

Why the American Founding Matters for American Conservatism

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American conservatives are on solid ground when they insist that (1) their core principles are consistent with the ideas for which figures like Washington, Adams, Madison, and Hamilton were willing to risk so much, and (2) progressives are trying to relegate those ideas to the peripheries of American life. It is not a question of trying to dismiss progressives as un-American. Rather, it is a matter of reminding American conservatives that they are historically justified when they claim that they are trying to preserve and promote ideas that helped give America its distinctive identity as an experiment in ordered liberty.

The modern American conservative movement, which began taking on a distinct form in the 1950s, was always a pluralist grouping. Under its banner were marshalled, among others, traditionalists, classical liberals, social and religious conservatives, libertarians, national security hawks, and Southern agrarians. These groups disagreed about many things; nonetheless, they were bound together for decades by hostility to progressivism, the New Deal, and socialism; and by deep opposition to Communism and the Soviet Union.

Beyond a common opposition to particular policies and movements, many of these groups were bound together by their attachment to the American Founding and some of the specific ideas that shaped that Founding. Certainly, American conservatism has been influenced by ideas, thinkers,

and movements that preceded and followed the American Founding. But it is very difficult to imagine American conservatism without reference to the personalities, events, and documents related to the Founding.

There has long been considerable pressure from many American progressives to marginalize the Founding. That alone should underscore the need to reflect upon the Founding's meaning for American conservatism and the distinct story of the United States more broadly. The purpose of this First Principles paper is to remind us how American conservatism as a set of principles and as a movement can be enhanced and guided by specific ideas expressed and developed in the Founding period.

There are three features of the Founding that especially matter for American conservatism today.

1. The idea of natural rights and natural law;
2. The particular political order of American constitutionalism, especially the separation of powers and the distinct idea of federalism; and
3. The political economy associated with the idea of a commercial republic.

Though each of these commitments stands on its own, they are intertwined. Taken together, they lend a distinctiveness and coherence to modern American conservatism as it seeks to combat three tenets of modern progressivism: a type of moral relativism, a constitution reinterpreted or ignored to expand state power (especially that of a central and centralizing government), and an ever-expanding social welfare state.

A Complicated Founding

The American Founding does not fall into neat political categories of conservatism or progressivism, partly because the Founding was not a philosophically or politically monolithic event. Nor did the Founders agree about everything. Even after ratification of the new Constitution, there were significant differences about topics such as the scope of particular powers of the federal government vis-à-vis the states, and the type of economic arrangements that should prevail within America's boundaries. These differences were personified in the famous debates between Alexander Hamilton and Thomas Jefferson that eventually spawned the Federalist and Democratic-Republican parties.

There were even different opinions about what the American Revolution was essentially about. Some Founders had a radical conception of their goals. Thomas Paine, for instance, saw the Revolution as opening the door to a series of far-reaching political and social changes. Paine had in mind a decisive break with what he saw as a corrupt monarchy, as well as a break with conventional attitudes of the time concerning issues such as social class. But he later also became a prominent supporter of the French Revolution and many of its ideas about far-ranging changes to the political order.

Many such ideas were a source of considerable alarm for other Founders such as John Adams. While they also rejected aspects of the Old World that had been excoriated by Paine, for these Founders, the American Revolution was at least as much about defending a particular inheritance of ideas, traditions, and institutions as it was about establishing new political arrangements. That blend of old and new is critical for understanding American conservatism as a distinct set of political ideas.

Moreover, American conservatives should take the Founding seriously because it is a question of conservatism's *legitimacy* in America. As the distinguished historian Gordon Wood points out, the principles embodied in the Founding documents and debates "seem to have a quality that transcends time and space. Americans look back to the 18th-century revolutionaries and the constitutions and documents they wrote with a special awe and respect."¹ These texts and their authors are, Wood writes, "our source of identity" in a way that radically differs from other nations. In his words,

Americans have never been a nation in any traditional or ethnic meaning of the terms.... Lacking any semblance of a common ancestry, Americans have had to create their sense of nationhood out of the documents—the declarations and constitutions and bills of right—and the principles embodied in them that accompanied their eighteenth-century Revolution.²

If this is true for most Americans today, contemporary American conservatives have no choice. They must associate many of their core ideas with the principles articulated and developed during the Founding era if their ideas are to be accepted as consistent with America's specific character as a country.

