

We have a Republic

IF WE CAN KEEP IT



You would think that these guys had invented government

- ▶ But what had they done?
- ▶ Was this constitution sui generis?

What did they use as precedent?

- ▶ They had invented something new, but it was built out of existing parts.
- ▶ If we can understand those parts, we can understand their world and better understand the constitution they celebrated in 1787.

What models did they use?

The Ancient Greeks



A gentleman's education of the 18th century. . .

- ▶ Assumed fluency in Latin before one could be admitted to College where one would study Greek literature, history, and philosophy.
- ▶ Practical skills like medicine were not appropriate for gentlemen. Law and medicine were more often taught in apprenticeships, and medicine was more theoretical than practical.

What was the Greek example?

- ▶ Eight hundred city/states (poleis), some of them in alliance with one another, eventually all forced into alliance with Athens or Sparta or, eventually, Macedon.
- ▶ Political constitutions ranged from hereditary monarchies to tyrannies to the Spartan diarchy, to varying forms of democracy.
- ▶ Aristotle, who had an agenda, favored aristocracy over democracy or monarchy.



The limits of democracy



Hoplite warriors tended to be the only ones counted among the demos.

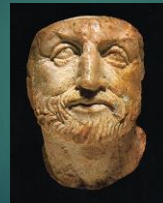
- ▶ When Athens needed to radically expand its navy, the non-elites could demand expanded rights in exchange for their services as rowers on the triremes.



Democracy led to the rise of demagogues who had a tendency to become tyrants.

- ▶ In the Peloponnesian War, Cleon made a reputation by opposing Pericles, and then stirring up the people against the generals, on the assumption that he could lead the armies better than they could.
- ▶ They were happy for him to try, which got him killed.
- ▶ If you give the common people too much of a voice, they will give power to a potential tyrant, or they will turn against the wealthy, dispossess their wealth, and create an anarchy.

The Classical Age of the Greek Polis ended under Macedonian despotism.



Did the framers of the constitution learn much from the Greeks?



The Roman Republic

- ▶ Sextus Tarquinius, son of an unpopular Roman king, Tarquinius Superbus, raped a woman named Lucretia, provoking a rebellion which led to the end of monarchy and the beginning of the Res Publica (The Public Thing).



The Senate



The Assemblies

- ▶ Every male Roman belonged to multiple assemblies with the right to vote—although voting was in a bloc in the Centuries and the Tribes.
- ▶ Consuls were elected to serve for a year.
- ▶ Tribunes represented the interests of the plebian voters.

The Republic did not so much fall as it was subverted

- ▶ Gaius Gracchus
- ▶ Gaius Marius
- ▶ Julius Caesar
- ▶ Augustus Caesar

The Senate The Assembly The Executive



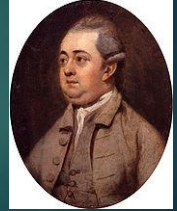
For the Framers of the Constitution

- ▶ The problem was not so much that Rome "fell" as that the Republic was unstable and too readily became an Empire



Their understanding was shaped by *The Decline and Fall of the Roman Empire*

- ▶ Edward Gibbon argued that the Republic and the empire fell from a loss of civic virtue.



Civic Virtue

- ▶ Embodied in Lucius Quinctius Cincinnatus



England



American History had been too deeply rooted in England's to be ignored.

Monarchy



England's experience with a republican form of government was unhappy (mostly).



Magna Carta (1215)



Making the Great Charter accessible

- ▶ In groups of three or four, edit Magna Carta into a one page document you could reasonable assign.
- ▶ Should your version capture the medieval nature of the document or should it seem relevant?

Parliament

- ▶ The earliest parliaments existed to advise the king. They were made up of the greatest nobles (secular and religious) of the land.
- ▶ Not occasionally, the interests of the nobles and the interests of the king came into conflict, most notably in 1215 when John was set upon by his nobles who demanded that he be advised by a Great Council.



Edward I

- ▶ Barons had served as advisors and had provided legislation. In 1295, Edward Longshanks called for two knights of each county to represent the interests of their county.
- ▶ His goal was to legitimate the taxation of the counties.
- ▶ Thus was born the Commons which served the king along with the Lords.



The Colonial Experience

- ▶ Colonial Charters
- ▶ "Benign Neglect"
- ▶ State Constitutions

Philosophers

King James I

- ▶ [The True Law of Free Monarchies](#)

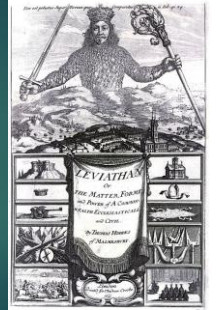


Royal Absolutism

- ▶ Kings were the authors and makers of the laws, and not the laws of the kings. *** In the Parliament (which is nothing else but the head court of the king and his vassals) the laws are but craved by his subjects and only made by him at their roagation and with their advice. For albeit the king make daily statutes and ordinances, enjoining such pains thereto as he thinks meet, without any advice of Parliament or estates, yet it lies in the power of no Parliament to make any kind of law or statute without his scepter be to it, for giving it the force of a law.
- ▶

Leviathan

- ▶ Thomas Hobbes (1588-1679)
- ▶ Life in a state of nature
- ▶ The social contract



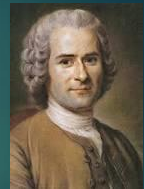
John Locke

- ▶ [Two Treatises on Government](#)
- ▶ Natural Rights
- ▶ Life, Liberty and Property
- ▶ The Tabula Rasa
- ▶ Revolution can be necessary
- ▶ Separation of Powers



The Social Contract

- ▶ Jean-Jacques Rousseau
- ▶ Natural Rights
- ▶ The State of Nature is positive
- ▶ Any ruler who violates the contract by becoming a tyrant can be overthrown.





Natural Rights vs. Civic Virtue

- ▶ Is there a conflict between Natural Right and Civic Virtue?
- ▶ Does the Constitution find a balance?