



The Constitution of the

United States of America

Lecture 1—Background, Philosophy, and Framing

“In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself.”

James Madison, *The Federalist* No. 51



Biblical Foundations of Government



- 3 primary entities created by God: home, church/congregation, **government**
- Government was God's idea
 - Exodus 18—Jethro's advice to Moses
 - Romans 13—"Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God...for rulers are not a terror to good conduct, but to bad...for he is God's servant for your good..."
 - 1 Peter 2:13-17: Be subject for the Lord's sake to every human institution, whether it be to the emperor as supreme, or to the governors as sent by him to **punish** those who do evil and to **praise** those who do good."

Biblical Foundations of Government

- Governments are raised up by God
 - Proverbs 21:1—the king’s heart is in the hand of the LORD, as the rivers of water, he turns it wherever He wishes.
 - Daniel 4: The Most High rules the kingdoms of men and gives it to whom he will.
 - Isaiah 44: God used Cyrus as His instrument
- Christians who want to obey God must obey government

The Foundations of the U.S. Constitution

- The forerunners of American independence
 - Magna Charta—the first step in establishing rights for the individual. Both sovereign and subject must obey laws.
 - English Bill of Rights—
 - Right to petition the government, bear arms, free elections for citizens
 - Freedom of speech, no excessive bail, no cruel punishment, no sentencing without a verdict



King John signs Magna
Charta

Foundational philosophy of the Declaration of Independence

- John Locke
 - Became a very controversial figure in England as he used the Bible and reason to write about such things as:
 - Refuting the Divine Right of Kings
 - Claims that men had the right to set up their own governments
 - Argued against slavery



- In America

- Locke's philosophies and writings were widely read by the clergy and the founding fathers
- Therefore, his ideas were found in newspapers, sermons, and educational writings

- Contributions to America... *Of Civil Government*

- His writings are what spurred our revolution



John Locke

1. “On the State of Nature”

- We must consider what state all men are naturally in, and that is a state of perfect freedom to order their actions and dispose of their possessions.
- The state of nature has a Law of Nature to govern it—No one ought to harm another in his life, health, liberty, or possessions.
- All Men are Naturally in the state of nature—That all men are naturally in that state and remain so, till by their own consents they make themselves members of some politick society

2. “Of the Ends of Political Society and Government”

- The end and purpose of government—the great and chief end therefore, of men’s uniting into commonwealths, and putting themselves under government, is the preservation of their property...lives, liberties, and estates



Declaration of Independence

1. The rationale and presuppositions
2. The grievances
3. The declaration...

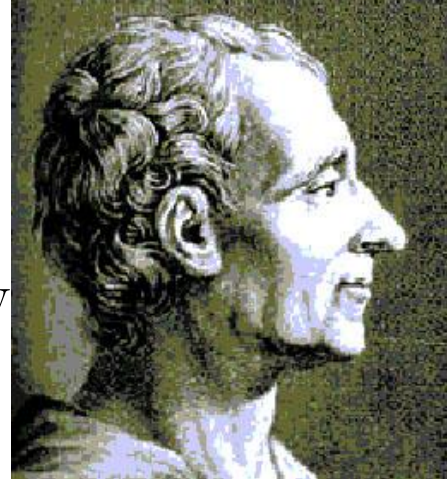


The Foundations of the U.S. Constitution

- The Philosophers Studied by the Founding Fathers
 - Charles de Montesquieu
 - Wrote *The Spirit of Laws* in which he argued for
 - God as creator of the universe, set it up to be run by laws
 - Division of Power into 3 branches of government (**Separation of Powers**)
 - That each branch of that government is checked by another branch (**Checks and Balances**)
 - A republic (representative) form of government is better than a democracy

Charles de Montesquieu

- Laws are necessary relations arising from the nature of things
- 3 sorts of power—keeps one man from needing to fear another
 - » Legislative
 - » Executive
 - » Judicial
 - » This is natural—it can even be seen in the very Trinity (Isaiah 33:22)
 - Father—Executive
 - Son—Legislative
 - Spirit—Judicial



Montesquieu (cont.)