Fortunately, this is not a difficult exercise. Several ideas that were central to the Founding are reflected in particular commitments of the modern American conservative movement, beginning with the idea of natural rights.

Natural Rights and Natural Law

American public discourse is replete with the language of rights. On one level, this owes much to the way in which progressives have used the idea to promote particular agendas through courts when they have failed to realize their goals through legislatures. But the saliency of rights in modern American life also draws upon an older tradition that featured prominently during the Founding period.

The Declaration of Independence proclaims, “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.”³ These words reflect the conviction that these particular rights are inherent to who we are as human beings. They are not created by the state. Instead, governments simply recognize these “natural rights” and then seek to protect them.

Origin of Rights in Natural Law. But if not granted and identified by the government, from where do these rights come? There is little doubt that many, if not most, of the Founders believed that such unalienable rights were grounded in what some of them called “the law of nature” or, in other settings, “the natural law.” This, in turn, was generally understood to be ultimately derived in some way from the Creator.

In the 18th century, the millennia-old notion that there is a natural law—universal moral truths that bound all peoples in all times and places—knowable through human reason (and, for religious believers, confirmed by Divine Revelation) was a working assumption of most educated Europeans, including British North Americans. We should not therefore be surprised that an appeal to natural rights, natural law, and reason was fundamental to the American Revolution. The Revolution’s rhetoric of liberty was expressed *within* this decidedly non-relativistic framework. Consider, for example, these words from Alexander Hamilton’s *The Farmer Refuted* (1775):

Upon this law depend the natural rights of mankind: the Supreme Being gave existence to man, together with the means of preserving and beautifying that existence. He endowed him with rational faculties, by the help of which to discern and pursue such things...and invested him with an inviolable right to personal liberty and personal safety.⁴

Jerusalem, Athens, and Rome. This discourse goes back to Jerusalem, Athens, and Rome. Jewish monotheism, Plato and Aristotle, certain aspects of Roman law, and Christianity—which integrated all of these—reflect the

idea that God is not an arbitrary, capricious deity like the gods celebrated by pagan religions. Instead, he is the Creator who remains active in the world and who embodies Divine Reason, the light of which has been pressed upon the human mind made in his image.

Reaction Against Hobbes. It took centuries and much disputation for the political implications of these ideas to be realized. And, as Robert R. Reilly observes, in invoking this conception of natural reason, many American Founders were reacting against the claim of the 17th-century English philosopher Thomas Hobbes that “there is no *Finis Ultimus* (utmost aim) nor *Summum Bonum* (greatest good) as is spoken of in the books of the old moral philosophers.”⁵ For Hobbes, the political priority was not establishing arrangements of justice and liberty, which reflected universal moral truths about human beings that all people could know. Rather, the priority for Hobbes was order, civil peace, and security in societies made up of people who, in the state of nature, lacked any sense of intrinsic justice and whose immediate focus was upon survival.

Founders such as Adams, Hamilton, and Jefferson may have disagreed about many things, but they each rejected Hobbes’s rationale for authority, which they viewed as inimical to the claims of reason that underpinned the Revolution’s principles. In his *Farmer Refuted*, Hamilton even described Hobbes’s doctrine as “absurd and impious”—against reason and true religion.

Sources Used by the Founders. The Founders drew upon a number of sources to explain their commitment to natural rights and natural law. One source was William Blackstone’s *Commentaries on the Laws of England*, which drew the Founding generation’s attention to English common law.⁶ In it, Blackstone’s introduction to his text specifically cites and affirms the universally binding claims of natural law. Hamilton’s *Farmer Refuted* is just one of many texts by prominent Founders that cites these passages from Blackstone to explain the foundation of rights. Nor can we discount the Founders’ constant references to the law of nations⁷—the *ius gentium*, especially as articulated by modern Protestant natural law thinkers such as Emer de Vattel. The *ius gentium* embodied those rules and norms of behavior that had come to be recognized as reasonable for all nations to embrace. By the 18th century, the idea of natural rights was widely invoked to conceptualize what some of these principles might be.

