

Course: Civilization

Fifth Semester Course in American Civilization

Third Year Students

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Table of content

I. Introduction to Civilization.....	1
1. Western Civilization.....	1
2. American Civilization.....	2
II. Towards the Birth of a New Nation: Philosophical Origins.....	3
1. American Exceptionalism.....	3
2. The Age of Enlightenment.....	5
a. In Europe (John Locke + Montesquieu)	6
b. In America (Thomas Paine).....	10
III. The Representation of the Enlightenment in the Founding Documents of the United States.....	11
1. Enlightenment in the Declaration of Independence.....	12
2. Enlightenment in the Constitution.....	14
3. Enlightenment in the Bill of Rights.....	17
IV. The Birth of the Government of the United States.....	19
1. The Constitutional Convention of 1787.....	19
2. Two Contentious issues: A Government through Compromise.....	21
a. Representation.....	21
b. Slavery.....	26
V. References.....	29
VI. Appendix.....	30

I. Introduction to Civilization

Historians and scholars do not agree on one definition of the term Civilization and thus no “right” definition can be singled out of the many that exist. Some historians, however, have enumerated a list of basic features that, if they singularly concur among a large number of people, may qualify a society to be described as a civilization. An urban focus, new distinctive military, political, and religious structures, a new social structure based on economic power, new forms of artistic and intellectual activity (like in architecture), and most importantly the development of writing, are, among others, the main characteristics that demonstrate in a civilized society.

1. Western Civilization

The plainest definition of the term “Western Civilization” is the one that relates to place. Some argue that the West counts also a history of culture and that the Greco-Roman heritage represents the origins and foundations of what is called nowadays the Western civilization. The latter encompasses, in addition to Europe, the Americas, Australia and New Zealand. In fact, this is a contemporary definition of the “West” since the inclusion of these places, other than Europe, in it came after the European expansion, which was a result of colonization and conquest during the 15th and 16th centuries. The birth of the Western civilization was gradual, stretching back to the ancient world (Athens and Rome) and taking shape over time. Forms of government, economic systems, religion, language, scientific methods, literature and art are the main characteristics that identify the Western civilization.

2. American Civilization

American civilization refers to the political, social and economic developments of the United States of America. The term American civilization in this context, does not relate to American ancient Civilizations (like the Maya and Inca civilizations) but rather to the country the USA that declared its independence from Britain in 1776. In this regard, this course sets out to study the civilizational aspects of the said country with an emphasis on the philosophical, historical and political features that distinguished the USA from the rest of the world in general and from Europe in specific. The subject of American civilization, or American studies as called elsewhere, is an interdisciplinary field of study that emerged during 1930's. The complexity of the American society and its exceptional development are thought to be very difficult to understand through the tools of one single discipline. American studies require a good understanding of the American history, politics, economic values and identity issues in order to be able to comprehend the complexity of the American structures and institutions. The first semester of this course tends to address the circumstances that gave birth to this new nation with an emphasis on the historical and philosophical backgrounds that coincided and culminated with the erection of the government of the United States.

II. Towards the Birth of a New Nation: Philosophical Origins

1. American Exceptionalism

For some scholars like David Mauk and John Oakland, the term American exceptionalism refer to the belief that the U.S. has a special mission in the world. This mission stems from its ability to play an exemplary role on the world stage. This belief in fact grew roots in the religious goals of the first settlers who sought to found a new religious community that might bring reforms to their mother country, England. In the mid-nineteenth century, Ralph Waldo Emerson (1803 – 1882), an American philosopher and lecturer, explained the central values that the American schools taught to students for more than one hundred years and which helped to fix and shape the American “exceptional” mind. Self-reliance, self-improvement, thrift and hard work are the fundamental values expressed by Waldo Emerson, which all together set the foundations of the American culture.

For others, American exceptionalism does not refer only to the belief that the U.S. is unique and different but also superior. The country is superior to other nations in its origins and development, in its economic and social merits, and most importantly in the freedom and opportunities, it offers to the citizenry. In fact, the first mention of the U.S. as an exceptional country was in Alexis De Tocqueville’s *Democracy in America* (1840) when he stressed the idea that the U.S. was born during very special circumstances and that certain elements worked together to give birth to this exceptional country. Tocqueville (1805-1859) added that if one of those elements did not concur with the others; there is the potential that the U.S., as we know it today, would have never existed.

“The position of the Americans is ... quite exceptional, and it may be believed that no democratic people will ever be placed in a similar one. Their strictly Puritanical origin, their exclusively commercial habits ... the country they inhabit..., the proximity of Europe, have singularly concurred to fix the mind of the American...

In this excerpt from his *Democracy in America*, Tocqueville explains that the U.S. is a very exceptional experience in the history of humankind and that no other people will be ever placed in the same exceptional circumstances. The religious specificity of the first settlers, their trade drives, the geographical diversity of the new world and the closeness of Europe have all played together to shape the thoughts of the Americans.

Usually, nations are defined by ethnicity, geography and religion. These elements drive the inhabitants of a given land to come along and thus accept to form a government. This was not the case for the U.S., because its first immigrants did not share the same ethnic background, nor the same religion, and did not come from the same location. The British writer G. K. Chesterton (1874- 1936) wrote: “America is the only nation in the world that is founded on a creed”. Which means that the thirteen colonies revolted against monarchical Britain and eventually accepted to federate because they shared a set of principles and ideas. Other scholars relate American exceptionalism to other factors like the dogmatic and ideological principles that were premised in the founding documents of the United States. Wayne E. Baker, an American sociologist, summarized the American creed (ideology), in five essential ideas: liberty, egalitarianism, individualism, populism, and laissez-faire. Baker pointed out that these set of ideas were apparent in the country’s political discourse since the early days of the independence and continues to manifest in the different political, social and economic institutions of these days. The coming

section will try to dive into those essential ideas and philosophies that the founding fathers brought to America and used as guiding principles to the newborn government and nation.

2. The Age of Enlightenment

The Age of Enlightenment was a philosophical and a scholarly movement of the 17th and 18th centuries characterized by a denunciation of the traditional source of authority and an emphasis on rationalism. Emmanuel Kant defined the Age of Enlightenment in his Essay, *what is Enlightenment?* (Sept.1784), as follows: (originally written in German)

Enlightenment is man's emergence from his self-imposed immaturity. Immaturity is the inability to use one's understanding without guidance from another. This immaturity is self-imposed when its cause lies not in lack of understanding, but in lack of resolve and courage to use it without guidance from another. Sapere Aude! [dare to know] "Have courage to use your own understanding!" – that is the motto of enlightenment¹.

