

CONTENTS

Preface - *xv*

Introduction - *xviii*

Part I

America's Impending Suicide - 1

Chapter 1 – Ignorance and Disdain: The Threat from Within - 3

Part II

America's First Principles and Foundational History - 17

Chapter 2 – America's First Principles - 19

Chapter 3 – Liberty in the Wilderness - 35

Chapter 4 – Revolution! - 43

Chapter 5 – The Crisis - 57

Chapter 6 – The Constitution - 67

Chapter 7 – Extending the Blessings of Liberty to All Races - 111

Chapter 8 – Embracing Gender Equality - 133

Part III

Reclaiming America's First Principles and History - 145

Chapter 9 – Education, Legal, Holiday, Media,

Nonprofit, and Political Reform - 147

Conclusion – The Choice - 169

Endnotes - I

Select Bibliography - XXIII

Index - XXXII

PREFACE

I confess. I have spent over a decade researching, writing, and revising this work. I have done so because I fear that the light of liberty is slowly being extinguished.

Thankfully, the book is finally published. I expect that the ostentatious, and somewhat irreverent, title of the work has raised some eyebrows. Good. As a nation we are asleep and decaying. Time to awake or lose everything. I, for one, am not willing to fade quietly into the night. Join me.

INTRODUCTION

The Independence of America, considered merely as a separation from England, would have been a matter of but little importance, had it not been accompanied by a Revolution in the principles and practice of Governments. She made a stand, not for herself only, but for the world, and looked beyond the advantages herself could receive. Thomas Paine, *The Rights of Man* (1792).

Happily for America, happily we trust for the whole human race, [the Founding Fathers] pursued a new and more noble course. They accomplished a revolution which has no parallel in the annals of human society. They reared the fabrics of governments which have no model on the face of the globe. James Madison, *The Federalist*, No. 14 (1788).

America is slowly committing suicide. That we are doing so is not obvious. Indeed, most might consider this conclusion to be myopic if not outright outlandish in light of our apparent economic, cultural, and military dominance in the world. Certainly most consider America to be all but invulnerable, and that whatever serious threats we face will arise from outside our borders. In fact, one casually examining the title of this work might expect it to focus on militant Islamist terrorists or the awakening Asian giants China and India.

Contrary to popular wisdom, the most serious threat to America does not spring from overseas. Because the threat is from within, it is much more subtle. This peril lingers and silently brews under the surface. Virulent, this contagion slowly spreads – infecting ever greater parts of the body politic. Like a phantom, the crisis is everywhere – but elusive. We vaguely sense there is something amiss, but are unable to pinpoint it. When our attention is captured by the news entertainment of the day, we put aside our unease. After all, there is no big event to follow. There are no lurid details of deaths or sexual affairs to draw our curiosity. This menace eludes capture on video; it is not easily emblazoned on the headlines of newspapers.

At the core of this menace is something exceedingly simple. In our cyber-speed lives, what should be open and obvious is hidden. This is so because the danger involves a crisis of the American spirit. In short, there is widespread, pure, and unadulterated ignorance and disdain of the founding principles and history of America. Our self-evident truths have become neither. This state of affairs imperils our very survival; and these are self-inflicted wounds – the very definition of suicide.

This book is written with the perhaps naïve hope that our leaders and citizens will awaken. In essence, this work is intended to serve as a “one stop, full-service” primer to sound the alarm about the impending suicide of America and to outline the means to stop it. Part I documents the severe depth of the challenge we face by surveying the overwhelming evidence of the rampant ignorance and disdain of American history and our First Principles. Part II clearly and concisely reviews America’s First Principles, and how the First Principles are the foundation of the American Revolution, the United States Constitution, and the great civil rights movements. Part III offers specific recommendations to stop America’s suicide. These recommendations include education, legal, media, holiday, nonprofit, and political reform. Each Part has its own independent value, and in some sense stands alone. Together, they provide what we need to stop us from drinking our collective hemlock.

PART I

AMERICA'S IMPENDING SUICIDE

At what point then is the approach of danger to be expected? I answer, if it ever reach us, it must spring up amongst us. It cannot come from overbroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide. Abraham Lincoln, *Address to the Young Men's Lyceum of Springfield, Illinois* (1838).

An ignorant people will never live long under a free government. They will soon become slaves, or run into anarchy. Zabel Adams, *An Election Sermon* (1782).

Chapter 1

Ignorance and Disdain: The Threat from Within

Only lay down true principles, and adhere to them inflexibly. Do not be frightened into their surrender by the alarms of the timid, or the croakings of wealth against the ascendancy of the people. . . .

A departure from principle in one instance becomes a precedent for a second; that second for a third; and so on, till the bulk of the society is reduced to be mere automatons of misery, to have no sensibilities left but for sin and suffering. Thomas Jefferson, *Letter to Samuel Kercheval* (1816).

-
- America was founded on First Principles
 - Striving to fulfill our First Principles has made America a free, just, and great nation
 - Politicians, the media, educators, academics, the legal profession, and the general public generally ignore or even attack our First Principles and history
 - By ignoring and denigrating our First Principles and history, America is slowly committing suicide
 - Only by reinvigorating our understanding of America's First Principles and history can we survive and prosper

We are the first, perhaps the only nation that holds as self-evident truths that all men and women are created equal and are endowed by their Creator

with certain unalienable rights; and that governments are instituted to protect those rights and derive their just powers from the consent of the governed. Stated differently, America was founded on certain First Principles:

- (i) The rule of law;
- (ii) The recognition and protection of the unalienable rights of individuals;
- (iii) The equality of individuals;
- (iv) The Social Compact (*i.e.*, that governments are instituted by the people and derive their just powers from the consent of the governed); and
- (v) The protection of unalienable rights as the legitimate purpose and limit of government (*i.e.*, the government must have the authority and strength to protect the unalienable rights of the people, but only have such power as is necessary to fulfill that purpose).

Our *Declaration of Independence* explains that these foundational ideas were the philosophical underpinning of the American Revolution. Once independence was secured, the Founding Fathers labored to ensure that the Constitution became the living embodiment of a government based on these First Principles.

The Founding Fathers often referred to America as a great experiment in government and society. The experiment was to determine whether a government established on First Principles could survive and prosper. Fortunately for their posterity and the world, the experiment was an unparalleled success.

Indeed, guided by these First Principles, America became not only a free and just nation, but the exemplar for the world. Driven by the aspiration to fulfill our First Principles, the country at great cost abolished slavery, enfranchised women, reformed electoral politics, and enacted other major political reforms. Enabled by our First Principles, free men and women sparked scientific, social, and economic innovations and movements profoundly changing the world. Despite our shortcomings, America is a singularly exceptional nation – and that exceptionalism arises, in large measure, from our embracing the First Principles and striving to make them reality.