Another important source for the Founders’ understanding of natural rights was the Anglican latitudinarian theologian Richard Hooker. Hooker played a major role in rearticulating natural law arguments and their significance for constitutional order in post-Reformation England. Hooker, Reilly points out, was a major reference point for both believing and nominal

Anglicans who helped to draft important Revolutionary texts. Hooker's writings also shaped the thought of James Wilson, by far the most prominent natural law thinker among the Founders.⁸

Any discussion of the significance of natural rights and their derivation from natural law for the Founding inevitably involves consideration of the English philosopher John Locke. Locke's influence upon the Founding is undeniable, most obviously in the Declaration of Independence, but also, as scholars such as Thomas G. West have demonstrated, in other important documents of the Revolutionary period.⁹ It is important to note also that some contemporary conservative thinkers insist that Locke's idea of rights has facilitated a type of radical individualism that, over time, has subverted important social institutions in America ranging from marriage to religion.¹⁰

Certain features of Locke's thought, such as his empiricist methodology and his view of happiness, which he defines in terms of pleasure and pain, are in tension with the broader natural law tradition upon which many Founders drew. It is important to note, however, that the Founders did not utilize Locke in order to instantiate a specific political philosophy. As the historian of the Founding Forrest McDonald points out, they found some of Locke's ideas "well adapted for their purposes," especially in terms of furnishing "a clear-cut rationale for independence."¹¹ In short, they drew upon those parts of Locke that they believed would help to realize some of their political goals while ignoring those parts that did not.

That said, there are aspects of Locke's work that are in line with the older natural law tradition. Locke did not, for instance, think that the content of happiness was whatever humans want it to be, but rather regarded true pleasure in terms of acting in different places in "the ways of virtue," of doing "what is fit to be done," and in "denying ourselves the satisfaction of our own desires, where reason does not authorize them."¹²

While embryonic ideas about natural rights can be traced back to the medieval period,¹³ Locke developed in his *Two Treatises of Government* (1689) the idea of inalienable rights, specifically the rights to "life, liberty and property." In doing so, Locke drew upon figures such as Cicero, but he also believed that such rights were ultimately derived from the Divine Revelation expressed in the Jewish and Christian Scriptures. Everyone, Locke maintained, was born "equal and independent" and was "the workmanship of one omnipotent and infinitely wise Maker."¹⁴

This is important because it means that the Founders understood Locke and his idea of rights against the background of his belief in a natural and divine law rather than a Hobbesian understanding of human affairs. As Reilly notes, James Wilson and other Founders read and utilized Locke in

the context of their appreciation of Hooker and their dislike of Hobbes, in effect, in light of the wisdom inherited from the natural law tradition and Divine Revelation.¹⁵

This in turn means two things: First, the Founders rejected the view that man is a merely material creature incapable of self-government and therefore destined to be ruled by unaccountable sovereigns; second, they did not associate natural rights and the liberties that they express and protect with license or relativism. For the Founders, natural rights were not stand-alone, self-sufficient concepts. Instead, natural rights were grounded in natural reason and the design of the Creator. *That* is why they were inalienable, and *that* was what gave them such force against any tendency to exalt state authority beyond its proper bounds.

Herein lies a major reason American conservatives ought to pay attention to the Founders' important conception of natural rights derived from natural law. Not only does this constellation of ideas put principled—as opposed to pragmatic—limits on state power, but it also reminds us that the idea of natural rights and self-government is intimately connected to living a life of *virtue* rather than vice. Natural rights to life, liberty, property, and the pursuit of happiness are thus not a warrant to do whatever we want, whenever we want. Instead, they (1) give us the liberty to pursue what reason tells us is good, right, and just and (2) provide us with protection against those who want to force us to do what is evil, wrong, and unjust.

This last point is especially important in light of the fact that the same natural law tradition recognizes that while humans have reason, they are also fallible beings who make errors of judgment and sometimes even choose evil. Humans are also inclined to rationalize unvirtuous acts. For many Founders, it was understood that humans can know what is good but are attracted by sin, and that reason itself is darkened by the consequences of The Fall.