Kant sees that cowardice and laziness are the main reasons why many people are subjugated to the will of others. Subjugation happens not because some men are unable to think for themselves but because of their lack of courage to do that without guidance from others. The Enlightenment was therefore a call to use reason and science to understand the world and the universe without guidance from others on the one hand and was an invitation to reject miracles and reliance on revelations as a source of knowledge and authority on the other hand.

The primary source of knowledge during the European Middle Ages (5th C to 15th C), the era that preceded the Age of Enlightenment, was restricted to a limited number of people who were predominantly clergymen. The main role of the church during the era was information control to

the point, in some cases; that it was forbidden to research in or translate scriptures that might challenge the authority of church. Medieval Europe was marked by the political doctrine of absolutism, which was a practice of unlimited central power vested in the hands of one monarch. The essence of absolutism is that the monarch's sovereignty is not subject to accountability and that the legitimacy to rule is stemmed from the divine right. Many thinkers started to question the legitimacy of monarchs and hence why the power is embodied in one man.

a- In Europe (John Locke + Montesquieu)

This section sets out to shed light on the philosophers who were not only influential in Europe but also on those who had a remarkable and enduring impact on the U.S. Thus, the section will walk through a set of philosophies, which turned the U.S. into an exceptional nation in terms of its origins and development. John Locke and Montesquieu are the ones deemed in this course the most influential thinkers not only on the founding fathers of the U.S. but also on the founding documents of the nation.

John Locke (1632-1704), a British philosopher, was among the most prominent thinkers in Europe who defied the concept of absolutism and started to ask questions about who should rule and on what legitimate basis. Locke's theories of natural rights, liberalism and republicanism were revolutionary in times when other philosophers like Thomas Hobbes and Robert Filmer were defending the theory of absolutism. His masterworks *Two treatises of Government* (1689) and *Letter Concerning Toleration* (1689) are the works that are believed to lay the foundations of modern political theory. In fact, Locke penned his *Two Treatises of Government* to respond to two other English philosophers, Hobbes and Filmer who authored *Leviathan* (1651) and *Patriarcha* (1680) respectively.

Before we get to understand Locke's *Two Treatises of Government*, we need first to walk through the main themes addressed in *Leviathan* and *Patriarcha*. Hobbes in his *Leviathan* addressed two main themes: the state of nature and the social contract. Hobbes (1588-1679) draws our attention to consider how life would look like in a state of nature, which is a life without government and law. Because of his experience with the English Civil War (1642-1651), Hobbes concluded that an oppressive government is better than no government and that a human condition without a strong government capable of maintaining peace and order would lead to a "war of all against all". The state of nature for Hobbes invites conflicts since everyone will defend his right to all things particularly if there is rivalry for resources. Hobbes, having the English Civil War in mind, asserted that all governments are subject to dissolution except for absolute ones because the citizens in the latter ought to submit themselves to an absolute ruler. Therefore, Hobbes relates peace and tranquility of a civil society to a social contract (between the subjects and the sovereign) which relies on the willingness of the people to give up some of their individual rights of liberty and equality in return for common security. Filmer in his *Patriarcha*, however, tried to justify absolutism by the theory of the divine right of kings to rule. The divine right of kings to rule is the right of every king to inherit power from his parents. Filmer provided biblical support explaining that the divine right of kings to rule is natural (natural hierarchy) and descending directly from Adam who was the first king and the father of humanity.

John Locke divided his *Two Treatises of Government* into two parts. The first was a thorough criticism of Robert Filmer's theory of the divine right of kings to rule and the second part was devoted to respond and evaluate Thomas Hobbes' theories of state of nature and social contract. The most significant concept in Locke's political philosophy is the theory of natural law and

natural rights. For Locke, the concept of natural law is the idea that there are certain natural laws and rights that people are born with and are applied to all of them. In the first treatise, Locke rejected the idea of the divine right of kings to rule by use of logical inference. Locke pointed out that Adam's divine right cannot be supported by historical evidence and that any contract between Adam and God would not be mandatory to progenies after thousands of years. Locke's rejection of the divine right builds on the argument that there are no natural hierarchies since all people are born free, equal and independent.

In the second treatise, Locke redefined the theories of state of nature and social contract, which were addressed by Thomas Hobbes in his *Leviathan*. The state of nature for Locke is somehow similar to Hobbes' definition. Both agree that it is a condition where people live without due rule of government which impel them to go back to the rule of nature. Unlike Hobbes who argued that a state of nature is a state of war since people are not subjected to the laws of coercive power, Locke emphasized that people live peacefully in a state of nature according to the laws of nature and reason, the laws and moral truths that all people are born with. In this regard, Locke, unlike Hobbes, believed that the rule in a state of nature is preferred to the rule of a coercive authority because the first promotes peace and the second leads to despotism. The right to life, liberty and property are the natural rights that every man is born with and are entirely independent from the laws of societies and governments. People need governments because they need to protect their natural rights and that is why they accept to enter in a social contract where they give up the right to punish others and transfer it to governments whose main duty is not to grant rights but rather to protect them.

The second masterpiece of John Locke is his *Letter Concerning Toleration*. In this pamphlet, Locke's main point centres around the question of what to do with people who do not share the same religious views with us. He addressed many issues in attempt to answer that question, and which can be summarized in three major themes: freedom of religion, separation of church and state, and the role of the government in regard to religion. Locke asserted that religion is a personal choice and that the government should not use power to impel people to take or reject a given religion. Religious institutions, for Locke, should not be compulsory but rather voluntary and that the main job of the government is to preserve people's right to freedom of belief. Lock's justification to defend the said claim stems from religious scriptures. He pointed out that there is no mention in the Bible nor in the teachings of Jesus that requires rulers to bring people to the religion they believe is true.

The other prominent figure of the Enlightenment whose ideas were and still very apparent in the American institutions is the French philosophe Montesquieu. Charles-Louis de Secondat, Baron de Montesquieu, generally known as Montesquieu (1689-1755) introduced the most striking model of governance, which had a tremendous impact on liberal political theory and on the Framers of the American constitution. Montesquieu, and in order to provide the citizens with the blessings of liberty, power has to be separated. History shows that when power is vested in the hands of one man, the potential of that man abuses power for his personal gains is so high. In this regard, and in order to avoid tyranny, Montesquieu concluded that power has to be separated into three branches: legislative, executive and judicial. When different people or institutions exercise independently these three powers, they can limit and check each other if one of them wants to abuse power: power checks power.

