

# interpretation

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# interpretation

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# Alexander Hamilton on Natural Rights and Prudence

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In Number 1 of *The Federalist*, Alexander Hamilton, writing as “Publius,” observed that America would decide the great question “whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident or force.”<sup>1</sup> The unique claim of America, according to Hamilton in this passage, was that this nation, rather than having its political system imposed upon it by tradition or necessity, would establish a regime by human choice in accordance with reason, a reason that is ordered toward a truth that lies in an objective order of reality.

The American nation would therefore be the first regime based upon *principle* rather than accident. The English word “principle” comes from the Latin *principium*, which is the translation of the Greek ἀρχή. An ἀρχή is a *rule*, which governs the meaning or action of a thing; it is also a beginning or origin. Insofar as the rule which governs the development of a thing is present in its origin, the thing will become what it is intended to become. The beginning rules the end, by determining what a thing, when it has fulfilled its nature, will become. An acorn does not become a human being, and a human embryo does not become an oak. This applies as well to politics. The principles informing the American founding would shape the nation’s destiny as well.<sup>2</sup>

There are various statements of the principles upon which the American regime is supposed to be founded, but the best known expression of those principles understood as both the beginning and end of government, is to be found in the Declaration of Independence. According to this document the purpose or end of government is to protect the unalienable natural rights of individuals to life, liberty, and the pursuit of happiness. Thomas Jefferson of course was the author of the Declaration, and it is his name that is invoked as the advocate of what most Americans take to be the principles of the American regime.

While most people profess to know Jefferson’s principles and their importance to the foundation of the United States, the same cannot be said of Alexander Hamilton. As John Marshall remarked, “[w]ith respect to [Hamilton’s] political principles and designs, the most contradictory opinions were entertained.”<sup>3</sup>

1. Alexander Hamilton, James Madison, and John Jay, *The Federalist*, ed. Jacob E. Cooke (Middletown, Conn.: Wesleyan University Press, 1961), p. 3.

2. Jeffery Wallin, “Locke and the American Founding,” paper delivered at the APSA Annual Meeting, 1980, p. 3. Cf. Leo Strauss, *National Right and History* (Chicago: University of Chicago Press, 1950), pp. 122–27.

3. John Marshall, *The Life of George Washington* (New York, 1925), Vol. V, p. 202.

The reputation of Alexander Hamilton has been subject to wide vicissitudes of opinion. Talleyrand is supposed to have said, "I consider Napoleon, Pitt, and Hamilton as the three greatest men of our age, and if I had to choose among the three, I would without hesitation give the first place to Hamilton."<sup>4</sup> According to Guizot, "Hamilton must be classed among the men who have best known the vital principles and fundamental conditions of a government worthy of its name . . . there is not an element of order, strength and duration in the Constitution which [Hamilton] did not powerfully contribute to place there."<sup>5</sup> Nor was this high regard for Hamilton restricted to foreigners. Washington wrote of him: "That he is *ambitious* I shall readily grant, but it is of that laudable kind, which prompts a man to excel in whatever he takes in hand."<sup>6</sup> And Fisher Ames: "The name of Hamilton would not have dishonored Greece in the Age of Aristides."<sup>7</sup>

Of course, contemporary approbation of Hamilton was by no means universal. His erstwhile Federalist ally, John Adams, called him "the bastard brat of a Scots peddler." The ambition for which Washington had praised Hamilton was the source of Adams's disdain: "[Hamilton] was in a delirium of ambition: he had been blown up with vanity by the Tories, had fixed his eye on the highest station in America, and he hated every man young or old who stood in his way."<sup>8</sup> Your "ambition, pride and overbearing temper" wrote Noah Webster, "have destined you to be the evil genius of this country."<sup>9</sup>

But it was Hamilton's perceived principles rather than his ambition that most troubled his greatest political enemy, who branded him as the conservative or, indeed, reactionary opponent of the principles of the American revolution: Thomas Jefferson most firmly fixed Hamilton's reputation by branding him "not only a monarchist, but for a monarchy bottomed on corruption."<sup>10</sup> Jefferson and his allies characterized Hamilton as a proto-Caesar, and attacked his financial plan as an attempt to establish monarchy, aristocracy, plutocracy, and corruption in America.<sup>11</sup> To the charge of being opposed to the principles of the revolution, modern historians have added the charge that Hamilton was at odds with himself, that the late "conservative" Hamilton contradicted the early "radical."

