemvirs became the sole administrators of the republic, finding themselves invested with both **consular** and **tribunician** power. By one they had the privilege of assembling the senate, by the other that of convening the people—but of course they assembled neither senate nor people. So now ten men, out of the entire republic, had control of the entire legislative, the entire executive, and the entire judicial powers. Rome was now enslaved by a tyranny as cruel as that of Tarquin, for when he trampled on the liberty of that city, she was seized with indignation at the power he had usurped, but when the decemvirs exercised every act of oppression, she was astonished at the extraordinary power she had granted. Such was the distribution of the three powers in Rome, but it was even worse in the **provinces**, so we might say that to whatever degree liberty prevailed in the center, tyranny always reigned at the circumference. XI.15

When Rome enlarged her conquests, the magistrates residing at the capital were no longer capable of governing the empire and were obliged to send praetors and proconsuls into the **distant** parts. It was then that the harmony of the three powers was completely lost, for the persons appointed to that office were entrusted with a power which was equivalent to that of all the Roman magistracies together, nay, even that of all the people. They were despotic magistrates, extremely well adapted to the distance of the places to which they were destined. They exercised the three powers, and were, if I may presume to use the expression, the lords of the republic. XI.19

Thus, we see that a conquering republic can hardly transfer her government and rule the conquered state according to her own **constitution**. Therefore, the magistrate she sends to govern the vanquished lands is of necessity invested

with the executive, judicial, and legislative powers, for being so far from the capital, it was the only way to keep those lands in proper subjugation. As a result, in the Roman world, freemen enjoyed a high degree of liberty, while those who were conquered labored under the most extreme forms of servitude and never knew a day of peace in their whole lives. XI.19



HOW POWERS OUGHT TO BE BALANCED

Conversely, true political liberty produces a tranquility of mind which arises from all persons having a good opinion of their personal safety under a particular government. In order to have this liberty, it is required that the government be so constituted so that one man need not be afraid of another. I know of no other way that this is accomplished except where a balance of powers is present. XI.6

For example, we can easily see that when the legislative and executive powers are **united** in the same person, there can be no liberty, for a subject under that government fears that the king or the senate could enact tyrannical laws and then enforce them in a tyrannical manner. There can also be no liberty if the judicial power is not separated from the legislative and executive. For example, if the judicial power was joined to the legislative, the life and liberty of the subject would be exposed to arbitrary control, for then the creator of the laws would also be the judge and interpreter of the laws, and if the judicial powers were joined to the executive, the judges would have the authority to act violently toward the subjects for any reason they wanted since their interpretation of the law would be conclusive. XI.6

This, as we saw, marked the end of all the ancient kingdoms, that is, where the same man or the same body was able to exercise these three powers simultaneously—that of enacting laws, that of executing the laws, and that of judging the laws. O how **terrible** was life in those poor republics! The people were utterly plundered by the state's determinations and every private citizen could be instantly ruined by their immediate decisions. XI.6

Next, the legislative branch, generally speaking, should not try cases of law unless it particularly involves an abuse of power in the executive branch. In that case, it may move to **impeach** and demand the executive branch to give an account. How could it be otherwise and what other court could try an impeachment? It cannot go before the ordinary tribunals, which are its inferiors. No, in order to preserve the dignity of the people, and the security of the subject, the **legislative** part, the part that represents the people, must be the ones who preside over an impeachment. XI.6

PEACE

Ambrogio Lorenzetti painted this fresco as part of his visual exposition on government. In this painting, entitled *Effects of Good Government in the City*, he attempted to portray the utopic conditions that can exist in even urban settings when it is governed well.

constitution

(from p. 22) A constitution cannot simply be transplanted from one nation to another like a weed. What works in one nation may not work in another.

united

For an example of what this would look like, consider when King Nebuchadnezzar wrote the law that everyone in his country must worship the golden image of his making or else be burned to death (cf. Daniel 3).

terrible

The worst existence imaginable is to live under a tyrannical government that can dispose of its citizens for any reason whatsoever. This can easily happen whenever powers are not properly balanced.

impeach

to formally charge a head of state; to charge with treason or another crime against the state

legislative

Since this branch of government directly represents the people, it is proper that they dismiss the head of the executive branch if necessary.



PONTIUS PILATE

Pilate, a Roman prefect, is a perfect example of what can happen when all three branches of government devolve on one person. During the trial of Jesus, he acted as the legislative branch when he wrote the law that served as the pretext for condemning Jesus (i.e., Jesus claimed to be king). Pilate acted in the judicial capacity when he sentenced Jesus to death, and he acted with executive powers when he actually procured the crucifixion.



two parts

For example, in America's government, the legislative branch is composed of the Senate and the House.

inaction

The danger of having a government where powers are so equally balanced could be constant political gridlock.

action

Since the mobilization of a military usually involves situations where time is of the essence, these decisions cannot be endlessly debated in the halls of the legislature, but rather must rest on the will of one "commander in chief."

two options

In the Revolutionary War, George Washington came to despise Montesquieu's "first" option. The general was subjected to endless hardships inflicted by mercenary soldiers and short enlistments. He begged congress, time and time again, to establish a permanent standing army.