Certain arrangements have to be made to secure balance among the three branches and thus avoiding tyranny. Montesquieu contends that the legislative branch (parliament) should be given the power to levy taxes; this would deprive the executive branch (president, prime minister...etc) of financing, if the latter tries to impose its will arbitrarily. Similarly, the executive branch should be granted the power to veto legislations coming from the parliament (the legislative branch). The judicial branch should work in total independence from other two branches. Montesquieu thinks that a republic is no guarantee of liberty and thus this system of checks and balances is the best measure to avoid tyranny and totalitarianism.

b- In America (Thomas Paine)

The focus in this subsection is going to be on a thinker whose writings were very influential on the general public of the thirteen colonies. Thomas Paine (1737-1809), an English/American pamphleteer who moved from his mother country England to America two years before the Declaration of Independence of the thirteen colonies. Paine was an author of many papers and pamphlets but he was better known for his *Common Sense* (1776). The pamphlet set out ethical and political considerations to convince the colonists that time had come to revolt against the British monarch and replace the monarchical system, which was in place, with another that is based on democracy and consent of the people.

Many regard *Common Sense* as the most influential document in the history of the U.S. as the number of its printed and distributed copies attained the figure of 500.000 in times when the population of the colonies counted roughly 2.5 million inhabitants. The pamphlet, originally published anonymously and extensively circulated, was a very strong plea to Americans to unite against the injustices of the British rule, which was backed by a decaying hereditary monarchical

system. Paine believed in equality among all men and since the British had social classes and hierarchies (Nobles), Paine concluded, war was inevitable. The pamphlet also draws on changing the tenor of the colonists by pointing out that Americans were endorsing a new sense of a common identity, which compels them to call for an urgent separation from the oppressive rule of Britain. Paine's understanding of power and government is not very different from that of Locke. Paine sees government, in its best, a necessary evil and society in every state a blessing.

III. The Representation of the Enlightenment in the Founding Documents of the United States

Like any other nation, the United States has its own founding documents that set and explain the principles upon which this new nation was established. For instance, Algeria's founding documents count the Declaration of November 1st, which was the first document that declared Algeria's call for war against the French, it outlined the general principles upon which and for which the Algerians sought separation from France. The same thing applies for the founding documents of the U.S., which all recognized the birth of a new nation separate from the mother country, Britain. The founding documents of the country sketch the main principles that govern the country, which is the case for the *Declaration of Independence* (1776), design the governing system and draw the limits of the government, the case for *the Constitution* (1787) of the U.S, secure the rights and liberties of the citizenry, the case for *the Bill of Rights* (1789). The aim of this section is to track some Enlightenment ideas in the said documents, namely the ideas of Locke and Montesquieu, in order to see to what extent the country was really built on a creed.

1- Enlightenment in the Declaration of Independence

The document of the Declaration of Independence of the thirteen newly United States of America is regarded as the first founding document of the country as it bears an official announcement of separation from Britain and states the broad philosophical principles upon which the nation will mount. The document was drafted by Thomas Jefferson (1743-1826), a noted political leader from the state of Virginia, and signed by the delegates of the thirteen colonies to the Second Continental Congress (which was the governing body of the Colonies). The Declaration announced the reasons of separation and listed numerous grievances to show to George III, the king of Great Britain, that the colonies refuse his despotism and thus his sovereignty.

Many commentators agree on the idea that the Declaration of Independence draws heavily on the Enlightenment philosophies namely the theories of John Locke. The opening paragraph of the Declaration of Independence mentions the necessity of dissolving the “political bands” between the thirteen colonies and Britain. The following is the first paragraph of the Declaration of Independence:

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

Likewise, John Locke devoted the last chapter of his *Second Treatise on Government* to “the dissolution of governments.” Locke differentiated between the “dissolution of the society” and “the dissolution of the government”, as the first happens only when there is a foreign invasion. Locke, like Jefferson in the Declaration of Independence, believe that it was possible to dissolve the political ties with other nations without dissolving the social bonds.

The second paragraph of the declaration pronounced the essential creeds of the American political philosophy, which all together serve as the compass that works to line up the course of the nation. It is believed that the theoretical origins of these ideas originate from Locke’s *Two Treatises of Government*. The opening clause of the second paragraph “*We hold these truths to be self-evident*” can be tracked back to John Locke’s understanding of the principles of morality and politics, which are, to Locke, self-evident. Jefferson opens this paragraph by referring to the truths that are transparent to reason and easily perceived by moral sense. The second clause is an assertion of equality among men who are endowed by the creator with certain “unalienable rights”. Locke is best known for his theory of natural laws, which Jefferson in the Declaration of Independence appears to switch the word “natural” with the word “unalienable” which both serve the same meaning; rights that cannot be violated or taken away. The same thing applies for the phrase “*Life, Liberty and the pursuit of happiness*” which replaced Locke’s list of natural rights “right to life, liberty and property”. Students are requested to track other Lockean ideas¹, which are sketched in the rest of the paragraph. The following is the second paragraph of the Declaration of Independence

¹ For more of Lock’s ideas regarding government, read the Appendix

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -- That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness”

2- Enlightenment in the Constitution

After the end of the revolutionary war with the signing of the treaty of Paris of 1783, which officially ended the war against the British and recognized the independence of the thirteen colonies, the U.S. entered in a confederation period running under the rule of the Articles of the Confederation. The Second Continental Congress (the governing assembly of the thirteen states during the revolution) adopted the Articles of the Confederation in 1781, which were considered loose and weak. The country faced many challenges as it lacked a strong government capable of settling disputes arising between the newly independent states.

Alexandre Hamilton, a prominent statesman from New York called in 1786 for a Constitutional Convention to revise the Articles of Confederation. Delegates from twelve states convened in Philadelphia from May to September 1787 (the state of Rhode Island refused to join the Convention because it was against establishing a stronger central government). The outcome of the Convention was the introduction of a new Constitution for the country that functions as an outline (a blueprint) for the new government. The Constitution, another founding document of the U.S., like the Declaration of Independence, Enlightenment philosophical principles are easily

traceable in most of its articles and clauses. The most prominent ideas apparent in the document relate to the political theories of John Locke and Montesquieu.