In fact, Hamilton's principles were the principles of the American revolution and, to a remarkable extent, the principles of Thomas Jefferson. The later "conservative" Hamilton was, moreover, perfectly consistent with the early "radical" Hamilton in the principles by which he took his bearings. The great debate be-

4. *Life, Letters, and Journals of George Ticknor* (Boston, 1876), Vol. I, p. 261.

5. Quoted in Melvin G. Dodge, *Alexander Hamilton* (New York: Putnam, 1896), pp. 7-8, 48.

6. To John Adams, September 25, 1798. *The Writings of George Washington*, John C. Fitzpatrick, ed. (Washington, D.C., 1931-44), Vol. XXXVI, pp. 460-61.

7. Quoted in William Coleman, ed., *A Collection of the Facts and Documents Relative to the Death of Major General Alexander Hamilton* (New York: Houghton Mifflin, 1904), p. 249.

8. Quoted in Page Smith, *John Adams* (New York, 1962), Vol. II, p. 1085.

9. Smith, *John Adams*, Vol. II, p. 1045.

10. Jefferson, *The Anas*, in Adrienne Koch and William Peden, eds., *The Life and Selected Writings of Thomas Jefferson* (New York: Modern Library, 1944), p. 126.

11. Cf. e.g., *National Gazette*: "Brutus No. 1," March 15 and subsequent numbers. Cited in Forrest McDonald, *Alexander Hamilton* (New York: Norton, 1979), p. 241.

tween Hamilton and Jefferson, and the apparent conflict between the early and late Hamilton, had largely to do with *means* rather than ends.

This is not to say that these differences were not considerable, even fundamental from a political point of view. To “establish good government” it is not sufficient merely to espouse true principles. These principles must be applied in practice, and the mode of application can make all the difference in the world. Hamilton’s vision of America in his *Report on Manufactures* is perfectly consistent with the natural rights doctrine found in his *Full Vindication of the Measures of Congress* (1774) and *The Farmer Refuted* (1775). His understanding of the end of government was the same in 1800 as in 1776. But what he perceived as the proper *means* to those ends had changed, as circumstances had changed. Specifically, Americans were no longer fighting a revolutionary war. They were instead establishing institutions of government and learning to live together under them. The public measures (and the public disposition) required for founding were different from those required for revolution, though revolution and founding served the same ends.

As a statesman instrumental in the founding of the American regime, Hamilton faced a major obstacle. The American people were a revolutionary people, passionately attached to liberty. This passionate attachment to liberty led them to the belief that their will should rule in all things. Even established law was an unacceptable constraint. Hamilton saw that such a character in the people would lead to anarchy and hence to tyranny, both destructive of true liberty. A major aspect of Hamilton’s statesmanship consisted of attaching the American people to the law and Constitution of the new nation, and in making them virtuous by making them law-abiding. Hamilton believed that liberty meant the citizens ought to be free to follow their natural inclinations, but that it was necessary for there to be some relationship between what the people are inclined to do and what is right for them to do. Hamilton sought to teach moderation and justice to a revolutionary people through attachment to good laws, particularly in urging them to respect the property of minorities, pay their debts, and abide by the strictures of international law.

In short, Hamilton’s great challenge was to transform a revolutionary people into a self-governing people, to moderate their passion for liberty in order to secure to them the *blessings* of liberty, to infuse the spirit of independence with the spirit of the law. Even at the height of revolutionary fervor, Hamilton showed his awareness of this challenge in a letter to John Jay.

The same state of passions which fits the multitude . . . for opposition to tyranny and oppression, very naturally leads them to contempt and disregard of all authority .

When the minds of those are loosened from their *attachment to ancient establishments and courses*, they seem to grow giddy and are apt more-or-less to turn into anarchy.<sup>12</sup>

[Emphasis added]

12. To John Jay (November 26, 1775), *The Papers of Alexander Hamilton*, ed. Harold C. Syrette and Jacob E. Cooke, 26 Volumes (New York: Columbia University Press, 1961–79), 1.176–77; *Papers* hereafter.