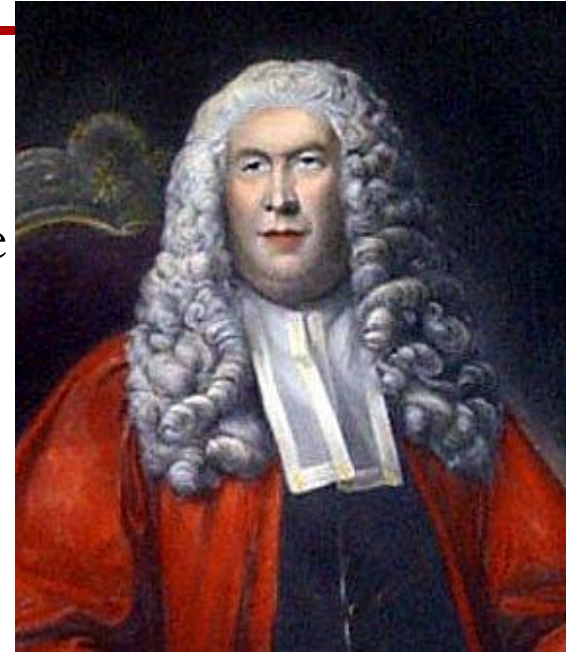
- Due to the corrupt nature of man, **Separation of these Powers** is necessary
- **Representative Government** and **Local Self Government**
 - Each man should be his own governor, and the legislative power should reside in the whole body of people
 - Since it is not realistic for all to be involved in decision-making, people should choose representatives that will conduct the transactions for them (**Representative Government**)
 - These members should be chosen from the inhabitants of their particular town as they will know best the business of their locality (**Local Self Government**)
 - The legislative body should be composed of two parts that will check each other (**Principle of Checks and Balances**)

The Foundations of the U.S. Constitution

- **William Blackstone**
 - *Commentaries on Law*
 - Studied by every law student in England and America in the 18th Century
 - Law as order of universe
 - When God created the universe, he created it with laws that govern it
 - **Law of Nature** and Laws of Science

William Blackstone

- Revealed Law
 - Laws found in the Holy Scriptures—compliment the Laws of Nature
 - Revealed Law will never contradict Law of Nature
- Law of Nations
 - Since man was meant for society, these laws can be made by men so long as they don't violate the previous 2



The Founders' Views on the Nature of Man

1. Washington in a letter to John Jay: “We have errors to correct. We have probably had too good an opinion of human nature in forming our confederation.”
2. The good part of human nature justifies the consent of the governed. The bad part teaches that there is a need for limits on government. Rule of majority proves this. So, 2 things are needed:
 - a. **Union with Unity (state governments)**
 - b. **Separation of Powers**

The Founders' Views on the Nature of Man

1. *Federalist* #6: Why is state sovereignty insufficient?

Hamilton: “Men are ambitious, vindictive, rapacious.” “To look for a continuation of harmony between a number of independent, unconnected sovereignties in the same neighborhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages.”

The Founders' Views on the Purpose of Government

1. Jefferson in his *notes on the state of Virginia*: tyranny of the majority.

“A little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for...”

2. Consent is essential to just government, but it is not sufficient. People are perfectly able to consent to unjust laws, so mere consent does not make it right.