The first clause of the first paragraph of the Constitution starts out with the phrase: “*We the people*” which suggest that the government the founding fathers planned to establish derives its legitimacy from the people of the different states, (and not from the divine right). Locke in his *Two Treatises of Government* explains the legitimate ruler by asserting that any ruling government should exist only by the consent of the people, or by what Locke calls the social contract. Both Locke and the Constitution strengthen the idea that the role of government is to promote the public good and to protect the rights of people. Locke emphasized on the idea that governments arise only when people consent to it by removing themselves from the state of nature and enter into a civil society, this idea seems to be the one that instigated the first three words of the constitution “*We the people*”.

The first three articles of the Constitution design the system of the government of the U.S. and divides the duties among three branches. The first article explains the role and duties of the legislative branch (the Congress), the second article outlines the prerogatives and limits the power of the executive branch (the president), while the third article states the role of the judiciary. This structure of the government seems to root from Montesquieu’s doctrine of separation of power in his *The Spirit of the Laws* (1750). Montesquieu argued that the separation of power is necessary for democracy as it works to ensure that no person or group of persons abuse all the power for themselves. Therefore, the main aim of separation of power is to avoid tyranny and escape dictatorship. The followings are some selected passages from both the Constitution of the U.S. and from *the Spirit of the Laws*.

From the Constitution:

Article 1:

All legislative powers herein granted shall be vested in a Congress of the United States...

Article 2:

The executive power shall be vested in a President of the United States of America...

Article 3:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts

From *the Spirit of the Laws*

- *When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty...*
- *There is as yet no liberty if the power of judging be not separated from legislative power and the executive power....*
- *If in the interior of a state you do not hear the noise of any conflict, you can be sure that freedom is not there*

The presence of Montesquieu's political philosophies in the constitution is not restricted to the doctrine of separation of power only but also extends to the system of checks and balances. He pointed out that a republic does not guarantee the liberties of the people and thus the system of separation of powers should combine with a system of checks and balances among the three branches of government. Checks and balances are very crucial to avoid one branch of the government prevails over the other branches. Montesquieu states that: "*For we cannot abuse power, must, by the arrangement of things, power checks power...*" The followings are passages from the American constitution, which demonstrate the inclusion of Montesquieu's system of checks and balances:

Article 2, Section 2:

He [the president] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur...

Article1, section2 + section3

The House of Representatives ... shall have the sole Power of Impeachment.

The Senate shall have the sole Power to try all Impeachments

3. Enlightenment in the Bill of Rights

Once the delegates to the Constitutional Convention of 1787 finished debating the new constitution, a draft was proposed in September 1787 to the different states for ratification. Some states like New York, Virginia, Massachusetts and Rhode Island refused to ratify the constitution on different grounds. Some states, like Virginia, argued that the draft did not guarantee the protection of the civil and individual liberties. Others, like Rhode Island, refused any federal control over the issue of currency. On December 20, 1787, Thomas Jefferson, a statesman from Virginia, who was serving as the United states Minister to France (1785-1789) wrote to James Madison, who represented the state of Virginia in the Constitutional Convention, about his concerns regarding the proposed Constitution. Jefferson contended that the draft was deficient and lacking of any protection of individual liberties. The following is an excerpt from his letter:

I will now tell you what I do not like. First, the omission of a bill of rights, providing clearly, and without the aid of sophism, for freedom of religion, freedom of the press, protection against standing armies, restriction of monopolies, the eternal and unremitting force of the habeas corpus laws, and trials by jury in all matters of fact triable by the laws of the land, and not by the laws of nations”

The letter of Thomas Jefferson emphasized on the necessity to add a bill of rights to the constitution, a bill that would secure the liberties of the citizenry. Madison, inspired by Jefferson, drafted a Bill of Rights, which comprised the first ten amendments to the constitution, and

proposed it for adoption and ratification in 1789. The Bill of Rights recognized the basic principles that guaranteed the essential rights of the people, like freedom of belief, freedom of speech, freedom of press... etc. the aim of this subsection is to highlight the Enlightenment ideas and see to what extent James Madison was inspired by Enlightenment thinkers. The followings are selected passages from the Bill of Rights:

Amendment I

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

Amendment II

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Amendment I clearly insists on the theory of separation between state and religion (one of Locke's themes in his *Letter Concerning Toleration*). It bluntly states that the government should not make any law regarding religion or making laws that might restrict its practice. The other rights, freedom of speech, the right to peacefully assemble, freedom of press are inspired from other thinkers, namely Voltaire. The second part of Amendment II, "the *right of the people to keep and bear arms*" is said to be inspired from Locke's principle of the right to overthrow a government if it fails to protect the civil liberties of the people. It is argued that people cannot overthrow a government unless they have access to guns.

→ **Students are requested to search for Jean Jacques Rousseau's ideas in the 3rd and 4th amendments, and Beccaria's principles in the 7th and 8th amendments.**

IV. The Birth of the Government of the United States

The origins of the government of the U.S. can be traced back to the First Continental Congress of 1774, when delegates from thirteen colonies (except from Georgia) met in Philadelphia to consider writing a petition to the British parliament on rights and grievances following the Coercive Acts (Intolerable Acts) imposed by the latter on the colonies of North America. The meeting can be regarded as the first compact among the colonies that attempted to voice their common demands and thus the seeds of a first assembly (government) representative of all the colonies as one entity had been planted. The second attempt was that of May 1775 when representatives from all the colonies met for the second time in Philadelphia to consider uniting and managing the revolutionary war efforts against the British. The second meeting was known as the Second Continental Congress and served as the government of the thirteen states. Note that the name given to the government of the time; the Second **Continental** congress (which was in fact a legislative assembly whose duties were restricted to simply managing colonial war efforts) included the term **Continental** which means that the idea of being one nation was not yet mature in the minds of the Americans.

1. The Constitutional Convention of 1787

After the end of the revolutionary war, the United States entered in an era of Confederation during which the government of the newly independent states was loose and weak. Some key political figures like Alexandre Hamilton understood that the country was in a need of a stronger government able to settle disputes, that might arise among the states, and able to face local and foreign challenges. The states agreed to meet in Philadelphia on May 25, 1787 to revise the Articles of the Confederation, which served as the first constitution of the country between 1781

and 1788. The primary aim of the gathering was to work on establishing a new **national** government to the union. Fifty-five delegates from twelve states (The state of Rhode Island did not attend) attended the meeting, which became known as the Constitutional Convention of 1787 and the attendees as the Founding Fathers of the United States of America. The Framers (the name given also to the Founding Fathers) threw the Articles of the Confederation away as they deemed them insufficient and inadequate with the exigencies of the newborn nation and started, from scratch, a new constitution for the country.