Armed with these First Principles, America also swept away the Old World order, conquered fascism, and won the Cold War. Much to the chagrin of his critics, in 1981 President Ronald Reagan boldly predicted at the University of Notre Dame that America would not only contain communism, but transcend it. Fulfilling that prophesy, America overcame communism with the fruits of a free society: a booming economy, break-through technology, a strong military, and a spirited people united to maintain their freedom. The people, building upon the strong foundation of a just and free government, reveal – and revel in – the marvels of a free society. Freedom of religion and a deeply religious people; free enterprise and competition; vigorous free thought and creativity; the drive to succeed and charity; the spirit of adventure and discovery; invention and innovation; daring risk taking and rewards; and the opportunity to succeed and advance based on merit are all critical components of American society that flourishes because of our adherence to the First Principles.

Despite our shortcomings, America has no superior in manufacturing, design, engineering, agriculture, commerce, finance, military might, volunteerism, research, technology, medicine, entertainment, media, sports, and literature. America is the most wealthy and powerful nation in history, and its greatness springs from the work of free citizens. Greatness, however, is not a reason in itself to follow the First Principles. After all, “greatness” in the eyes of some may also be achieved through military junta, totalitarianism, or communism. The First Principles are an end in themselves because they preserve the unalienable rights of each individual by creating a free and just society – the true purpose of government.

Perhaps as important as our past achievements is our everlasting desire to improve our society. This unceasing striving for perfection separates us from all other nations in history – it is as much the striving as the doing. We *seek* to be a free and just people. In struggling to fulfill that promise, we inspire not only ourselves but the world. Our First Principles are a beacon of light – a flame of liberty – that move our nation and the world. Echoing the sentiments of the Founding Fathers and the Gospels, President Reagan often remarked that we are a great “City on the Hill” to which billions even now aspire.

The American experiment now teeters on the brink of collapse. We have all but forgotten the exceptional nature of America. We are nourishing our

freedoms on the fruits sown and nourished by our forefathers. Studies reveal that the public is ignorant of key concepts and principles of our constitutional order.¹ Despite the importance of the First Principles, our political elite, media, public, and educators have all but forgotten or rejected them.

Fashionable politicians have become adept in wrapping themselves in the flag and spouting patriotic sound-bites. Yet most political leaders do not appear to know or understand our First Principles or history. They certainly do not seriously discuss or consider them when addressing the issues of the day. Others in the political elite simply believe that our founding principles should be relegated to backwater history courses and dusty library books. Presidential and congressional campaigns engage in a broad range of topics, but almost never mention or address our First Principles. To observe that our political dialogue has degenerated into an exercise just short of name calling, is chock full of poisonous partisan wrangling, and often is nothing more than the politics of personal destruction, is to simply state the obvious. Almost by happenstance a rare leader may stumble into an argument well-grounded in our history and First Principles. Stumbling into principles and history, however, is hardly sufficient to preserve our constitutional liberties. Almost all of our current political discourse ignores our First Principles and history out of ignorance, convenience, or disdain.

Much of the mainstream media is also blissfully unaware of anything approaching history or foundational principles. Rapt by the soap opera lives of celebrities, the bizarre antics of the maladjusted, the crime of the day, the scandal of the week, the protest or gaffe of the month, and the blistering invective of politicians, the media have all but ignored serious probing of our political state of affairs. In fact, most of the media is so preoccupied with short-term attention-grabbing headlines that it completely glosses over the long-term systematic challenges facing the country. The mainstream media almost never address the historical underpinnings or processes of government, or how they are relevant to the issues of the day.

Even when presented with historic opportunities to explore America's rich history, the media choose to highlight the inane, banal, emotional, and trivial. Mainstream news coverage of watershed events such as impeachment, elections, terrorism, the Iraq and Afghanistan Wars, massive new social programs, the growing entitlement crisis, Supreme Court nominations, record-breaking trade deficits, the War on Terror, and nuclear proliferation has been and contin-

ues to be dominated by personalities, fashion, glib remarks, gossip, and a hodgepodge of ill-informed commentary. All of these events and issues presented (and some continue to present) an excellent backdrop by which to explore the meaning of the rule of law, the Social Compact, equality, unalienable rights, and the purpose and limitations of government. Most of the mainstream media has squandered the opportunity to inform and challenge the public. Coverage of our First Principles is simply verboten.

Similarly, most people are ignorant of our First Principles. Since the start of the War on Terror, crowds began to once again proudly wave the American flag and sing songs of patriotism. In fact, Americans are the most patriotic citizens of all.² Yet many even struggle to recall the words of *The Star Spangled Banner* – or that it is the national anthem.³ More important, their understanding of what the flag represents and the meaning of patriotic songs are often very shallow. For example, 41% of the people appear clueless about the Bill of Rights.⁴ Less than half understand that there are a hundred Senators.⁵

Although more than half of Americans can correctly identify two of the five main characters from *The Simpsons*, less than a third can correctly identify two of the major five First Amendment rights.⁶ Only one in a thousand can correctly identify five of the rights protected by the First Amendment.⁷ Barely half of Americans can correctly identify the three branches of government, less than half the meaning of separation of powers, and again less than half the role of the judiciary in the federal government.⁸ Most Americans instinctively believe in a republican form of government, but not many understand the philosophical and historical origins that compelled the Founders to fight for and adopt such a system. Similarly, too few of our citizens understand the roles of the judiciary, legislature, and executive, and even fewer can explain how checks and balances, enumerated powers, and separation of powers interact to protect our freedom.⁹

Not only are citizens ignorant, they are unaware and unconcerned about their ignorance. Most Americans spend more time engaged with game shows, reality television, technology, hobbies, sports, and entertainment gossip than on our political system. Critical thinking about our political issues and public affairs is rare. Although significant numbers of well-intentioned citizens are engaged in some manner in public policy, that participation is often ill-informed and shallow. Many are disillusioned – perhaps rightly so – about the role of public

service and the political process. Like our politicians, much of the American public is blissfully unaware of the importance of our First Principles.

Americans are also disengaged. As one report explains, “Americans have turned away from politics and the public sphere in large numbers, leaving our civic life impoverished. Citizens are participating in public affairs less frequently, with less knowledge and enthusiasm, in fewer venues, and less equally than is healthy for a vibrant democratic polity.”¹⁰ Another study notes that “[t]here is an abundance of literature on the general decline of civic engagement among Americans.”¹¹ Indeed, the “vast majority” of the leading “indicators of civic health show troubling declines over the last thirty years.”¹² This disengagement has become particularly exacerbated and troubling in young adults¹³ and high school dropouts.¹⁴ The great bulk of Americans are unprepared to be responsible and active citizens.