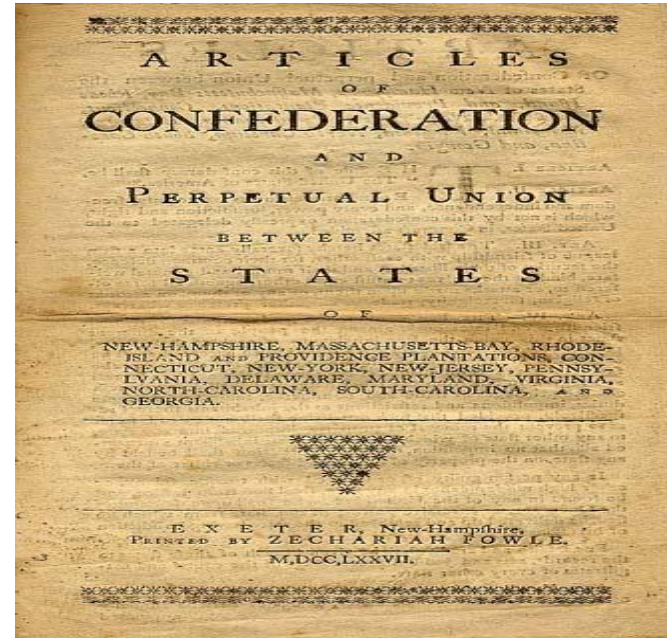
3. **The government must get both: consent of the governed and protection of the rights of individuals**

Making of the United States Constitution



After the Treaty of Paris

- You cannot tear down the old house without plans to build up the new one
- During the war, Congress had passed the *Articles of Confederation and Perpetual Union* (known as the Articles of Confederation) which became the ruling law of the land
- Each state got 2-7 members in Congress with only one vote per state on issues



Weaknesses of the Articles of Confederation

- The basic weakness of the AoC was that it gave all the power to the states—NO NATIONAL UNITY
- The states governed, and from time to time convened their Congressional representatives and made decisions as a nation
 - Each state was so fearful of a national government (why overthrow a tyrannical central government and replace it with another central government with the potential to grow tyrannical?)
 - Congress recommended (as per the Treaty of Paris) that states return all property to loyalists—states would have none of it—so, British didn't withdraw troops from NW Territory



Source: National Archives

Note: Remember the Founders' view on the nature of man and the purpose of government:

- Economic troubles
 - Could not pay debts
 - Congress could not regulate interstate commerce
 - So, states were discriminating against other states and Congress could do nothing about it
- The legislature was also so volatile and inconsistent
 - Congressmen could be elected to a one year term but sent home at a moment's notice

- Any changes to the AoC needed a unanimous vote from all 13 states
- It had no power to force any other countries to do anything
- It had no power to command the states to do anything (such as collecting taxes)
- Lack of protection against foreign attack



Constitutional Convention—“The Miracle at Philadelphia”

- At the Annapolis Convention (February 1787), Alexander Hamilton drew up a document urging delegates from all states to come to a convention in Philadelphia in May 1787
- Called convention to revise the Articles of Confederation
- Delegates from twelve states came to the convention