It is important to mention that neither slaves, nor women, nor men without property and nor the natives attended the Convention, which means that its outcomes did not echo the interests of those four groups. It is equally important to point out that the attendees to the Convention (the so-called Founding Fathers) were very noted for their fortunes and connections to wealthy families. Benjamin Franklin's wealth was estimated to attain \$150,000, the huge slave plantations of many attendees including George Washington and James Madison, the connections of Alexander Hamilton to wealthy families, are few examples that illustrate both the social background and the mindset of the attendees to the Convention.

Charles Beard, a noted historian and political scientist, applied the idea that the rich, seeking to preserve their interests, must control the government directly, either by taking over key government positions, or indirectly by dominating the laws by which the government functions. Beard studied the economic and political backgrounds of the 55 Founding Fathers who convened in Philadelphia in 1787 and he concluded that most of them were men of wealth. Records of the Department of Treasury, Beard mentioned, registered that some of the Founding Fathers were moneylenders, and forty of them possessed government bonds in addition to being landholders,

slave masters, manufacturers, ship-builders... etc which explains why many of them were very strong advocates of establishing a strong central government. The Convention debates were tense and reflected the struggle among the different interest groups. In the following subsection, we will walk through two main contentious issues that troubled the debates over the new constitution of the country.

2- Two Contentious issues: A Government through Compromise

The inception of the debates during the Convention proved that reaching a unanimity on some specific issues was extremely challenging, as the interests of the thirteen states were opposed in a number of areas. Many delegates argued for a strong federal (national) government that could limit the sovereignty of the different states. Others, however, stood against the idea of having a strong central (national) government and instead they argued for a weak one so that the states' sovereignty would not be undermined. The fear of a centralized power was in fact a result of a long experience with monarchical Britain whose power was centralized in the hands of the king and some other close associates. While other attendees contended that popular elections were not forcibly convenient to the newborn country because average Americans were not mature enough to govern themselves. For the most part, the questions of representation and slavery were the most controversial issues that split the Founding Fathers into two opposing interest groups and were, to some point, within inches to ruin the whole Convention.

a. Representation

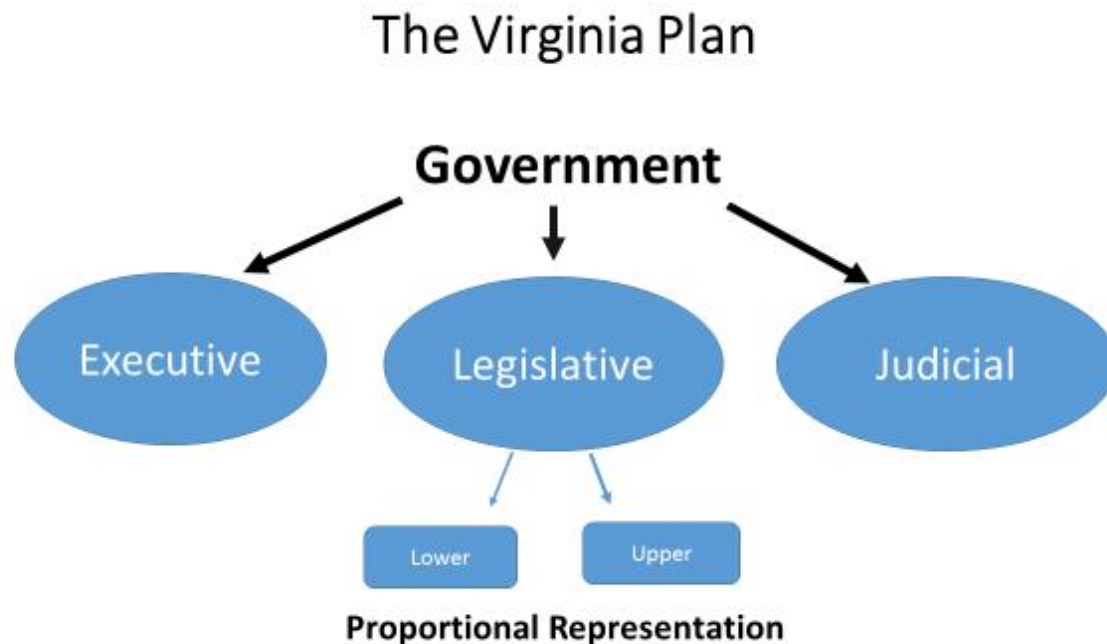
The most fundamental issue to deal with in the Constitutional Convention was the one of power. After experiencing the deficiencies of the confederation government and the weaknesses of the Articles of Confederation, the Framers of the Constitution understood that the new government

had to have certain powers that could meet the exigencies of the union. All agreed that the power to levy taxes on the states to raise revenue for the new national government, the power to regulate interstate and foreign commerce, the power to issue money and most importantly the power to raise an army are the powers that this new government should not lack. Once the new powers to be granted to the new national (federal) government were agreed upon, a second issue emerged about who should control those powers and thus who should be represented in this new government and on what basis.

Although the delegates came to the meeting with different economic and political interests and with opposing opinions on the shape of the government, they agreed on making the legislative branch of the government (the Congress) more dominant over the executive (president). Hence, the question of representation in the government (the Congress precisely) brought the attention of all the delegates to the Convention since any decision related to it will determine how much power each state will have on the future of law-making process and therefore on those powers granted to this new national government. Moreover, the question of how to construct the legislative branch was very troublesome and met with very divergent interests and plans.