This is not surprising given the abject performance of our schools in teaching American history and civics.¹⁵ Only slightly more than a quarter of high school seniors are considered proficient in civics.¹⁶ Stated another way, nearly 75% of high school seniors are incompetent to be citizens. As but one poignant example, only 5% of high school seniors can adequately explain checks on the President’s power.¹⁷ Over 70% of eighth graders are unable to explain the historical purpose of the Declaration of Independence, and more than half of high school seniors fail to satisfactorily describe the meaning of federalism.¹⁸

Only 13% of high school seniors are considered proficient in American history, and more than half are below the “basic” level.¹⁹ Over 85% of high school students are unable to explain a reason for America’s involvement in the Korean War, and 99% of eighth grade students are incapable of explaining how the fall of the Berlin Wall affected American foreign policy.²⁰ One of the members of the governing board of the National Assessment of Education Progress (NAEP) has acknowledged that the test results of high school students in American history are “abysmal.”²¹ Likewise, yet another study reveals that high school students possess fundamental misunderstandings of our free speech and press rights.²² Most state standards for civic education are incomplete, poorly drafted, vague, unprioritized, and vacuous.²³ History standards fare no better.²⁴

Over the last generation the amount of time high schools dedicate to civics and social studies has plummeted.²⁵ Meanwhile, a renewed emphasis on

reading, math, and science has further pushed history and civics to the sidelines.²⁶ No wonder that a recent study by the National Conference for State Legislatures concluded that “young people do not understand the ideals of citizenship, they are disengaged from the political process, they lack the knowledge necessary for effective self-government, and their appreciation and support of American democracy is limited.”²⁷

By examining just one state – Michigan – we can begin to understand the crisis. Of the 106,866 high school students in the class of 2005 who took the social studies assessment test, 70,715 students (66%) failed to meet or exceed state standards; and 39,770 students (37%) were in the lowest category of assessment. Only 1331 students (1%) tested in the highest category of assessment. Meanwhile only 30% of eighth graders and 26% of fifth graders met or exceeded state standards. These are not simply statistics – they are our future leaders, clergy, judges, educators, soldiers, workers, managers, professors, volunteers, civil servants, firefighters, police, and voters. More shocking, of the 9,761 African American high school students who took the exam in 2001, 9,134 students failed to meet or exceed state standards, and eight – only eight – exceeded them.²⁸ Again, these are not simply statistics. These students are the future not only across the nation and Michigan, but most especially in the urban centers of Detroit, Lansing, Pontiac, and Flint. Michigan is not alone.²⁹

The crisis does not stop in our fine institutions of higher learning. Nearly 80% of the seniors at fifty-five top colleges and universities, including Harvard and Princeton, received a D or F on a high school level American history test.³⁰ In fact, our colleges and universities generally “fail to increase knowledge about America’s history and institutions.”³¹ Seniors at some Ivy League colleges actually know less than they did as freshmen; in other words, such institutions have a negative effect on historical knowledge.³² Studies reveal that today’s college graduates are no better prepared than high school graduates were fifty years ago.³³

Our experiment in self-government, however, requires a vibrant understanding of our principles and engagement by an informed public. Most nations in world history were (and are) bound together by ethnicity, language, religion, custom, geography, or military might. Beginning anew, America was founded on a set of First Principles. Paraphrasing Abraham Lincoln, outgoing New York Mayor Rudolph Giuliani observed in his farewell address

“that the test of your Americanism was not your family tree; the test of your Americanism was how much you believed in America. Because we’re like a religion really. A secular religion. We believe in ideas and ideals.”

Our political elite, media, educators, and public need to be well-informed about history, the First Principles, and the issues of the day to ensure that the republic functions effectively. Unlike a totalitarian dictatorship or authoritarian regime, our system is not intended to oppress, control, or exploit the people for the benefit of the governing elite. To the contrary, as Abraham Lincoln explained, ours is a republic of, by, and for the people; and a citizenry well-grounded in the basis of freedom is the only sure safeguard for protecting equality and unalienable rights. As Founding Father Dr Benjamin Rush observed, “Without learning, men become savages or barbarians, and where learning is confined to a *few* people, we always find monarchy, aristocracy, and slavery.”³⁴

Indeed, history is replete with free societies that failed because the people were unable or declined to vigorously defend their freedoms. The Weimar Republic elected Adolf Hitler to power. The Italian parliamentary democracy empowered Mussolini. The French Revolution, dedicated to liberty, equality, and fraternity, degenerated into the Terror and then Napoleon. The Russian democratic revolution morphed into seventy years of brutal Soviet Socialist totalitarianism. America has remained a free and just nation because its people and leaders historically had a deeply rooted understanding of their political rights and the gumption to defend them. So far, Americans have been able to resist the temptations of petty tyrants and utopians offered by an all powerful state. We would be fools to think that it must always remain so.

When they vote, our citizens should understand what they are doing and why. When they participate in politics and agitate for change, our activists should be steeped in our historical traditions. When they fight and die for our country, our soldiers should do so out of a sense of the true greatness of our country – not from a visceral patriotic sense of duty as in Serbia, Chad, China, and Syria – but from deep knowledge and belief in the principles for which they fight. Our citizenry’s ignorance jeopardizes our liberty; as our principles fade away in memory, so does our freedom.

Because we are not tending carefully to the fruits of liberty, they are beginning to rot. Today most Americans hold the government in very low esteem – and they do so because they are alienated, distrustful, and lack confidence

in the very government that is intended to represent them.³⁵ Although one could argue that healthy skepticism about our government is exactly what we need, the skepticism is also a symptom and reflection of the public's sense, however vague, that our government is going askew. Just when an active citizenry is most needed, it has become disillusioned and disengaged. Huge government and trade deficits, political corruption, a poisonous political dialogue, an impending but all but ignored entitlement crisis, a tax code beyond comprehension, controversial foreign policy, the disgorgement of our manufacturing base, seemingly endless red tape and regulations, and an acute educational crisis that has lingered a generation are just some of the most obvious symptoms of the spoiling fruits of liberty.

We unconsciously rely on long-standing constitutional mechanisms to maintain our liberty. We have inherited the auxiliary precautions and critical features of the Constitution which preserve our freedom. By inertia and rote we still elect congressmen to pass laws; appoint our federal (and elect some state) judges to administer justice and review the law; and elect presidents to sign and veto legislation, conduct foreign affairs, and maintain civilian control over the military.

Yet because we have failed to provide consistent and vigorous maintenance of our system, the machine is breaking down. Many doubt whether the government really remains a republic accountable to the people. Many charge that the government is beholden to campaign donors, lobbyists, and special interest groups. Others assert that government policies directly undermine equality, religious freedom, property rights, and freedom from unreasonable search and seizure. Still others question whether the judiciary has been legislating from the bench – against the will of the people – in a quest to implement the judges' vision of enlightened social engineering. Many argue that the regulatory state is suffocating our liberty. Others posit that an imperial presidency is taking hold.

Whether any of these critiques is true is properly reserved for the subject of other works. In fact, each issue is extremely complex and could consume volumes of serious research and thoughtful debate. However, these issues can only be properly examined by those dedicated and insightful enough to review our history and First Principles – and apply those principles and history to current affairs. Instead, we have become enamored with sound-bites, appeals to our emotions, and superficial discussions regarding fundamental issues. Even while our nation is attacked by terrorists because of our exceptional nature,

we ignore or denigrate our First Principles. We are losing our very ability to look to our founding history and principles to help us confront the critical challenges we face.