This reality of human weakness and fallibility, however, does not invalidate either natural rights or natural law. If anything, it gives even more reason to ground natural rights in the objective truths revealed by natural law and—in the view of many in the Founders' era as well as our own—confirmed by Divine Revelation. For if humans are by nature fallible, weak, and prone to error, this is yet another reason to identify and even codify very firm limits on state power. People do not magically become free of these weaknesses when they assume positions of political authority. On the contrary, the effects of their errors and fallen nature are magnified through the power that political office bestows on them.

Progressives' Conception of Liberty and Rights. All this stands in stark contradiction to the progressive conception of liberty and rights. The progressive position is well expressed in Justice Anthony Kennedy's statement in *Planned Parenthood v. Casey*: "At the heart of *liberty* is the right to *define* one's own concept of existence, of *meaning*, of the universe, and of the mystery of human life."¹⁶ (Emphasis added.) There is no mention here of reason—let alone natural law or Divine Revelation—playing a role in discerning what is true. Instead, what counts as a right and the content of any right is easily reduced to whatever is politically fashionable at the moment, or whatever transitory majorities want them to be. And if the government, rather than natural law and the Creator, is the source of rights, then the state can trample or take away those rights. That effectively makes governments omnipotent—almost godlike.

Much of the modern American conservative movement emerged by way of a reaction against such visions of the state. The conviction that there are natural rights grounded in a universally known moral law is one of the most powerful intellectual barriers that can be established against arbitrary government. In affirming this idea, American conservatives have placed at the heart of their political endeavor a central feature of the political philosophy of the Founding, thus reminding us that the American conception of rights is in no way associated with relativism or the pretense that virtue, the good, and justice are whatever you (or the state) want them to be.

Constitutionalism, Separation of Powers, and Federalism

The Founders knew that it was not enough to speak of and appeal to natural rights and natural law. They recognized that they needed to establish political arrangements that gave effect to these rights. The Declaration of Independence itself states that "to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." This translated into a commitment to limited government constitutionalism: an idea anathema to many contemporary progressives.

The Founders were aware that previous experiments in self-government had gone awry. John Adams and James Madison, for example, studied the Roman Republic and its eventual replacement, via political violence and civil war, with an Empire, the head of which was regarded as godlike. They were likewise aware of the tribulations of Greek democracies, including Athens, which also collapsed.

The belief of many Founders in the necessity of constitutionalism was also informed by late 18th-century intellectual trends. This was a period

in which modern constitutionalism—with its emphasis on limited government and liberty under the rule of law—began taking on decisive form. Older ideas going back to medieval documents such as the Magna Carta, and concepts such as the “Rights of Englishmen,” came together with particular Enlightenment emphases—expressed by thinkers such as Montesquieu and Locke—upon restraining monarchical absolutism.

Another major influence here was the 17th-century Scottish Presbyterian minister Samuel Rutherford. His book *Rex, Lex: The Law and the Prince* (1644) articulated an outline of constitutionalism, limited government, and an ideal of rule of law against theorists of royal absolutism. Moreover, Rutherford grounded his position in Scripture, natural law, and Scottish law.¹⁷ All of this was especially attractive to many American Founders,¹⁸ many of whom were educated in Presbyterian-founded and -associated colleges and schools and believed that George III was acting in a manner akin to Charles II.

In the American colonies, the last twenty-five years of the 18th century witnessed a plethora of constitution-making. Ten of the original 13 colonies had ratified their own constitutions by 1777, eight years before the end of the Revolutionary War. Common traits included an emphasis on equality before the law, the idea that personal liberty and private property were not things to be trifled with by government, specific legal protection of property rights, guarantees of liberty of the press, a stress on popular sovereignty, and, crucially, the codification of a separation of powers between the executive, legislative, and judiciary. Many of these commitments found their way into the drafting of the U.S. Constitution.

The business of constitution-making in America was rarely a matter of simply translating philosophical commitments into laws and institutions. America’s 1787 Constitutional Convention owed much to the need to respond to the failures of the nation’s original constitution, the Articles of Confederation. In *We the People: The Economic Origins of the Constitution* (1958), Forrest McDonald portrayed the many economic interests that exerted different influences upon the U.S. Constitution’s formation. McDonald went on, however, to illustrate the variety of political and philosophical ideas in play, many of which had little to do with the specific economic concerns of individuals or groups.