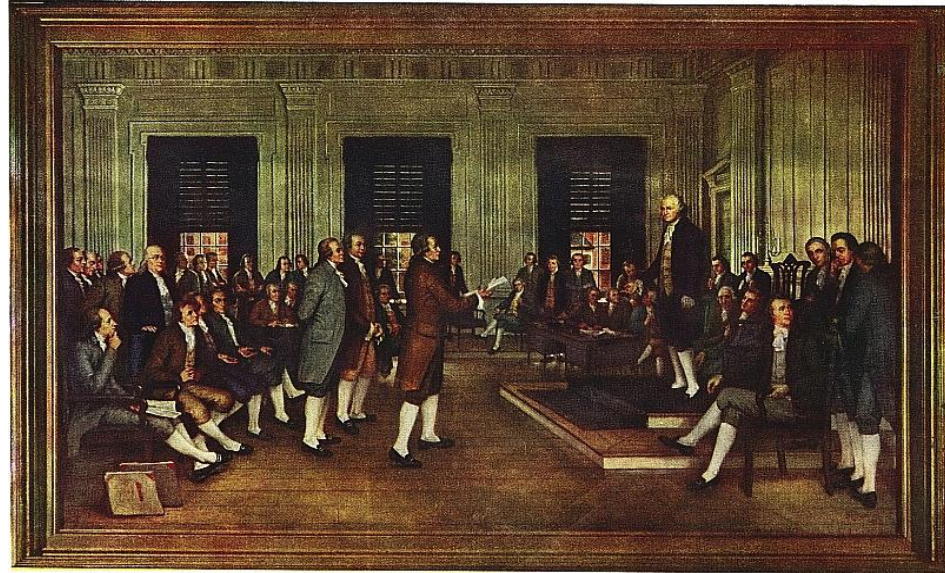
Problem solving

- Some delegates came with the understanding that the Articles would simply be changed. Some knew that an entirely new document must be drawn up.
- The rules of the convention were that no one was allowed to discuss the debate with any other people. They conducted meetings with closed windows. This allowed issues to be brought up and dropped without delegates having to worry about repercussions (what people would say about them)



The issues

- What kind of executive would we have? (a president? A king?, etc.)
- Would we have a unicameral or bicameral legislature? (one house or two houses)
- How would representation be decided? Slaves?
 - Large states vs. small states
- Would it be a Federal Government or a union of states?
- Would the people elect officials, or would states elect them?



The Proposals

- For the legislature, Edmund Randolph presented a plan called The VA Plan or Large States Plan
 - Said representation in Congress ought to be based on population of the state
- The New Jersey Plan or Small States Plan
 - Attempting to protect the equality of the small states, said that representation should be the same for each state



The Desperate Times



- a. Infighting and disagreement.
- b. Washington wrote to Hamilton during an absence:
 - i. “I almost despair of seeing a favorable issue to the proceedings of the Convention, and do therefore repent of having had any agency in the business.”
- c. Franklin’s proposal for prayer.

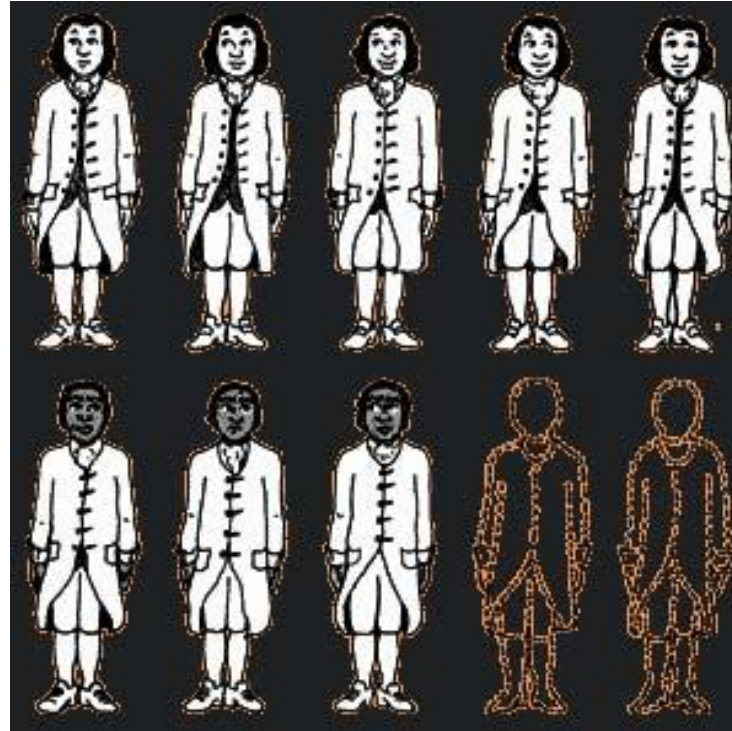
The Breakthrough

- The Great or Connecticut Compromise
 - Bi-cameral legislature (2 houses) where each state would get two representatives in the Senate
 - Each state would get representation in the House of Representatives based on population (how many people live in the state)
 - The people would vote for the House, the states would vote for the Senators