Some decry this alarm as foolish, since they believe that our First Principles are outdated and irrelevant to the challenges of the 21st century. To the contrary, understanding our First Principles is as critical today as when our republic was founded. At the dawn of the American Revolution, the political leaders who drafted and ratified the state constitutions replacing the old colonial governments often emphasized that “frequent recurrence to fundamental principles” was “necessary to preserve the blessings of liberty, and keep a government free.”³⁶ Time has not eroded the truth of this maxim. The First Principles represent timeless truths that are of the utmost relevance for current policy problems and issues of the day.

Others, however, challenge the very legitimacy of the First Principles. Indeed, some leading academics, journalists, politicians, and social elites directly and indirectly attack our founding principles as irrelevant, backward, and false. Multiculturalists argue that our history is one of oppression and that our civilization is simply one of many equal alternatives. Equating America with military juntas, tribalism, fascism, and communist regimes is commonplace. Some claim, among other things, that the First Principles are Eurocentric, patriarchal, and exploitative. Many academics and social commentators vigorously attack America as unjust, with no discernable understanding of unalienable rights, the Social Compact, or the purpose and proper limit of government. Radio talk show hosts and columnists of all stripes eviscerate judges who simply follow the law as enacted by the legislature, as if the rule of law and republican government were insignificant. Politicians look to what is politically expedient, regardless of whether it supports or denigrates the First Principles.

This malaise is so ingrained in some sectors that on the first anniversary of the September 11 attacks, the National Education Association (NEA) adopted an extraordinarily disappointing approach to this indispensable teachable moment. The NEA’s guidance to teachers on its website was to “create a low-key day of learning” and to plan “affirming activities – like planting memorial trees, doing murals or collages, writing poems or stories.” The NEA advised parents to focus “on lessons learned – appreciating and getting along with people of

diverse backgrounds and cultures, the importance of anger management and global awareness.”

Although perhaps well-intentioned, this vapid counsel hardly did justice to one of the most horrific attacks on America in modern history. The authentic lessons learned – that there are Islamist extremists willing to kill themselves in order to slaughter thousands of innocent civilians because America is the earth’s greatest hope for liberty and freedom – were simply ignored. The anniversary should be solemnly dedicated to reaffirming America’s enduring principles – not trite and banal feel-good exercises.³⁷ The NEA’s approach is symptomatic of a broader discomfort, if not downright loathing, of many educational leaders with promoting America’s First Principles or a fair rendition of American history.

In fact, some educators have become stridently hostile to American civics and history. In a move so bold that Stalin, Hitler, and bin Laden could not even have dreamed of it, in 2006 the Michigan Department of Education’s Social Studies Consultant and her supervisor announced that teachers should stop using the very words “America” and “American” in the classroom because: “It is ethnocentric for the United States to claim the entire hemisphere.” Concerned that the sensibilities of Canadians, Mexicans, Cubans, and Brazilians would be offended, the Michigan Department of Education attempted to banish words that capture our very spirit. Fortunately, once this travesty was exposed in a guest commentary in *The Detroit News*, lambasted in the editorial pages, and extensively criticized on talk radio and elsewhere, the Department (after a few fits and starts) retreated.³⁸ However, the incident is but one blatant example of a strong undercurrent of anti-Americanism in education.

As the ill-advised attempts of the NEA and Michigan Department of Education illustrate, too many Americans take for granted the freedoms they enjoy while ignoring the dire need of our system to be reinvigorated and protected by those enjoying its blessings. The First Principles have transcended their original historical context and have been the engine of great social, political, and economic progress – resulting in phenomenal expansion of freedom and momentous improvement in racial, gender, social, and economic equality. As Part II will reveal, the unfulfilled promise of the First Principles is what motivated and drove America to eliminate slavery, enfranchise racial minorities and women, and strive for racial, social, and gender justice. Nearly universally ignored today is the critical maxim and warning that “The corruption of every

government generally begins with that of its principles.”³⁹ Those who ignore and denigrate our First Principles are aiding and abetting the corruption of America from within.

In addition to our domestic challenges, we face militant Islamist terrorists intent on destroying America. Like the USSR and Nazi Germany in the past, today’s terrorists attack America because we are the living model of a free and just society.⁴⁰ In other words, the terrorists attack America because of the ideals by which we live and the foreign policy that reflects those ideals. Our struggle is most important, therefore, because of what we fight for. After all, any people – even one oppressed by a brutal dictatorship – will defend their nation when it is under attack from a foreign enemy. Unlike dozens of other armed conflicts around the world, defending the American dream makes our current struggle paramount to the future of just and free civilization. The terrorists will inevitably lose any shooting war, perhaps at great cost to our nation; but America will have suffered a greater loss if we slip into political amnesia. Put another way, what is the purpose of winning the war if we no longer care to remember the very ideals that provoked the attack of September 11?

Our greatest challenge is no longer a foreign nation or even terrorists armed with weapons of mass destruction, but preserving our liberty despite ourselves. The most powerful weapons against America are not guns and missiles, but ignorance, complacency, and disdain of our history and First Principles. America is dangerously close to allowing the flame of liberty to die out. We are patriotic, but have almost forgotten why. We are becoming puppet patriots – hollow and empty in meaning.⁴¹

Let there be no mistake. We may be fighting a hot war against militant Islamist terrorists today, but there is also a cold war raging, right here and right now, for the hearts and minds of our citizens – and we are losing. The terrorists have reminded us that some things are worth dying for. The rule of law, equality, empowering the people, unalienable rights, and limited government are such things. Our freedom was won with the blood and treasure of hundreds of thousands of our forebears. We must not allow their sacrifices to have been in vain. The crisis is here. We must dedicate ourselves to fanning the flame of liberty or risk it dying out. The terrorists, and all enemies of freedom, will win if we simply forget, or reject, what we are and the principles for which we stand. We cannot let those who hate America win

by default. Simply put, we surrender when we abandon our First Principles. Political amnesia will be our death knell.

If we are to preserve our liberty and pass it on to posterity, we must rediscover and re-embrace our First Principles. The purpose of this work, therefore, is to reeducate our citizens about the First Principles so that we may fan the flame of liberty and reinvigorate the American dream for generations to come.

PART II

AMERICA'S FIRST PRINCIPLES AND FOUNDATIONAL HISTORY

We owe every other sacrifice to ourselves, to our federal brethren, and to the world at large, to pursue with temper and perseverance the great experiment which shall prove that man is capable of living in society, governing itself by laws, self-imposed, and securing to its members the enjoyment of life, liberty, property, and peace; and further to show, that even when government of its choice shall manifest a tendency to degeneracy, we are not at once to despair but that the will and the watchfulness of its sounder parts will reform its aberrations, recall it to original and legitimate principles, and restrain it within the rightful limits of self-government. Thomas Jefferson, *Draft Declaration and Protest of the Commonwealth of Virginia, on the Principles of the Constitution of the United States of America, and on the Violations of Them* (1825).