Some commentators have emphasized the differing views of the Founders about the purposes and extent of government, and it has been suggested that these differing views render their ideas about constitutionalism unhelpful to contemporary conservatism. This view underestimates the degree to which many Founders *agreed* about the purpose of constitutionalism.

One point upon which the Founders were broadly in accord—and which should matter for American conservatives—is that one of the core purposes of the U.S. Constitution is to constrain power and prevent the arbitrary use of power.

The men who drafted the U.S. Constitution were not simply trying to create a power map that identified which persons and institutions may do what. For one thing, they sought to establish political arrangements that helped to give effect to the natural rights for which Americans had fought. But many of them also believed that such a constitution should reflect the fallible nature of human beings who make mistakes and are prone to faction, an aspect of human nature that has received much attention from contemporary American conservatives. By “faction,” the Founders did not mean political parties. Instead, they had in mind the type of divisions that led to the extreme violence that had marked the English Civil War.

Most of the Americans who drafted the Constitution did not have a cynical view of human beings, nor did they despair of our ability to do good and act justly. They were, however, realists who believed in human fallibility and, in most cases, The Fall. That led them to be wary of what we would call the utopian temptation: a temptation that manifested itself in that other 18th-century revolution that erupted on the other side of the Atlantic in 1789.

One basic difference between the American Founding and the French Revolution is that most French revolutionaries believed that a new humanity would emerge from the creation of a new society, purged of what *philosophes* like Voltaire and Rousseau regarded as religious superstition and obscure customs. Some American Founders were susceptible to a similar view of the world. Jefferson, for example, was reluctant for a long time to see that the French and American Revolutions were ultimately very different affairs. On the other end of the spectrum, figures such as Jefferson’s vice-president Aaron Burr did not hide their cynical view of life.

But documents such as *The Federalist Papers* and writings by figures such as Hamilton, Adams, and Wilson took into account systematically the way individuals, communities, and nations tend to pursue their own self-interest in economic and political affairs. They subsequently recognized that it was better to develop institutions that directed human fallibility and limitations towards promoting the general welfare rather than seeking to remake human nature or redesign entire societies through top-down government. This was not a new idea. For example, thinkers from Aristotle to Aquinas have justified private property by pointing out that people tend to take better care of what is theirs and show little concern for those things that are owned in common.

This is a quintessentially conservative view of human nature. Such moral realism and the implied constraints on government and politics contrast sharply with the confidence of many progressives in human perfectibility. According to these progressives, this process could be hastened by unified and extensive government intervention into virtually every part of human society. Though the Founders were certainly idealists in the sense that they thought humans could realize the potential of the American experiment in ordered liberty, few of them shared the utopian outlook of many progressives about the nature and purpose of government. By contrast, the moral realism of modern American conservatism aligns well with the Founders' approach to constitution-making and the purpose of constitutions.

Separation of Powers. One reason that the U.S. Constitution sought to balance and to separate executive, legislative, and judicial powers was to account for this melancholy tendency in human nature to undermine human liberty and violate natural rights. Here the Founders were influenced by Montesquieu's *Spirit of the Laws*, which in turn reflected Montesquieu's analysis of the laws of the Roman Republic and the workings of the British constitutional system in the 18th century. This is important because Montesquieu is adamant that the purpose of separating powers, which he understood as each of the three branches exercising only its own powers, is to prevent tyranny and to protect liberty.

The separation of powers expressed in the Constitution devised in 1787 was not a "pure" or "rigid" separation. As *Federalist Papers* Nos. 47–51 argue, it is better understood as a "partial" separation of powers insofar as the emphasis is upon checks and balances, which takes the form of each branch either reviewing each branch's exercise of its power, participating in the exercise of the other branches' powers, or both.¹⁹

Thus, for example, the Supreme Court may invalidate legislation framed by Congress or acts of the executive branch in particular cases and controversies. And while the legislative power is vested in Congress, the President participates in the process by signing or vetoing legislation. Similarly, the division of the federal legislature into two houses was designed to ensure that two different constituencies—the states and the people—were given representation in the legislative branch's functioning: a point underscored by the fact that Senators were originally appointed by state legislatures and not directly elected.