Furthermore, the executive power ought to have a share in the legislature by having the power to reject laws. Indeed, this is the main privilege of that office. On the other hand, if the executive branch were to have a part in the legislature by the power of making laws, liberty would be lost. Balance is achieved only when the executive branch is deprived of the prerogative of writing laws but empowered to reject them. Moreover, the legislative body should be composed of **two parts**, so that they may check one another by the mutual privilege of rejecting. In turn, they are both restrained by the executive power, as the executive is by the legislative. XI.6

At this point it may be argued that if the three powers are arranged in this manner, it would naturally lead to a state of **inaction**. This is not to be feared, however, for there is a necessity of movement in the course of government affairs, and therefore the branches will be forced to move, but where there is a balance of powers, they will do so in concert. XI.6

Now since the executive power has no other part in the legislative branch than in the privilege of rejecting laws, it can therefore have no share in the legislative debates. Were the executive power to enter into these debates, it could influence and determine how public money is raised beyond merely giving consent. Were this to happen, liberty would be at an end, because the executive branch would become legislative in the most important area of legislation. XI.6

Finally, once an army is established, it ought not to answer to the legislative branch, but rather to the executive power, and this from the very nature of the thing since its business consists more in **action** than in deliberation. Yet, to prevent the executive power from being able to oppress, it should be required that the armies with which it is entrusted should consist of the people and have the same spirit as the people. To obtain this end, there are only **two options**. Either the persons employed in the army should have sufficient property to be held accountable for their conduct to their fellow subjects and be enlisted only for a year (as was customary at Rome) or there should be a standing army which the legislative power would have a right to disband as soon as it pleased. XI.6



As all human things must come to an end, the ideal state that I am speaking of will, like all states, eventually lose its liberty and perish. Have not Rome, Sparta, and Carthage all perished? Moreover, by this treatise, I do not pretend to undervalue other governments, nor to say that this extreme political liberty ought to give uneasiness to those who have only a moderate share of it. Liberty, like produce, is not the fruit of every climate. XI.6

If one were interested, however, I would be glad to inquire more into the distribution of the three powers in order to calculate the degrees of liberty which a nation may enjoy, but then again, we must not always exhaust a subject, so as to leave no work at all for the reader. My business is not to make people read, but to make them think.

HISTORY HIGHLIGHTS

◆ Philadelphia Academy Founded

Stimulated by Benjamin Franklin's proposals for practical education, the Publick Academy of Philadelphia opened in 1749. With a curriculum that offered science, mathematics, history, and geography but not Latin, Franklin's "useful" program of studies was one of the first alternatives to the nearly universal reign of classical studies in education. Eventually, this vocational institution became the University of Pennsylvania, a public Ivy League school.⁵



◆ Electrifying Experiment



In June of 1752, Benjamin Franklin and his son William performed Franklin's celebrated kite experiment. Wishing to prove that lightning was a form of electricity, Franklin attached a kite to a silk string, which was attached to a wet hemp string, which was also attached to a key, to conduct an electrical current. Also attached to the hemp string was a metal spike connected to a glass Leyden jar, which was filled with water and partially lined with metal foil and had a metal spike reaching through its stopper to the water inside. During a storm, the inventor flew the kite from the shelter of a dry shed and collected a powerful electrical charge in the Leyden jar, resolving the debate about the true character of lightning.⁶

◆ Lisbon Earthquake Shakes Faith

In November of 1755, a massive earthquake demolished 85 percent of the city of Lisbon in Portugal, with approximately forty thousand to fifty thousand deaths from the quake and its aftermath. Shocks from this disaster were felt as far away as Finland, and tsunamis careened into the British Isles and Brazil. The catastrophe inspired Voltaire's "Poem on the Lisbon Disaster," in which the skeptic denies that a good God providentially directs everything that occurs in the world. Europeans were increasingly understanding their world in natural terms without reference to God.⁷



AFTERWORD

By the last few decades before the commencement of the American Revolution, it really does seem that the colonists' understanding of the purpose and function of human governments was growing exponentially. This was due primarily to the bustling spirit of intellectual inquiry during the Enlightenment. Americans were largely tired of their colonial status under the English crown, and men such as Montesquieu helped them understand why. They were starved for liberty, and when push came to shove, it became clear that they would have no say in the laws their distant government was

enacting. With this fresh understanding of why political societies exist and how they function, another piece of the puzzle remained—Americans needed to more fully understand the basis upon which a government was allowed to continue ruling over a people. In other words, what is the exact relationship between an administration and the people under its care? Is it a permanent bond, or can it ultimately be dissolved? These questions are the subject of our next chapter.

QUESTIONS FOR DISCUSSION & WRITING

1. What are the three basic functions of political societies? How do they correspond to the legislative, executive, and judicial powers of government?
2. In his opening paragraph, Montesquieu lists the goals of several different societies. What might be some other goals around which a society could organize itself? What does the main goal of American society seem to be?
3. Montesquieu offers several different definitions of "liberty." What would you say is his best definition of liberty? Is political liberty the most important kind of liberty?
4. Montesquieu directly connects the dissolution of a political society with the loss of liberty. How is liberty lost?
5. How does unlimited freedom lead to chaos and anarchy? Is such a state of freedom ever to be desired or encouraged?
6. Are Americans in danger of losing their liberty? What examples could you point to that would indicate such a danger?
7. Montesquieu discusses the governments of ancient Greece and Rome. Describe the governments of the two civilization and list their positive and negative traits. Which do you think had the better form of government: ancient Greece or Rome?
8. Which branch of government do you think is most powerful in theory? Which branch seems to be most influential in our culture today?
9. Which branch of government has historically been the most abused or mishandled? Is there one in particular that is especially difficult to balance?