Part I of this book documents the crisis of ignorance and disdain America faces. Several complementary strategies to confront the crisis are detailed in Part III. However, to successfully implement those recommendations, we must understand our First Principles. We also must understand how they

became the driving force of the American Revolution, the Constitution, and the civil rights movements – including the key figures and events that undertook such tremendous struggles. Unfortunately, the predominant textbooks and other major works fail to comprehensively, clearly, and fairly explain the First Principles and American history.⁴² This part, therefore, provides such knowledge with the expectation that policy makers, media, educators, the legal profession, nonprofit organizations, and the general public will use it to follow and implement the recommendations outlined in Part III.

Chapter 2

America's First Principles

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 a new Government, laying its foundations on such principles and organizing its powers in such form, as to them shall seem likely to effect their Safety and Happiness. *Declaration of Independence of the United States of America* (1776).

- The *rule of law* is a First Principle that mandates that the law governs everyone
 - The First Principle of *unalienable rights* recognizes that everyone is naturally endowed by their Creator with certain rights
 - *Equality* is a First Principle that recognizes that all persons are created equal
 - The First Principle of the *Social Compact* recognizes that governments are instituted by the people and derive their just powers from the consent of the governed
 - The First Principle that the *protection of unalienable rights is the legitimate purpose and limit of government* requires the government to be strong enough to fulfill its purpose yet limited to that purpose
-

John Adams, Founding Father and second President of the United States, observed in 1776 that “We ought to consider what is the end of government, before we determine which is the best form.”⁴³ Adams’ prescription is peculiarly American. The United States of America, after all, was the first modern nation that founded its government on the basis of an end – the preservation of freedom.

America’s First Principles arose from a revolutionary understanding of politics and government originating from English philosophers such as Thomas Hobbes, John Locke, John Milton, Algernon Sidney, and the Radical Whigs (the radical wing of the English parliamentary opposition during the 1700s).⁴⁴ The Founders’ political philosophy holds that adherence to certain First Principles is a prerequisite to a free and just government. Each First Principle is an indispensable cornerstone of the American Republic; and each must be well-understood to secure our freedoms and continue the success of our grand experiment in self-government.

THE RULE OF LAW

For much of history, justifying the ruling government went no further than the point of a sword. As John Adams described, “In the earliest ages of the world, absolute monarchy seems to have been the universal form of government. Kings, and a few of their great counselors and captains, exercised a cruel tyranny over the people. . . .”⁴⁵ Thomas Jefferson, writing to Adams, added that with possible exception of the Dutch, “Either force or corruption has been the principle of every modern government. . . .”⁴⁶ Rulers mostly governed through fear – there were no citizens, only subjects beholden to the ruler. “When Louis XIV said, ‘I am the state,’ he expressed the essence of the doctrine of unlimited power,” the great orator and politician Daniel Webster said. “By the rules of that system, the people are disconnected from the state; they are its subjects; it is their lord. These ideas, founded in the love of power, [were] long supported by the excess and abuse of it. . . .”⁴⁷

Rulers often proffered some justification for their rule, such as divine right. However, as a practical matter, Pharaoh and King, Czar and Baron, and Daimyo and Emperor ruled by force. Such government still exists – Burma, Vietnam, Libya, North Korea, and Cuba are just a few examples where oppressive re-

gimes continue to rule the people by the barrel of a gun. The Founding Fathers, however, believed that power is not justification, only explanation. Simply put, governments maintained by violence or the threat of violence are illegitimate and unjust. As Jefferson concisely observed, “force cannot give right.”⁴⁸

Even well-meaning rulers are likely to be corrupted when not required to obey the law. “Good laws make a good prince,” observed Thomas Gordon, a leading English Radical Whig who was very influential in colonies, because even “the best men grow mischievous when they are set above laws. . . . There is something so wanton and monstrous in lawless power, that there scarce ever was a human spirit that could bear it. . . .”⁴⁹

The Founders, therefore, understood as an “eternal truth” that the rule of law is a fundamental principle “upon which every free, honest, and legal government must stand. . . .”⁵⁰ John Adams explained the Founders’ understanding when he wrote that good government and the very definition of a republic “is an empire of laws.”⁵¹ Adams’ distant cousin, Samuel Adams, noted that the “first principles of natural law and justice” include that the government “has no right to absolute arbitrary power over the lives and fortunes of the people . . . but it is bound to see that Justice is dispensed, and that the rights of the subjects be decided, by promulgated, standing and known laws. . . .”⁵²

Setting aside the tyranny of the past, George Washington could accurately remark that the American system “is purely, a government of Laws made and executed by the fair substitutes of the people alone.”⁵³ In America, the government is to govern the citizenry according to the law, not by the whims or fancies of the men and women who happen to hold positions of power at any given moment. By requiring our political leaders to enact and publish the law, and to adhere to the same law that applies to each citizen, the rule of law acts as a strong barrier against tyrannical and arbitrary government.⁵⁴

One potent example of the nation’s adherence to the rule of law was the unprecedented resignation of President Richard Nixon in 1974. Proving that even the most powerful man in the world is not above the law, constitutional processes forced Nixon to resign when his re-election campaign’s burglary of the Democratic National Committee’s headquarters at the Watergate and his attempts to cover up the crime were exposed. Vice President Gerald Ford was sworn in as the President. Ford assured the country at his swearing-in ceremony that Nixon’s resignation and his assumption of power was an affirmation of the rule of law. “My fellow Americans, our long national nightmare is over,” Ford

eloquently observed. “Our Constitution works. Our great Republic is a government of laws and not of men.”⁵⁵ Nothing proved Ford’s words more true than Nixon’s resignation and Ford’s seamless assumption of power.

The rule of law also requires that the same law govern all citizens. Samuel Adams observed that the rule of law means that “There shall be one rule of Justice for the rich and the poor; for the favorite in Court, and the Countryman at the Plough.”⁵⁶ United States Supreme Court Justice John Marshall Harlan similarly reflected that “in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. . . . In respect of civil rights, all citizens are equal before the law. The humblest is the peer to the most powerful.”⁵⁷

That our citizens must abide by the law is essential to the rule of law. In his *Farewell Address* (1796), Washington observed that “The very idea of the power and right of the People to establish Government presupposes the duty of every Individual to obey the established Government. All obstructions to the execution of the Laws . . . are destructive of this fundamental principle and of fatal tendency.” Abraham Lincoln reaffirmed Washington’s view by recognizing that the failure of our citizens to adhere to the law would lead to chaos and anarchy. In his famous *Speech Before the Young Men’s Lyceum of Springfield, Illinois* (1838), Lincoln pleaded: “Let every American, every lover of liberty, every well-wisher to his posterity swear by the blood of the Revolution never to violate in the least particular the laws of the country, and never to tolerate their violation by others.” He explained that adherence to the rule of law, even in the face of unpopular or unjust laws, was critical to preserving freedom and liberty:

As the patriots of seventy-six did to the support of the Constitution and the laws let every American pledge his life, his property, and his sacred honor. Let every man remember that to violate the law is to trample on the blood of his father, and to tear the charter of his own and his children’s liberty. . . . And, in short, let it become the political religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay of all sexes and tongues and colors and conditions, sacrifice unceasingly upon its altars. . . .