James Madison, representing the state of Virginia, drafted a plan to settle the problem of representation in the legislature and handed it over to Edmund Randolph (governor and delegate of/from Virginia) to propose it to the Convention on May 29, 1787. The plan, known as Virginia Plan, proposed a tripartite government where power was to be divided into three branches: a legislative, an executive and a judicial. Madison proposed proportional representation (based on the size of population of each state) in a bicameral legislature which meant that some large states

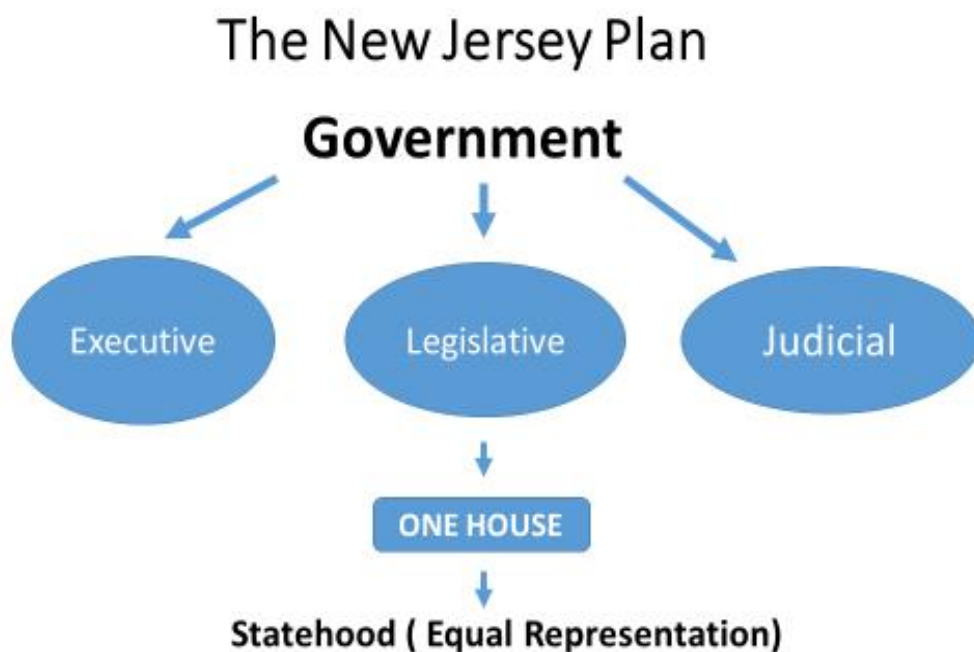
like Virginia and Massachusetts would be more represented than some small states like New Jersey and Delaware.



The plan was met with very strong opposition from small states, which argued for equal representation among all the states regardless of their geographical size or that of their respective population. James Madison emphasized that equal representation was not fair since it would give a citizen of small state like Delaware, for example, ten times as much power in the legislature as it would give to his neighbor from a big state like Virginia. Madison's aim was to give the power to drive the federal/national government directly to the people and not to the local governments of the different states, which follow, inconsistent governing systems. The small states assumed that the plan was an attempt to strengthen the voice of the large states within the new government and not to strengthen the government itself.

William Paterson, a delegate from New Jersey, proposed a different plan on June 15, 1787 to counter the one proposed by Virginia. The plan, which is known in history as the New Jersey Plan,

proposed a three branch government, like Virginia did, but with a unicameral Congress into which representation was to be equal among all the states. In fact, the big-small states rivalry started to surface even before the outset of the Convention when the state of Delaware threatened to leave the union after the state of Pennsylvania tried to push for the adoption of proportional representation to run the Convention itself. Pennsylvanians argued that it would not be fair that small states and large states had equal voting power during the proceedings of the Convention. The following diagram illustrates the alternative plan that Paterson proposed to the Convention:

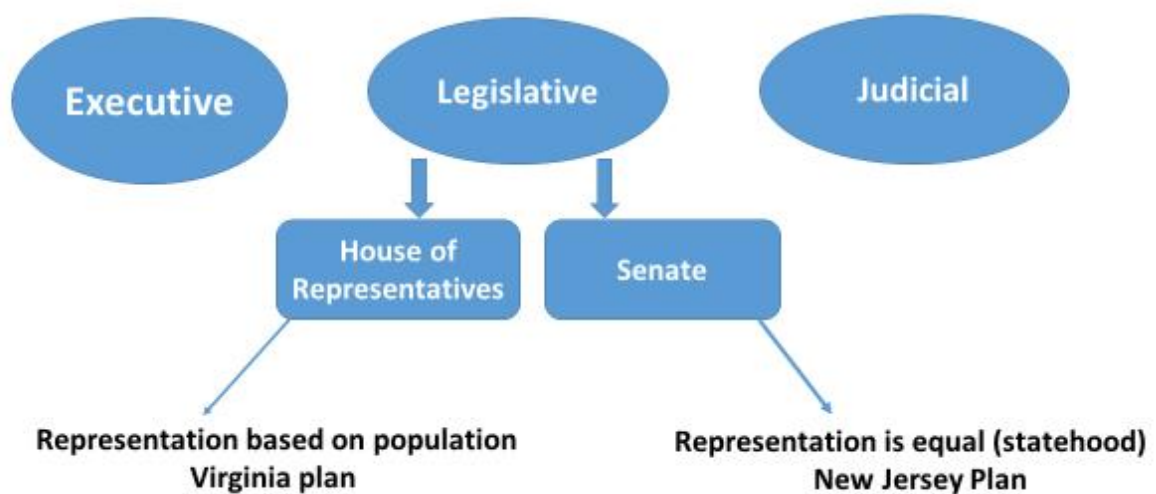


William Paterson, in a speech in front of the delegates, stood for the case of small states arguing that Virginia Plan (proportional representation) collides with the very existence of the less populated states. In a federal system, Paterson pointed out that, the states are the foundation of government and not the people, and therefore states ought to have equal voting power in the

Congress. A confederation supposes sovereignty of the members composing it and sovereignty supposes equality.

Attempts to converge views between small and large states about the question of representation in the government started even before Paterson proposed the New Jersey plan. Roger Sherman, a noted politician representing the state of Connecticut, proposed on June 11, 1787 that representation in the Lower House of the Congress should be according to the respective numbers of free inhabitants (based on the size of population); and that in the Upper House, each state should have equal representation, one vote for each. Sherman's plan was introduced amid fervent debates about the Virginia plan while the temper of the different delegates was very heated. The plan, though was bright and fair, was met with rejection from both parts. After six weeks of acute debates on how to constitute the first branch of the government, Sherman's plan was brought to life again by a delegate from Maryland by the name of Martin Luther who stood for the case of Sherman's Compromise.