The purpose of the separation of powers is not just so that each branch will limit the other as they fulfill their responsibilities, but also so that some degree of debate, compromise, and even significant delay becomes an integral part of the process of governing. Complete unanimity of view is rare

among free peoples. Successful republican government requires argument and deliberation by the people—and, more particularly, by those who represent them in Congress and the executive branch—and must be part of the process by which agreement is forged.

Progressives, by contrast, have shown a distinct disinterest in this type of deliberation and often considerable hostility to the idea of checks and balances. Instead, they have sought the growth of an administrative state that circumvents the processes envisaged by America's limited government constitutionalism. Since the 1960s, progressives have also looked to the judiciary to mandate a series of *faits accomplis* that marginalize the legislative process and executive decision-making.

Federalism. Those attending the 1787 Constitutional Convention introduced a new concept into political discourse: federalism, another aspect of the Founding period's limited government constitutionalism that resonates with contemporary American conservatism. With federalism, the allocation of power between Congress, the executive branch, and the federal judiciary is complemented by the allocation of power between the central government and the state governments.

The 1787 Constitutional Convention did not, we should remember, begin with a blank slate. The pre-existing Articles of Confederation gave Congress a range of powers in domestic and international affairs. These powers ranged from borrowing money on the credit of the United States to declaring war and peace. The Convention bolstered these powers by investing the new federal government with responsibilities such as the regulation of commerce, the regulation of state militias, the powers implicit in the necessary and proper clause, and, perhaps most significantly, taxation.

Significantly, a number of limitations were placed on these powers. These limitations reflected the desire to protect the interests of states—even of particular states. Duties on exports, for instance, were forbidden. Southern states were determined to ensure that their export-oriented economies did not find themselves burdened with a new tax. Other limitations focused on restricting the powers given to the state governments and those assumed by the federal government. In addition to the limitations imposed upon the states by the Articles of Confederation (such as forbidding states from engaging in war unless invaded), the Constitution forbade the states from, for instance, taxing or restraining foreign or interstate commerce. Likewise, while the federal government could levy import duties (at the time, the most significant form of taxation), it was restricted in its ability to impose direct taxes. The states, by contrast, were subject to no such restriction.

Obviously, the Constitution's most important effect was to give the new federal government powers that were deemed necessary for an effective central authority. Yet the fact that these powers were restricted while other powers were reserved to the states implies that the Founders did not want an all-powerful federal government. They saw value, as would Alexis de Tocqueville, in a certain degree of decentralization of power throughout the United States.²⁰

It is also important here to recall that, as McDonald notes, “[e]very previous national authority either had been centralized or else had been a confederation of sovereign constituent states.”²¹ The Constitution's reorganization of power resulted in a system that was, as Madison spells out in *Federalist* No. 39, a mixture:

The proposed Constitution, therefore, is, in strictness, neither a national nor a federal Constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is national, not federal; in the extent of them, again, it is federal, not national; and, finally, in the authoritative mode of introducing amendments, it is neither wholly federal nor wholly national.²²

This federalist dimension of America's constitutional order has, along with the checks and balances contained in the Constitution's separation of powers, largely been rejected by American progressives. For them, the national government should take the primary role, whether in education, economic policy, or marriage policy, rather than the states. The conservative emphasis upon decentralization and all that it implies—most notably, policy experimentation—is thus broadly rejected by progressives who are committed to the type of top-down, Washington-centric solutions to problems that gave us, for example, Lyndon B. Johnson's Great Society programs.

Political Economy and the Founding

The mixture of realism and idealism that shaped the thought of many Founders about the Constitution also influenced their views about what type of economy the United States should embrace. The result was a commitment to establishing America as a commercial republic—something very different from the type of political economy that has long been pursued by American progressives.²³

Disparate Visions. In the wake of the American Revolution, Americans held disparate visions of the type of economy that they hoped would emerge in the former colonies. Jefferson, for example, preferred an America populated by rural proprietors. He and others were inspired by the Roman Republic's belief in the supposedly degenerative effects of mercantile wealth, urban industry, and finance. They underscored the virtues associated with agricultural life and portrayed commerce and banking as risky, even sordid, ventures. Other Founders had a different view. For Hamilton, America's future lay with economic modernization, the growth of a dynamic financial sector, and extensive domestic and international trade.