When I so pressingly urge a strict observance of all the laws, let me not be understood as saying there are no bad laws, or that grievances may not arise for the redress of which no legal provisions have been made. I mean to say no such thing. But I do mean to say that although bad laws, if they exist, should be repealed as soon as possible, still, while they continue in force, for the sake of example they should be religiously observed.

Echoing Lincoln's remarks nearly 130 years later, President John F. Kennedy insightfully observed that "Our nation is founded on the principle that observance of the law is the eternal safeguard of liberty and defiance of the law is the surest road to tyranny."⁵⁸

By requiring our leaders and citizens to be governed by the same law, the rule of law is the foundation of all of our liberties. The Constitution and the law, after all, would be irrelevant if they did not authentically govern our political leadership and citizenry. As Dr Joseph Warren, a leading colonial figure of the movement toward the Revolution, remarked, "If charters are not deemed sacred, how miserably precarious is everything founded on them."⁵⁹ Nothing is more common in modern history than a government that crushed the freedom of its citizens despite a piece of paper, labeled a constitution, purportedly prohibiting the government's oppressive actions.

The entire American constitutional order designed to secure our freedom presupposes the rule of law. Washington explained in his *Farewell Address* that "Respect for [the Constitution's] authority, compliance with its Laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty." Due process, freedom of speech, freedom of religion, freedom from arbitrary arrest and searches, the right to vote, and all other individual rights are animated by the rule of law and lifeless without it. Structural protections such as the separation of powers and checks and balances are vacuous "parchment barriers" without a vigorous dedication to their enforcement.⁶⁰ Without an underlying commitment to the rule of law, courts do not dispense justice because their decisions are not based in the law, but on personal preferences; the legislature does not enact the will of the people, but its own whims; and the executive does not enforce the law but its own

desires. Accordingly, that we shall have “a government of laws and not of men” is the bedrock of the First Principles.⁶¹

UNALIENABLE RIGHTS

The *Declaration of Independence* proclaims that another First Principle is a self-evident truth: “all men are endowed, by their Creator, with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.” This precept was nurtured in the Founding Fathers by John Locke and other English natural law philosophers. Jefferson explained the essence of the Founders’ understanding regarding this First Principle: “a free people claims their rights as derived from the laws of nature, and not as a gift from their chief magistrate.”⁶² That this principle forms much of the philosophical bulwark of our founding is evidenced by its recognition not only in the *Declaration of Independence*, but in the state constitutions adopted during and in the aftermath of the Revolution.⁶³ Thus, a basic maxim of American government is the recognition that some rights derived from Nature may not be taken or violated by the government.

This First Principle and its sources turned topsy-turvy the prior understanding of authority and rights. Putting aside a few ancient democracies and republics, Kings and nobility historically were the origin of authority (*i.e.*, the sovereign), and they granted rights and privileges to their subjects. The privileged class was the sole power and authority, and the people held their liberties at the pleasure of the rulers. Even in England, perhaps the most enlightened country at the time of the Revolution, the King was considered supreme. While the House of Commons was, in a limited sense, intended to recognize the rights of the people, it was only one of three branches of government, and both the monarchy and the House of Lords possessed enormous authority that was derived from blood and heritage.

Although the Radical Whigs and a smattering of English parliamentarians embraced the concept that the people were (or should be) sovereign, nearly no one supported abolishing the monarchy and the House of Lords (and both exist even today). The political reality in England and across the globe at the time of the Revolution – and for most of the world throughout history

– was that the people were not the sovereign, but the ruled. This is why residents of the British Empire were not referred to as citizens, but subjects.⁶⁴

Nevertheless, America boldly proclaimed at its birth that some rights were endowed by man’s very nature – and that individuals are incapable of relinquishing them. Because these rights are endowed in people from Nature’s God, they are inherent in each individual and cannot be abandoned – in other words, such rights are unalienable. These unalienable rights are so important and intrinsic to humanity that no person can forfeit them by simply consenting to live under the rule of a government.⁶⁵ John Dickinson – an early American colonial opponent of tyrannical British actions – powerfully expressed this understanding in 1766:

We claim [rights essential to happiness] from a higher source – from the King of kings, and Lord of all the earth. They are not annexed to us by parchments and seals. They are created in us by the decrees of Providence, which establish the laws of our nature. They are born with us; exist with us; and cannot be taken from us by any human power without taking our lives. In short, they are founded on the immutable maxims of reason and justice.⁶⁶

John Adams likewise explained that the people possessed rights that were “undoubtedly, antecedent to all earthly government – *Rights*, that cannot be repealed or restrained by human laws – *Rights*, derived from the great Legislator of the universe.”⁶⁷ Like many other state constitutions adopted during and after the Revolution, the Virginia Bill of Rights, drafted by the influential revolutionary leader George Mason (and adopted just prior to the *Declaration of Independence*), proclaimed that all men “by nature . . . have certain inalienable rights, of which, when they enter into a state of society, they cannot, by any compact, deprive their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.”⁶⁸

In other words, “the sacred rights of mankind,” Alexander Hamilton observed, “are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole *volume* of human nature, by the hand of divinity itself, and can never be erased or obscured by

mortal power.”⁶⁹ Thus, the recognition and protection of unalienable rights is a centerpiece of America’s First Principles.

EQUALITY

The Founding Fathers based a further First Principle upon another self-evident truth recognized in the *Declaration of Independence* – that “all men are created equal.” The Founders embraced the Judeo-Christian understanding of the Creator – an understanding that the Creator created all individuals, that each person arises from His handiwork, and that every person embodies His blessing.

Regardless of physical and mental differences between individuals, and despite disparities in wealth or station, each individual, as His creation, is equally precious in His eyes. Each person has dignity before God; and no person is elevated above his fellow man. Most important, each is loved equally by the Creator, and each is judged by his or her deeds and intentions. Thus, putting aside the theological briar patch of predestination, each has an equal opportunity to obtain redemption from sin or damnation, and each chooses his or her own path.

While this First Principle originally arose from a belief in the nature of the Creator, the laws of nature lead many to the same conclusion. Undoubtedly, human evolution and nature have created subtle (or sometimes, not so subtle) differences in each person, yet nature itself grants each individual the right to pursue his or her needs and desires. To compete in a state of nature, each person possesses the same opportunity – the same right embedded in his or her very nature – to maintain his or her survival and to pursue happiness.