The Connecticut Compromise *The Great Compromise*



On July 16, 1787, the Compromise was finally approved and the big-small states rivalry ended. Sherman's plan blended Virginia plan and the New Jersey plan by maintaining the three-branch government, proposed a bicameral legislature and adopting proportional representation in the Lower House and equal representation in the Upper house. The question of representation was vital to the success of the whole Convention as doubts and hopelessness started to penetrate the souls of the delegates. Therefore, the Connecticut Compromise ensured the continuance of the Convention and thus the success to establish the new government of the United States of America.

b- Slavery

Slavery was another very contentious issue that triggered very serious disputes among the Framers of the Constitution during the constitutional Convention of 1787. Slavery in the Constitution is a question that many historians disagreed upon due to its controversy with the general principles upon which the Constitution was established. Many serious questions were raised also like how could antislavery Founding Fathers allow the continuance of such a very inhumane practice and whether they betrayed the morals and principles of the Declaration of Independence for which they fought against the British. After the Independence, the country was divided into two sections; a North that started to outlaw the practice of enslaving people years before the Independence and a South that was very reliant on slavery in its large plantations. Some delegates from the South, mainly from South Carolina and Georgia, threatened to leave the Convention if Northern delegates, who were mostly against slavery, refused to make concessions regarding the question of slavery.

During the Convention, and along with the debates regarding representation in the legislative branch, Roger Sherman, on June 11, 1787, brought up the issue of whether to count slaves in the

population total of the states or not. Sherman initially suggested that proportional representation should consider free people only. Many questions followed up like how to deal with slaves if representation in the legislative branch was to be based on population, would slaves be counted or not? Would they be considered as property or as people, and if counted as property, would they be taxed? In other words, should the Convention permit to the Southerners to include the slaves into their population total or not. Both free and slave states agreed that states' financial contributions to the new government would be assessed in view of the size of the population of each state. The Southern States initially refused to include slaves in assessing the states' financial contributions because; they argued that, slaves were regarded as property and not as people. In the opposite way, Southerners insisted on counting the slaves for the purpose of representation in the Congress. The Northern delegates resisted to the Southern exigencies regarding the question of slaves, as they wanted them counted for the purpose of taxation but not for representation unless they were given the right to vote.

James Wilson from Pennsylvania proposed to count three slaves out of five for determining both taxation and representation in the legislature. Wilson's formula was eventually accepted after many others proposed other formulas and his suggestion became known as the Three-fifth Compromise. The Compromise benefitted the south because it allowed them to increase their representatives in the government and thus gaining more political power. For some historians, the Compromise admitted that slavery was a reality in the country and the Constitution in general did not address the evils of this inhumane practice. Moreover, it allowed the expansion of slavery in the new territories and led eventually to many other political crises in the decades to come.

The Convention was adjourned in September 1787 and the final draft was forwarded to the states for ratification. The government that was established after the Constitutional Convention

was the outcome of the diplomacy of Compromise. During the debates about the different issues, temper escalated and tension intensified because the attendees to the Convention came with different perspectives on government. The disagreement about the issues of representation and slavery was resolved through the art of compromise where each concerned side made concessions for the ultimate goal: safeguarding the union.

References

- Baker, Wayne E. America's Crisis of Values: Reality and Perception. Princeton University Press, 2006
- Britannica.com
- Cohen, Mitchell. Princeton Readings in Political Thought: Essential Texts since Plato - Revised and Expanded Edition. Princeton University Press, 2018
- Collier, C., Collier J, L. Decision in Philadelphia: The Constitutional Convention of 1787.AudioGo.2012
- Doernberg, Donald L. "We the People": John Locke, Collective Constitutional Rights, and Standing to Challenge Government Action. California Law Review, Vol. 73, No. 1, 1985.
- Ervin, R. The Slavery and the Constitutional Convention: Historical Perspectives.Eastern Illinois University. Historia, 2006.
- Founders.archives.gov
- Zinn, H. A People's History of the United States: 1492-present. Harper Perennial Modern Classics, 2005.
- Mauk, D., & Oakland J., (2009). American Civilization: An Introduction. London: Routledge, Taylor & Francis Group
- Merriam, C. E., Jr. Thomas Paine's Political Theories. Political Science Quarterly, Vol. 14, No. 3 the Academy of Political Science, 1899.
- Merriam-webster.com/dictionary.com
- Nalanda Digital Library - Democracy in America - Volume I by Alexis De Tocqueville
- Paine, T. Common Sense. Flites Editions,
- Rowe E.K. Western Civilization. UVa HIEU 2001.
- Stanford Encyclopedia of Philosophy. <https://plato.stanford.edu/index.html>
- Stearns, Peter N. World Civilizations: the Global Experience. Pearson 2017.
- Vile, John R. The Declaration of Independence: America is first founding document in U.S. history and culture. Santa Barbara, California: ABC-CLIO, 2019

Appendix

Selected Passages from Locke and Montesquieu's Main Works

John Locke

Two Treatises of Government

“Selected Passages from the second treatise”

- 1- The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions: for men being all the workmanship of one omnipotent, and infinitely wise maker
- 2- So that God, by commanding to subdue, gave authority so far to appropriate: and the condition of human life, which requires labour and materials to work on, necessarily introduces private possessions.
- 3- Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them, and punish offenders, are in civil society one with another: but those who have no such common appeal, I mean on earth, are still in the state of nature, each being, where there is no other, judge for himself, and executioner: which is, as I have before showed it, the perfect state of nature.

- 4- Hence it is evident, that absolute monarchy, which by some men is counted the only government in the world, is indeed inconsistent with civil society, and so can be no form of civil-government at all...
- 5- The only way whereby anyone divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing 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 a greater security against any that are not of it.
- 6- for no man, or society of men, having a power to deliver up their preservation, or consequently the means of it, to the absolute will and arbitrary dominion of another; whenever anyone shall go about to bring them into such a slavish condition, they will always have a right to preserve what they have not a power to part with; and to rid themselves of those who invade this fundamental, sacred, and unalterable law of self-preservation, for which they entered into society. And thus the community may be said in this respect to be always the supreme power...
- 7- Nature gives the first of these, viz. paternal power, to parents for the benefit of their children during their minority, to supply their want of ability and understanding how to manage their property...voluntary agreement gives the second, viz. political power to governors for the benefit of their subjects, to secure them in the possession and use of their property. And forfeiture gives the third despotical power to lords, for their own benefit, over those who are stripped of all property.

