

## RICHARD HOFSTADTER

*From The American Political Tradition*

*Richard Hofstadter, one of the nation's leading historians, explores the real thoughts and motivations behind the men whom all schoolchildren have been taught to revere as Founding Fathers. Hofstadter's classic work points out the ambivalence of those who wrote the Constitution: they viewed human beings as selfish and untrustworthy, yet they strongly believed in the importance of self-government. The founders' ambivalence toward democracy led them to design the political system the United States still lives with today, one in which each interest (or branch or layer of government or economic class or region . . .) would be checked and balanced by competing interests. Hofstadter goes on to interpret what the near-sacred idea of liberty meant to the founders. Liberty was not really related to democracy, he contends, but rather ensured the freedom to attain and enjoy private property. To make this idea clearer, test the author's thesis against current political debates.*

. . . THE MEN WHO DREW UP the Constitution in Philadelphia during the summer of 1787 had a vivid Calvinistic sense of human evil and damnation and believed with Hobbes that men are selfish and contentious. They were men of affairs, merchants, lawyers, planter-businessmen, speculators, investors. Having seen human nature on display in the marketplace, the courtroom, the legislative chamber, and in every secret path and alleyway where wealth and power are courted, they felt they knew it in all its frailty. To them a human being was an atom of self-interest. They did not believe in man, but they did believe in the power of a good political constitution to control him.

This may be an abstract notion to ascribe to practical men, but it follows the language that the Fathers themselves used. General Knox, for example, wrote in disgust to Washington after the Shays Rebellion that Americans were, after all, "men—actual men possessing all the turbulent passions belonging to that animal." Throughout the secret discussions at the Constitutional Convention it was clear that this distrust of man was first and foremost a distrust of the common man and democratic rule. . . .

And yet there was another side to the picture. The Fathers were intellectual heirs of seventeenth-century English republicanism with its opposition to arbitrary rule and faith in popular sovereignty. If they feared the advance of democracy, they also had misgivings about turning to the

extreme right. Having recently experienced a bitter revolutionary struggle with an external power beyond their control, they were in no mood to follow Hobbes to his conclusion that any kind of government must be accepted in order to avert the anarchy and terror of a state of nature. . . .

Unwilling to turn their backs on republicanism, the Fathers also wished to avoid violating the prejudices of the people. "Notwithstanding the oppression and injustice experienced among us from democracy," said George Mason, "the genius of the people is in favor of it, and the genius of the people must be consulted." Mason admitted "that we had been too democratic," but feared that "we should incautiously run into the opposite extreme." James Madison, who has quite rightfully been called the philosopher of the Constitution, told the delegates: "It seems indispensable that the mass of citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them." James Wilson, the outstanding jurist of the age, later appointed to the Supreme Court by Washington, said again and again that the ultimate power of government must of necessity reside in the people. This the Fathers commonly accepted, for if government did not proceed from the people, from what other source could it legitimately come? To adopt any other premise not only would be inconsistent with everything they had said against British rule in the past but would open the gates to an extreme concentration of power in the future. . . .

If the masses were turbulent and unregenerate, and yet if government must be founded upon their suffrage and consent, what could a Constitution-maker do? One thing that the Fathers did not propose to do, because they thought it impossible, was to change the nature of man to conform with a more ideal system. They were inordinately confident that they knew what man always had been and what he always would be. The eighteenth-century mind had great faith in universals. . . .

It was too much to expect that vice could be checked by virtue; the Fathers relied instead upon checking vice with vice. Madison once objected during the Convention that Gouverneur Morris was "forever inculcating the utter political depravity of men and the necessity of opposing one vice and interest to another vice and interest." And yet Madison himself in the *Federalist* number 51 later set forth an excellent statement of the same thesis:

Ambition must be made to counteract ambition. . . . It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. . . . In fram-

ing 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.

. . . If, in a state that lacked constitutional balance, one class or one interest gained control, they believed, it would surely plunder all other interests. The Fathers, of course, were especially fearful that the poor would plunder the rich, but most of them would probably have admitted that the rich, unrestrained, would also plunder the poor. . . .

In practical form, therefore, the quest of the Fathers reduced primarily to a search for constitutional devices that would force various interests to check and control one another. Among those who favored the federal Constitution three such devices were distinguished.

The first of these was the advantage of a federated government in maintaining order against popular uprisings or majority rule. In a single state a faction might arise and take complete control by force; but if the states were bound in a federation, the central government could step in and prevent it. . . .

The second advantage of good constitutional government resided in the mechanism of representation itself. In a small direct democracy the unstable passions of the people would dominate lawmaking; but a representative government, as Madison said, would "refine and enlarge the public views by passing them through the medium of a chosen body of citizens." . . .

The third advantage of the government . . . [was that] each element should be given its own house of the legislature, and over both houses there should be set a capable, strong, and impartial executive armed with the veto power. This split assembly would contain within itself an organic check and would be capable of self-control under the governance of the executive. The whole system was to be capped by an independent judiciary. The inevitable tendency of the rich and the poor to plunder each other would be kept in hand. . . .

It is ironical that the Constitution, which Americans venerate so deeply, is based upon a political theory that at one crucial point stands in direct antithesis to the mainstream of American democratic faith. Modern American folklore assumes that democracy and liberty are all but identical, and when democratic writers take the trouble to make the distinction, they usually assume that democracy is necessary to liberty. But the Founding Fathers thought that the liberty with which they were most concerned was menaced by democracy. In their minds liberty was linked not to democracy but to property.

arbitrary redistribution of property, destroying the very essence of liberty....