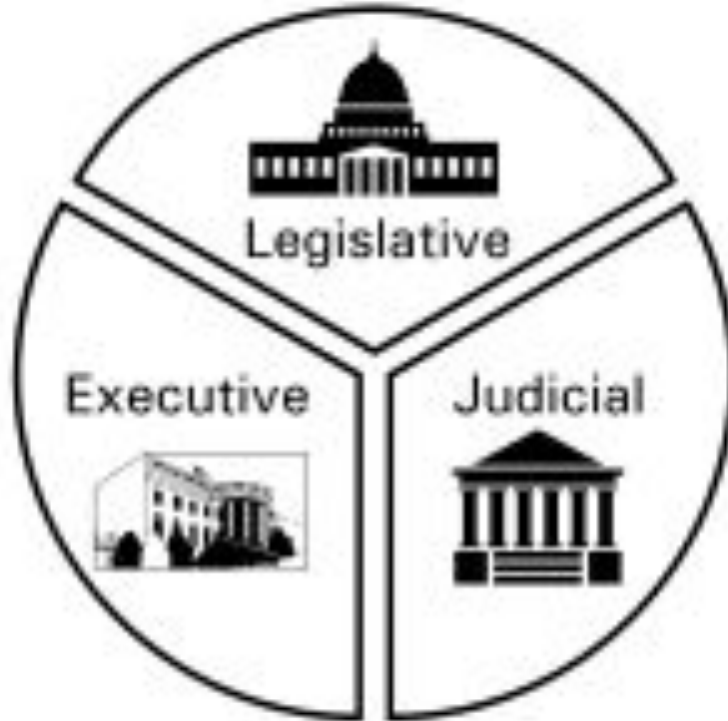
The Slavery Issue

- The Three-Fifths Compromise
 - For purposes of counting slaves for House of Reps and for taxing, for every 5 “other persons”, 3 of them counted towards the census



Checks and Balances

- The delegates came up with three branches of government, executive, judicial, legislative—each with the power to check each other.
 - Executive a president—has to sign a bill for it to become law, but can veto (override) it
 - Legislative (Congress)—has the power to write a law, can override a President’s veto
 - Judicial (court)—interprets law to maintain protections in the Constitution
- All laws that were not federal were supposed to be left up to the states



Ratification

- They decided that when 9 of the 13 states had ratified the Constitution, it would become the law of the land
- On September 17, 1787, the remaining delegates signed the Constitution



- As it went before the states for the vote, different leaders in the country were divided
- Federalists
 - In favor of the Constitution
 - Wanted a strong central government
 - Had the “superstar” leaders, (Washington, Franklin, Hamilton, Madison, Morris, etc.)
- Anti-Federalists opposed ratification
 - Main opposition was that it lacked a Bill of Rights
 - Also didn’t like how powerful the Federal Government would be, to the detriment of states
 - Lesser known—Patrick Henry, George Mason, Elbridge Gerry, etc.