- 8- For no government can have a right to obedience from a people who have not freely consented to it; which they can never be supposed to do, till either they are put in a full state of liberty to choose their government and governors, or at least till they have such standing laws, to which they have by themselves or their representatives given their free consent; and also till they are allowed their due property, which is so to be proprietors of what they have, that nobody can take away any part of it without their own consent, without which, men under any government are not in the state of freemen, but are direct slaves under the force of war.
- 9- ...tyranny is the exercise of power beyond right, which nobody can have a right to. And this is making use of the power any one has in his hands, not for the good of those who are under it, but for his own private, separate advantage. –When the governor, however entitled, makes not the law, but his will, the rule; and his commands and actions are not directed to the preservation of the properties of his people, but the satisfaction of his own ambition, revenge, covetousness, or any other irregular passion.
- 10- But 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, and see whither they are going; it is not to be wondered, that they should then rise themselves, and endeavor to put the rule into such hands which may secure to them the ends for government was at first erected...

John Locke

A Letter Concerning Toleration

“Selected passages”

1- For the civil government can give no new right to the church, nor the church to the civil government. So that, whether the magistrate join himself to any church, or separate from it, the church remains always as it was before — a free and voluntary society. It neither requires the power of the sword by the magistrate’s coming to it, nor does it lose the right of instruction and excommunication by his going from it. This is the fundamental and immutable right of a spontaneous society — that it has power to remove any of its members who transgress the rules of its institution; but it cannot, by the accession of any new members, acquire any right of jurisdiction over those that are not joined with it.

2- Though if infidels were to be converted by force, if those that are either blind or obstinate were to be drawn off from their errors by armed soldiers, we know very well that it was much more easy for Him to do it with armies of heavenly legions than for any son of the Church, how potent soever, with all his dragoons.

3- Nay, if we may openly speak the truth, and as becomes one man to another, neither Pagan nor Mahometan, nor Jew, ought to be excluded from the civil rights of the commonwealth because of his religion.

4- Lastly, those are not at all to be tolerated who deny the being of a God. Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist. The taking away of God, though but even in thought, dissolves all; besides also, those that by their atheism undermine and destroy all religion, can have no pretense of religion whereupon to challenge the

privilege of a toleration. As for other practical opinions, though not absolutely free from all error, if they do not tend to establish domination over others, or civil impunity to the Church in which they are taught, there can be no reason why they should not be tolerated

5- Shall we suffer a Pagan to deal and trade with us, and shall we not suffer him to pray unto and worship God? If we allow the Jews to have private houses and dwellings amongst us, why should we not allow them to have synagogues? Is their doctrine more false, their worship more abominable, or is the civil peace more endangered by their meeting in public than in their private houses? But if these things may be granted to Jews and Pagans, surely the condition of any Christians ought not to be worse than theirs in a Christian commonwealth.

6- If anyone maintain that men ought to be compelled by fire and sword to profess certain doctrines, and conform to this or that exterior worship, without any regard had unto their morals; if anyone endeavor to convert those that are erroneous unto the faith, by forcing them to profess things that they do not believe and allowing them to practice things that the Gospel does not permit, it cannot be doubted indeed but such a one is desirous to have a numerous assembly joined in the same profession with himself; but that he principally intends by those means to compose a truly Christian Church is altogether incredible.

7- Thus Turks and Christians are of different religions, because these take the Holy Scriptures to be the rule of their religion, and those the Alcoran. And for the same reason there may be different religions also even amongst Christians. The Papists and Lutherans, though both of them profess faith in Christ and are therefore called Christians, yet are not both of the same religion, because these acknowledge nothing but the Holy Scriptures to be the rule and foundation of their religion, those take in also traditions and the decrees of Popes and of these together make the rule

of their religion; and thus the Christians of St. John (as they are called) and the Christians of Geneva are of different religions, because these also take only the Scriptures, and those I know not what traditions, for the rule of their religion.

8- Now, I appeal to the consciences of those that persecute, torment, destroy, and kill other men upon pretense of religion, whether they do it out of friendship and kindness towards them or no? And I shall then indeed, and not until then, believe they do so, when I shall see those fiery zealots correcting, in the same manner, their friends and familiar acquaintance for the manifest sins they commit against the precepts of the Gospel; when I shall see them persecute with fire and sword the members of their own communion that are tainted with enormous vices and without amendment are in danger of eternal perdition; and when I shall see them thus express their love and desire of the salvation of their souls by the infliction of torments and exercise of all manner of cruelties. For if it be out of a principle of charity, as they pretend, and love to men's souls that they deprive them of their estates, maim them with corporal punishments, starve and torment them in noisome prisons, and in the end even take away their lives — I say, if all this be done merely to make men Christians and procure their salvation, why then do they suffer whoredom, fraud, malice, and such-like enormities, which... manifestly relish of heathenish corruption, to predominate so much and abound amongst their flocks and people?

9- The toleration of those that differ from others in matters of religion is so agreeable to the Gospel of Jesus Christ, and to the genuine reason of mankind, that it seems monstrous for men to be so blind as not to perceive the necessity and advantage of it in so clear a light. I will not here tax the pride and ambition of some, the passion and uncharitable zeal of others. These are faults from which human affairs can perhaps scarce ever be perfectly freed; but yet such as nobody will bear

the plain imputation of, without covering them with some specious colour; and so pretend to commendation, whilst they are carried away by their own irregular passions. But, however, that some may not colour their spirit of persecution and unchristian cruelty with a pretense of care of the public weal and observation of the laws; and that others, under pretense of religion, may not seek impunity for their libertinism and licentiousness; in a word, that none may impose either upon himself or others, by the pretenses of loyalty and obedience to the prince, or of tenderness and sincerity in the worship of God; I esteem it above all things necessary to distinguish exactly the business of civil government from that of religion and to settle the just bounds that lie between the one and the other. If this be not done, there can be no end put to the controversies that will be always arising between those that have, or at least pretend to have, on the one side, a concernment for the interest of men's souls, and, on the other side, a care of the commonwealth

Baron de Montesquieu

The spirit of the Laws

Selected Passages

- * If the legislative and executive authorities are one institution, there will be no freedom. There won't be freedom anyway if the judiciary body is not separated from the legislative and executive authorities.
 - * When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty...
 - * There is as yet no liberty if the power of judging be not separated from legislative power and the executive power....
 - * For we cannot abuse power, must, by the arrangement of things, power checks power...
 - * If in the interior of a state you do not hear the noise of any conflict, you can be sure that freedom is not there
-