Hamilton wanted to work with people's economic self-interest, reflecting the conviction of many Founders that while people had reason, they were nonetheless fallen and fallible. For Hamilton and others, economic life should reflect rather than deny man's fallen nature and turn it towards the business of creating wealth in mutually beneficial ways.

Hamilton's vision won out, and the country would become what George Washington described as "a great, a respectable & a commercial nation."²⁴ A similar vision pervades *The Federalist Papers*. While these essays explain and defend the Constitution and outline how the new federal government would function, they also articulate arguments for a commercial republic that would serve the United States in economic and non-economic ways.

Just as modern constitutionalism took on decisive form in the 18th century, so too commerce assumed major significance in Western political thought during this same period. Adam Smith's *Wealth of Nations*, which was read carefully by the Founders, was published in the same year that the British North American colonies declared their independence. The *Wealth of Nations* examined the ways in which countries dominated by dynamic and ever-growing commercial activities that shaped the political order.

Montesquieu's *Spirit of the Laws* explored the complexion of political institutions and economic practices that had emerged in Britain and concluded that "the English...have ever made their political interests give way to those of commerce." In formal political terms, Britain may have been a constitutional monarchy, but it functioned as a polity in which the economic, legal, and political arrangements encouraged greater numbers of people to pursue commercially oriented ends. Thus, Britain differed from those societies in which the economy was dominated by subsistence agriculture and a lack of upward economic mobility.

Many of these ideas made their way across the Atlantic. Trade questions preoccupied many Founders in the Revolution's aftermath and played a significant role in the leadup to the 1787 Constitutional Convention.²⁵ Many

Founders wanted to establish what we would call a free trade zone among the colonies. In fact, the most general economic effect of the Commerce Clause of the Constitution was to establish the United States as a common market. That was the primary objective of the Commerce Clause—not, as progressives have claimed, to allow federal and state governments to engage in ever-expanding regulation of the economy. As a result, the division of labor and specialization increased throughout the United States.²⁶ After the Constitution’s ratification, entrepreneurship expanded throughout much of the country on an impressive scale.²⁷

Madison insisted in *Federalist* No. 10 that the federal government would discover that justice issues surrounding commerce would be the “principal task of modern legislation.”²⁸ Hamilton’s view was similar. In *Federalist* No. 12, he argued that “[t]he prosperity of commerce is now perceived and acknowledged by all enlightened statesmen to be the most useful as well as the most productive source of national wealth, and has accordingly become a primary object of their political cares.”²⁹

The *Federalist Papers* express no concern that commerce’s growth might lead to the materialism that many have long associated with dynamic markets. Instead, the *Federalist Papers* portray the growth of financial, agricultural, and industrial activity as, in Madison’s words, characteristic of “civilized nations.”³⁰

This emphasis upon commerce is premised on the concern that the Founders exhibited for private property and the necessity of strong private property rights. Any society in which dynamic commerce and trade are the locus of economic life is unsustainable without strong protections of people’s right to maintain and use their property as they see fit within the parameters of just law. Such protections are not simply meant to provide security from theft by other individuals; they also seek to prevent confiscation of property by the government. This contrasts sharply with contemporary progressives’ schemes involving extensive redistribution of wealth from the top down, thereby subordinating property rights to other interests.

Prominent Founders held the conviction that a commercial republic would have positive non-economic effects on America and Americans—another distinct feature of the Founders’ vision. Habits associated with successful business enterprises, such as self-discipline, inventiveness, industriousness, and self-denial, would shape society’s political, legal, civil, artistic, and military realms. America would become what *Federalist* No. 1 envisaged as “an empire in many respects the most interesting in the world,”³¹ and would realize *non*-economic goods such as the unity, justice, tranquility, and common defense identified in the Constitution’s preamble.

Similar convictions are expressed in Washington's 1796 Farewell Address in which he articulates an overwhelmingly positive view of commerce. Unrestrained trade between America's East, South, North, and West would, Washington argued, help integrate the country. The resulting wealth would give the United States "greater strength, greater resource, proportionately greater security from external danger, [and] a less frequent interruption of their Peace by foreign Nations."³²

Concerning trade with other nations, Washington recommended "liberal intercourse with all Nations" and policies that did not involve "seeking or granting exclusive favors or preferences." Rather, government should let commerce follow "the natural course of things; diffusing and diversifying by natural means the streams of Commerce, but forcing nothing." The federal government's primary responsibility in this area was to ensure that all the conventional rules of international commerce be upheld as far as possible.