If the beasts of nature are equally free to engage in the struggle for survival without Nature’s God imposing capricious restrictions on their actions, then men are entitled to no less. More precisely, in a state of nature, all individuals are equal not because of their capabilities (in which case all persons are unequal, having different capabilities), but because they are entitled to at least plan, desire, and attempt to undertake the same actions as all others. Inevitably the results will differ, but the ability to pursue like goals are not denied by nature. Likewise, the state of nature dictates that all persons are

entitled to nurture their families, to establish and defend a home, secure their liberty from attack from nature or other persons, and to pursue happiness.⁷⁰

By embracing the First Principle of equality, the Founding Fathers once again rejected the deliberately inequitable regimes dominating the globe in their time. Inequality codified in the law was a cornerstone of government throughout world history. Hereditary nobility and other special classes were almost universally granted special privileges unknown to the common person.

Even in England, the modern birthplace of the rule of law, the law continued to bolster and elevate the nobility. Likewise, in 1776 the French were over a decade away from overthrowing a regime that divided the society into three estates, with the first and second estates (the nobility and clergy) possessing oppressive powers embodied in the law. The caste system defined India; similar divisions were inherent in the other great powers.

Modern history is also replete with such societies. South Africa during apartheid segregated its society by race; the Soviet Union divided its society among classes, ethnic groups, creed, and party; and Nazi Germany committed genocide in the pursuit of Aryan superiority. Whether based on class, caste, religion, race, tribe, ethnic group, economic status, language, party membership, eugenics, or otherwise, governments throughout most of world history have maintained divisions among individuals and groups of individuals. These divisions were often woven into the fundamental law of the society. Such governments were based on the proposition of the inherent inequality of all people.

From its very founding, however, America aspired to embody the First Principle that all men are created equal. Not only did the *Declaration of Independence* affirm this principle, so did the state constitutions that were drafted and ratified following the *Declaration of Independence*. Those constitutions consistently state in some form “That all men are by nature equally free and independent.”⁷¹ In 1863 Abraham Lincoln reaffirmed this founding principle in the *Gettysburg Address* when he explained that the nation was “conceived in liberty and dedicated to the proposition that all men are created equal.”

This equality of each individual, however, is one of rights and opportunity – not results. In other words, as the Fourteenth Amendment states, each individual is entitled to “equal protection of the laws.” This equal protection, however, does not require that the government attempt to equalize the social

status, wealth, and property of individuals. Equality before the law simply requires that each individual, irrespective of race, color, creed, nationality, wealth, social status, religion, and similar characteristics, be treated equally by the government. Wealthy white Lutheran men, therefore, should be subject to the same treatment under the law as poor Muslim women, and vice versa. Combined with the rule of law, this First Principle requires that each person be treated equally under the law, and that the equal protection of the laws be afforded to all.

THE SOCIAL COMPACT

The *Declaration of Independence* also recognizes another First Principle as a self-evident truth: “governments are instituted among men, deriving their just powers from the consent of the governed. . . .” There are two aspects to this First Principle. The first holds that legitimate governments are instituted among the people; the second that the just powers of the government are derived from the consent of the people. Like the other First Principles, the Founders derived much of their understanding of this First Principle from John Locke and other like-minded philosophers.

Locke and the Founders not only believed that all individuals are vested with unalienable rights, they also believed that most rights are not absolute. They understood that the right to grow wheat does not permit one to steal another’s bread. In a state of nature, each person was free to pursue his or her own interests – food, shelter, love, family, material goods – without regard to established rules of conduct. In Utopia, each person would exercise those rights granted by Nature without interfering with the rights of others. However, Utopia is St Thomas More’s fantasy, and conflict is inevitable without established laws and norms of conduct. Cain possessed the right to farm and make offerings to God, but his jealousy did not grant him the right to slay Abel. As the story of Cain and Abel reveals, conflict arises from man’s very nature. After all, there appears to be an infinite number of causes for strife – greed, fear, hate, love, pride, vainglory, competition, desire, lust, religion, resources, power, evil, mental illness, addiction, and jealousy being just some of the more obvious examples.

Of course, as Locke observed, a person unjustly assaulted by another may, by the “fundamental law of nature,” protect himself, his family, and his property.⁷² The result: war. The English philosopher Thomas Hobbes explained in his treatise, *Leviathan*:

Out of civil states, there is always war of every one against every one. Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war, as is of every man, against every man. . . .

In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, or use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing, such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all; continual fear and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.⁷³

Locke, Hobbes, and the Founders posited that to escape such war, individuals united in civil societies and established government to secure the peace by delegating their individual authority to the collective. Locke noted that there could be “no freedom” without a Social Compact of laws, because “liberty is to be free from restraint and violence from others; which cannot be where there is no law.”⁷⁴ James Madison reflected that “If men were angels, no government would be necessary.”⁷⁵ But men are not angels, Hamilton noted, and government becomes necessary to restrain “the passions of men.”⁷⁶

Thus, paradoxically, legal restraints are necessary to preserve liberty. By relinquishing certain rights of nature, an individual gains overall security. Without each individual’s relinquishment of some of his or her natural rights to society, chaos reigns. To secure one’s life, liberty, and property, one has no choice but to unite in a civil society that will defend those rights in exchange for the relinquishment of others. By “entering into the social compact, though the individual parts with a portion of his natural rights,” James Wilson, a leading

Founding Father explained before the Pennsylvania Ratifying Convention, “it is evident that he gains more by the limitation of the liberty of others, than he loses by the limitation of his own, – so that in truth, the aggregate of liberty is more in society, than it is in a state of nature.”⁷⁷

Individuals, therefore, relinquish the right to judge and punish others for wrongdoing and delegate that authority to law enforcement and the justice system. The alternative is vigilantism with all of its accompanying Hobbesian horrors. Similarly, individuals relinquish the right to create their own rules of conduct by delegating that authority to legislators, so that a universal system of laws may provide uniformity, certainty, and consensus in daily life.

The American experiment was founded on this understanding of the Social Compact. The sentiments of Wilson, Madison, Hamilton, and others attending the Constitutional Convention were often echoed in the Revolutionary era. The Massachusetts Constitution, for example, recognized that “The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good.”⁷⁸ That this was a widely held sentiment is confirmed by a passage written by the Constitutional Convention in the letter accompanying the newly drafted Constitution to Congress (1787): “Individuals entering into society, must give up a share of liberty to preserve the rest.”

This understanding that individuals establish the government to protect their rights leads to the second aspect of the Social Compact – that the people form the basis of the government and must consent to give the government its authority. Robert Bates, a delegate to the Constitutional Convention, explained that “In every free government, the people must give their assent to the laws by which they are governed. This is the true criterion between a free government and an arbitrary one.” In reality, no government directly asks each individual to consent to its governance or to approve each exercise of governmental authority. However, in America citizens are free to emigrate or stay; individuals pay taxes which are voted upon by the people; individuals freely take advantage of the security and benefits offered by the state; and the government derives its authority directly from the vote of its people. America clearly embodies the First Principle of the Social Compact.