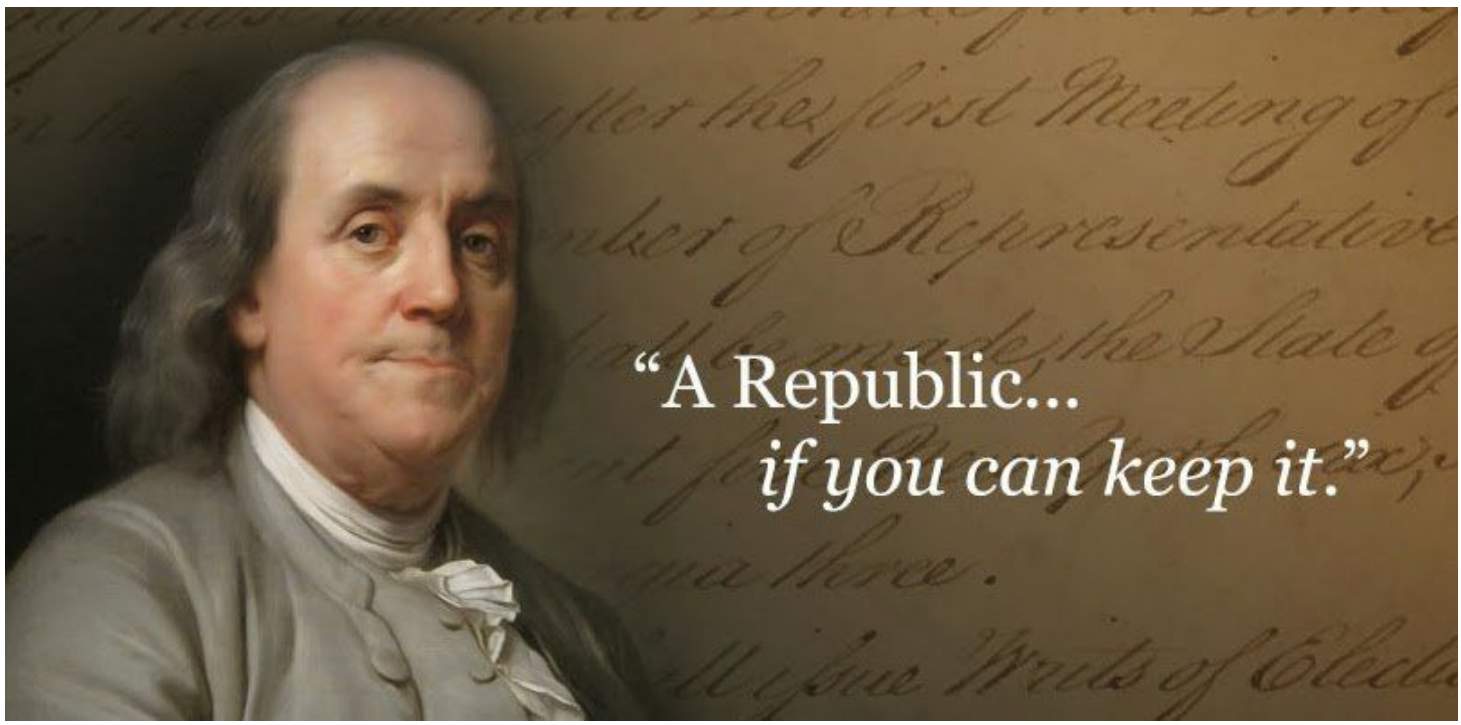
The Federalist Papers

- No. 15: government exists because of the sin nature.
- No. 55: the need for the electorate and the elected to have good character
- No. 22 & 49: the consent of the people is the fountain of power
- No. 10: representative government checks the tendency of majority oppression
- No. 78: judiciary is supposed to be almost powerless.