Though Washington occasionally worried that a republic grounded upon commerce and trade might be prone to the temptations associated with materialism,³³ he maintained that free commerce would make America great. In a 1784 letter, for example, Washington maintained, "A people...who are possessed of the spirit of Commerce—who see, & who will pursue their advantages, may achieve almost anything."³⁴

For Washington, a regulatory state is not the remedy for challenges that might arise from a vibrant commercial order, contrary to the beliefs of modern progressives, who have put their faith in a large regulatory state since the end of the 19th century. Certainly, Washington did not believe in a weak federal government. His Farewell Address stressed his attachment to "a Government of as much vigor as is consistent with the perfect security of Liberty." Here, "consistent with the perfect security of Liberty" indicates an awareness that excessive government vigor is likely to undermine liberty. This helps to explain why Washington also claimed that "Religion and morality" were the "indispensable supports" of "political prosperity."

"A Moral and Religious People." In other words, prominent Founders assumed that the commercial republic arising in America must be grounded in non-economic moral and political premises. Washington spoke for virtually all of the Founders when he said, "Institutions for the general diffusion of knowledge" and "refined education" were crucial for sustaining liberty. And yet even more was needed. Washington did not think that a republic in which commerce played such a prominent role could dispense with beliefs inspired by the Hebrew and Christian Scriptures or an attachment to natural rights and natural law. These, Washington held, were prerequisites for "private and public felicity." The commercial republic envisaged by these

Founders takes the workings of self-interest for granted, but, according to these Founders, such a republic would need other reference points to survive and prosper. This is at least part of what John Adams had in mind when he proclaimed to the officers of the First Brigade of the Third Division of the Massachusetts Militia: “Our Constitution was made only for a moral and religious People. It is wholly inadequate to the government of any other.”³⁵

Key American conservatives have long embraced this perspective. The economic thinker and theologian Michael Novak argued that a dynamic commercial sector in many ways defined America. He also maintained that the commercial sector must be immersed in a particular type of moral culture: one informed by both the philosophical commitments held by many Founders, and by the religious convictions held by many Americans both at the time of the Founding and during our own era.³⁶

Such a vision of political economy could not be more at odds with the vision for which many progressives have long advocated. From the late 19th century onwards, progressives have insisted that the state—especially the regulatory and administrative state—should play a major role in the U.S. economy. Their approach has burdened the American economy with the institutions and laws that are the legacy of the New Deal and the Great Society. In this regard, modern American conservatives can look to the Founders’ idea of a commercial republic as a way of reminding Americans how much our economic life has strayed from these arrangements.

Conclusion

For many Americans—including many American conservatives—the Founding period seems very distant from the United States of today. Acceptance of the idea of natural rights and natural law is far less prevalent than in the late 18th century. Likewise, the country’s commitment to the constitutionalism forged in 1787 has been weakened by over a century of progressive attempts to open the door to an expansive understanding of the government’s proper role in Americans’ lives and a weakening of the separation of powers and federalism. The United States also resembles the type of economic arrangements associated with European social democratic models far more than we are perhaps willing to admit.

For several decades, American conservatism has pitted itself against these trends—trends that are hard to reconcile with some of the central political concerns that achieved powerful expression during the Founding era. This tells us that American conservatives are on solid ground when they insist that (1) their core principles are consistent with the ideas for which

figures like Washington, Adams, Madison, and Hamilton were willing to risk so much, and (2) progressives are trying to relegate those ideas to the peripheries of American life.

It is not a question of trying to dismiss progressives as un-American. Rather, it is a matter of reminding American conservatives that they are historically justified when they claim that they are trying to preserve and promote ideas that helped give America its distinctive identity as an experiment in ordered liberty. In this regard, they would do well to remember what George Washington urged upon the Americans of his time—and those of the future:

that Heaven may continue to you the choicest tokens of its beneficence; that your Union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.³⁷

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