A cardinal tenet in the faith of the men who made the Constitution was the belief that democracy can never be more than a transitional stage in government, that it always evolves into either a tyranny (the rule of the rich demagogue who has patronized the mob) or an aristocracy (the original leaders of the democratic elements)....

What encouraged the Fathers about their own era, however, was the broad dispersion of landed property. The small land-owning farmers had been troublesome in recent years, but there was a general conviction that under a properly made Constitution a *modus vivendi* could be worked out with them. The possession of moderate plots of property presumably gave them a sufficient stake in society to be safe and responsible citizens under the restraints of balanced government. Influence in government would be proportionate to property: merchants and great landholders would be dominant, but small property-owners would have an independent and far from negligible voice. It was "politic as well as just," said Madison, "that the interests and rights of every class should be duly represented and understood in the public councils," and John Adams declared that there could be "no free government without a democratical branch in the constitution."....

...At the very beginning contemporary opponents of the Constitution foresaw an apocalyptic destruction of local government and popular institutions, while conservative Europeans of the old regime thought the young American Republic was a dangerous leftist experiment. Modern critical scholarship, which reached a high point in Charles A. Beard's *An Economic Interpretation of the Constitution of the United States*, started a new turn in the debate. The antagonism, long latent, between the philosophy of the Constitution and the philosophy of American democracy again came into the open. Professor Beard's work appeared in 1913 at the peak of the Progressive era, when the muckraking fever was still high; some readers tended to conclude from his findings that the Fathers were selfish reactionaries who do not deserve their high place in American esteem. Still more recently, other writers, inverting this logic, have used Beard's facts to praise the Fathers for their opposition to "democracy" and as an argument for returning again to the idea of a "republic."

In fact, the Fathers' image of themselves as moderate republicans standing between political extremes was quite accurate. They were impelled by class motives more than pietistic writers like to admit, but they were also controlled, as Professor Beard himself has recently emphasized, by a statesmanlike sense of moderation and a scrupulously republican phi-

What did the Fathers mean by liberty? What did Jay mean when he spoke of "the charms of liberty"? Or Madison when he declared that to destroy liberty in order to destroy factions would be a remedy worse than the disease? Certainly the men who met at Philadelphia were not interested in extending liberty to those classes in America, the Negro slaves and the indentured servants, who were most in need of it, for slavery was recognized in the organic structure of the Constitution and indentured servitude was no concern of the Convention. Nor was the regard of the delegates for civil liberties any too tender. It was the opponents of the Constitution who were most active in demanding such vital liberties as freedom of religion, freedom of speech and press, jury trial, due process, and protection from "unreasonable searches and seizures." These guarantees had to be incorporated in the first ten amendments because the Convention neglected to put them in the original document. Turning to economic issues, it was not freedom of trade in the modern sense that the Fathers were striving for. Although they did not believe in impeding trade unnecessarily, they felt that failure to regulate it was one of the central weaknesses of the Articles of Confederation, and they stood closer to the mercantilists than to Adam Smith. Again, liberty to them did not mean free access to the nation's unappropriated wealth. At least fourteen of them were land speculators. They did not believe in the right of the squatter to occupy unused land, but rather in the right of the absentee owner or speculator to preempt it.

The liberties that the constitutionalists hoped to gain were chiefly negative. They wanted freedom from fiscal uncertainty and irregularities in the currency, from trade wars among the states, from economic discrimination by more powerful foreign governments, from attacks on the creditor class or on property, from popular insurrection. They aimed to create a government that would act as an honest broker among a variety of propertied interests, giving them all protection from their common enemies and preventing any one of them from becoming too powerful. The Convention was a fraternity of types of absentee ownership. All property should be permitted to have its proportionate voice in government. Individual property interests might have to be sacrificed at times, but only for the community of propertied interests. Freedom for property would result in liberty for men—perhaps not for all men, but at least for all worthy men. Because men have different faculties and abilities, the Fathers believed, they acquire different amounts of property. To protect property is only to protect men in the exercise of their natural faculties. Among the many liberties, therefore, freedom to hold and dispose [of] property is paramount. Democracy, unchecked rule by the masses, is sure to bring

logophy. Any attempt, however, to tear their ideas out of the eighteenth-century context is sure to make them seem starkly reactionary. Consider, for example, the favorite maxim of John Jay: "The people who own the country ought to govern it." To the Fathers this was simply a swift axiomatic statement of the stake-in-society theory of political rights, a moderate conservative position under eighteenth-century conditions of property distribution in America. Under modern property relations this maxim demands a drastic restriction of the base of political power. A large portion of the modern middle class—and it is the strength of this class upon which balanced government depends—is propertyless; and the urban proletariat, which the Fathers so greatly feared, is almost one half the population. Further, the separation of ownership from control that has come with the corporation deprives Jay's maxim of twentieth-century meaning even for many propertied people. The six hundred thousand stockholders of the American Telephone & Telegraph Company not only do not acquire political power by virtue of their stock-ownership, but they do not even acquire economic power: they cannot control their own company.

From a humanistic standpoint there is a serious dilemma in the philosophy of the Fathers, which derives from their conception of man. They thought man was a creature of rapacious self-interest, and yet they wanted him to be free—free, in essence, to contend, to engage in an umpired strife, to use property to get property. They accepted the mercantile image of life as an eternal battleground, and assumed the Hobbesian war of each against all; they did not propose to put an end to this war, but merely to stabilize it and make it less murderous. They had no hope and they offered none for any ultimate organic change in the way men conduct themselves. The result was that while they thought self-interest the most dangerous and unbrookable quality of man, they necessarily underwrote it in trying to control it. . . .

## ALEXIS

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