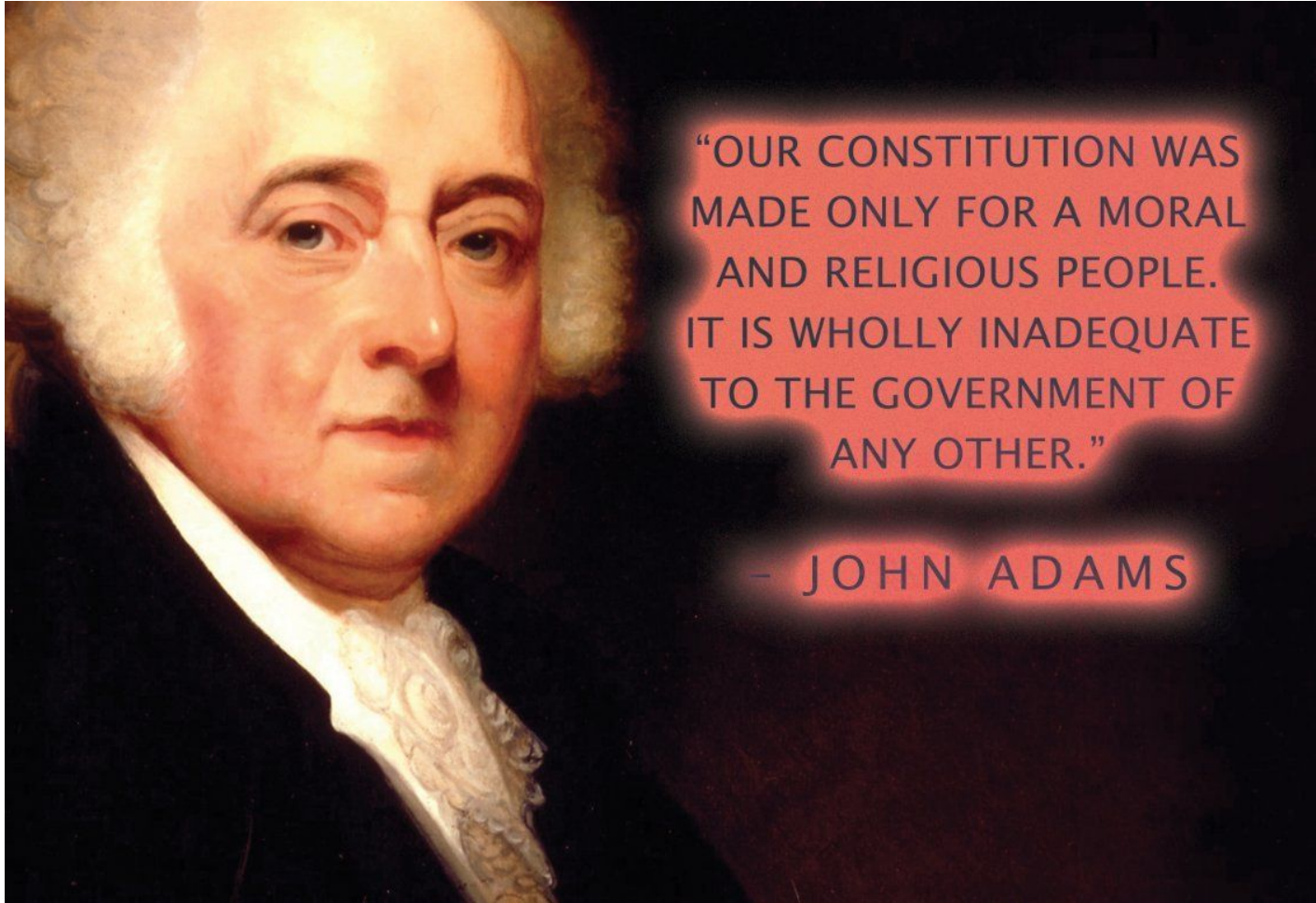


Difference between Democracy and Republic.

- Problem
 - Democracies do not protect individual liberty.
 - Historically, they flux between tyranny and anarchy
 - Prone to disorder, instability, and violation of the rights of individuals
- Remedy
 - Separation of Powers
 - Checks and Balances
 - Independent Judiciary
 - Representation
- **Key: Represent the consent of the governed and also protect the rights of the individual.**



“A Republic...
if you can keep it.”



“OUR CONSTITUTION WAS
MADE ONLY FOR A MORAL
AND RELIGIOUS PEOPLE.
IT IS WHOLLY INADEQUATE
TO THE GOVERNMENT OF
ANY OTHER.”

– JOHN ADAMS

In Review

1. Biblical Foundations for government
2. Foundations of the Constitution
 - a. Rooted in English history, the Declaration of Independence, and the failed first attempt
 - b. Also rooted in the Founders' biblical understanding of man and government.
3. The Constitutional Convention- “The Miracle at Philadelphia”
4. Democracy vs. Republic



Upcoming Weeks

The Three Branches of Government, how the Constitution laid them out, and how they have changed/evolved over the course of our history:

-9/24: Article 1–The Legislative Branch

-10/1: Article 2–The Executive Branch

-10/8: Article 3–The Judicial Branch

–And the amendments