Perhaps a few ancient cities and short-lived republics justified their governments through the consent of the people, but in the modern age at least,

none explicitly embraced the principle until the establishment of the United States. As James Wilson explained as a delegate before the Constitutional Convention, the Founding Fathers believed that “all authority was derived from the people.” Thomas Paine, a leading American revolutionary, agreed that a government founded upon the consent of the people “is the only mode in which Governments have a right to arise, and the only principle on which they have a right to exist.”⁷⁹ No wonder then that the Revolutionary-era state constitutions declared that “government of right originates from the people, is founded in consent, and instituted for the general good.”⁸⁰ Indeed, the American Revolution was strongly motivated by a defense of this First Principle. The cry of “no taxation without representation” was directly derived from this principle. The Social Compact is an indispensable First Principle.

SECURING RIGHTS: THE PURPOSE AND LIMIT OF GOVERNMENT

The First Principle of the Social Compact generates two logical possibilities regarding the scope and reach of governmental authority: either (i) the sovereign, to preserve the peace and maintain order, is all powerful, or (ii) the sovereign, because it has been granted its power to preserve the unalienable rights of individuals, is limited to possessing only those powers necessary to the accomplish that aim. The choice, at its extreme, becomes absolute power or a limited, free government.

Hobbes’ vision was clear: absolute power. According to Hobbes, because individuals have consented to be ruled by the government, the government can do no wrong. Hence, no limits upon governmental power are necessary. Doctrines such as limited government, federalism, and respect for individual rights are unnecessary because the will of the people reigns supreme over individual rights and desires. Hobbes asserted that “Nothing done to a man by his own consent can be injury.”⁸¹ Hobbes’ conception of consent simply required an individual to consent to being a member of the society. Thus, an individual need not consent to particular governmental powers or specific acts; he or she simply submitted to the rule of the government for all purposes. In

short, Hobbes advocated the view that the sovereign has control over all things, including life, liberty, property, and justice.

In essence, Hobbes justified the later tyranny of the Soviet Empire and Mao's communist China – both were supposedly based on the unfettered power of the people. Fascist Italy also subscribed to the principles that the sovereign – *i.e.*, the corporate state – possessed unchecked power. In totalitarian regimes, the authority of the government overrides the rights of all of its subjects.

Hobbes justifies oppression even in republics. While *Leviathan* was written to defend the power of the English monarchy, its premise also supports unfettered democratic regimes. After all, in a republic the majority of the people elect their lawmakers. So vested with the consent of the governed, Hobbes' doctrine would provide that a representative government can do no wrong and has unlimited power. Yet, a representative government is just as capable as a dictatorship in oppressing individual rights. Hitler was elected Führer through the suicide of a popularly-elected assembly.

Perhaps more instructive was the elected National Convention of the French Revolution. Replacing the unfettered power of the King with the unfettered power of the nation, no laws, constitutional barriers, or unalienable rights would stand in the way of the will of the people. Emmanuel Joseph Sieyès, an early philosophical leader of the French Revolution, explained that “it is sufficient for [the nation's] will to be manifested for all positive law to vanish before it. In whatever form the nation wills, it is sufficient that it does will: all forms are good, and its will is always the supreme law.” Hence, the Declaration of Rights of 1793 specifically provided that “any individual who usurps the sovereignty of the people shall be instantly put to death by free men.” No wonder then that a commission established by members of the Committee of Public Safety could state in its Instruction of November 16, 1793 that “A revolutionary agent may do anything.” The rule of law degenerated completely into the boundless rule of the majority. The National Assembly massacred tens of thousands, commissioned the guillotine against its own members, and devoured heroes of the revolution as quickly as they were anointed – all in the name of the will of the people.

The Founding Fathers rejected the doctrine of Hobbes and adopted its opposite as a First Principle – that the powers of the government are limited to those necessary to protect the unalienable rights of the people and necessary auxiliary authority. This First Principle was recognized by the *Declaration of*

Independence when it provided that “to secure these rights . . . governments are instituted among men. . . .” After all, “it is,” Jefferson explained, “to secure our just rights that we resort to government at all. . . .”⁸²

Paine expressed the American sentiment when he wrote that “Man did not enter into society to become *worse* than he was before, not to have fewer rights than he had before, but to have those rights better secured.”⁸³ Thus, in America, Jefferson explained, “our rulers can have authority over such natural rights only as we have submitted to them.”⁸⁴ Because individuals relinquished some of their rights solely to secure their liberty and property, Locke wrote, the government “can have no other end or measure when in the hands of the magistrates but to preserve the members of that society in their lives, liberties, and possessions; and so cannot be an absolute, arbitrary power over their lives and fortunes which are so much as possible to be preserved. . . .” In other words, the government “can never have a right to destroy, enslave, or designedly to impoverish the subjects.”⁸⁵

Although government is necessary, it is not something to be relished and encouraged. To the contrary, the Founders believed that government should be strictly limited to its proper purposes. Thomas Paine’s *Common Sense* (1776) may have best captured the particular American sentiment of robust skepticism regarding the role of the government in the Social Compact:

[G]overnment even in its best state is but a necessary evil; in its worst state an intolerable one . . . Government, like dress, is the badge of lost innocence; the palaces of the kings are built on the ruins of the bowers of paradise. For were the impulses of conscience clear, uniform, and irresistibly obeyed, man would need no other lawgiver; but that not being the case, he finds it necessary to surrender up a part of his property to furnish means for the protection of the rest. . . . Here then is the origin and rise of government; namely, a mode rendered necessary by the inability of moral virtue to govern the world; here too is the design and end of government, *viz.* freedom and security.

Put another way, because the authority of the government is derived from individuals, it possesses no power beyond the just authority of a single indi-

vidual in a state of nature. Thus, directly opposed to the proposition that the collective society is all powerful, a just government has only the authority individuals relinquished to it. As Jefferson wrote, “the rights of the whole can be no more than the sum of the rights of individuals.”⁸⁶ “For being but the joint power of every member of the society given up to that person, or assembly, which is legislator,” Locke explained, “it can be no more than those persons had in a state of nature before they entered into society, and gave it up to the community.” In short, we have consented to the government to protect our unalienable rights, and, therefore, have only granted it such power as it needs to perform that function and auxiliary supports thereof, nothing more. From its founding, America embraced as a First Principle that the purpose and limit of the government is protecting the unalienable rights of its citizens.

THE FOUNDATION OF A FREE AND JUST GOVERNMENT

Alexander Hamilton powerfully explained the critical need to adhere to our First Principles: “A government which does not rest on the laws of justice, rests on that of force. There is no middle ground.”⁸⁷ The rule of law; the recognition and protection of unalienable rights; equality; the Social Compact; and securing rights as the purpose and limit of government – these are the First Principles that our Founders embraced. This is the high ground that must be defended to secure our freedom.

As the remainder of Part II of this work reveals, our Founders heeded Hamilton’s warning. When these First Principles were violated by the British Crown, the Founders invoked the final First Principle – the right to rebel against an oppressive government. After all, the Declaration of Independence also recognized that “it is the right of the people to alter or abolish” a government that is oppressive to the ends of the other First Principles, and that the people have the right “to institute a 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.” Following the Revolution, the Founders incorporated the First Principles into the Constitution and the life of the body politic, thereby setting the foundation by which America was to be free and establish a just government.