He returned to this central theme at the New York Ratifying Convention in 1788.

In the commencement of a revolution . . . nothing was more natural than that the public mind should be influenced by an extreme spirit of jealousy . . . and to nourish this spirit, was the great object of all our public and private institutions. Zeal for liberty became predominant and excessive. In forming our confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one. But, Sir, there is another object, equally important, and which our enthusiasm rendered us little capable of regarding. I mean a principle of strength and stability in the organizing of our government, and of vigor in its operation.<sup>13</sup>

It was in attempting to moderate America's revolutionary passion, the better to fulfill America's revolutionary purpose, that Hamilton incurred the wrath of Thomas Jefferson and won from posterity the reputation as a reactionary opponent of the revolution and of his earlier (radical, and therefore better) self. In this great test of his statesmanship Hamilton displayed that quintessential virtue of the statesman—prudence, the choice of *means* to unchanging ends, given by nature and not subject to deliberation.

Hamilton seems to attach great importance to principles and to consistency in holding them. Thus in *Federalist* 31 he writes:

In disquisitions of every kind, there are certain primary truths, or first principles, upon which all subsequent reasonings must depend . . . Though it can not be pretended that the principles of moral and political knowledge have, in general, the same degree of certainty with those of the mathematics; yet they have much better claims in this respect, than to judge from the conduct of men.<sup>14</sup>

And in commenting on Jefferson's first annual message to Congress he says that although "a wise and good man" may, under certain circumstances, change his opinions, such changes, especially in matters of great importance to the public, must be rare.

The contrary is always a mark either of a weak and versatile mind, or of an artificial and designing character, which, accommodating its creed, to circumstances, takes up or lays down an article of faith, just as may suit a present convenience.<sup>15</sup>

The statesmen, of course, is not necessarily a philosopher. But to dismiss him as simply a man of action, as merely an advocate of a particular political plan is to miss the important point that political decision and advocacy, while certainly not identical with political theory, nonetheless may be grounded in thoughtfully articulated principles.

Our first problem is to discover what Hamilton's political principles were. Al-

13. Remarks at the New York Ratifying Convention (24 June, 1788). *Papers*, v.68.

14. Alexander Hamilton, James Madison, John Jay, *The Federalist*, ed. Jacob Cooke (Middletown, Conn.: Wesleyan University Press, 1961), pp. 193–95.

15. *The Examination*, Number XVI. *Papers*, xxv.564. Cf. *Second Letter from Phocion*, *Papers*, III.542–43.

though there is evidence he intended to do so, Hamilton never wrote a political treatise.<sup>16</sup> His principles must be gleaned from his pamphlets, reports, and letters which, now collected, run to 26 thick volumes. There are however two pamphlets in particular which Hamilton devotes to the articulation of political principles, and common sense dictates that we begin here. In fact, our beginning is Hamilton's as well, since these are his earliest political writings. In them is a full discussion of human nature, natural ends, and therefore an articulation of what is good for man as man.

*A Full Vindication of the Measures of Congress*, written in December 1774, and *The Farmer Refuted*, which followed in March 1775, provide the clearest statement of Hamilton's political principles.<sup>17</sup> In view of Hamilton's alleged "conservatism," these early pamphlets are truly shocking. He voices here a thoroughgoing radicalism. He defends the right of the American colonies to legislate for themselves, basing his argument on natural rights and natural law. From natural rights, he derives a radical justification for the right to revolution.

Hamilton's first pamphlet, *A Full Vindication*, was a response to an attack on the Continental Congress by Samuel Seabury, the Anglican rector of Westchester, New York. Seabury, under the name of "A. W. Farmer" had ridiculed the measures enacted by the Congress in response to the so-called "Intolerable" or "Coercive" Acts passed by Parliament in 1774. Hamilton, invoking the law of nature, the genius of the British constitution, and the Colonial charters as justification for the security of the individual in his life and property, set out to show that "the inhabitants of Great Britain [had no] right to dispose of the lives and properties of the inhabitants of America . . ." <sup>18</sup>

Seabury, in his reply, requested that Hamilton "explicitly [declare] to the public [his] idea of the natural rights of mankind." Hamilton obliged him in *The Farmer Refuted*, to which he added a justification of the colonists' cause in terms of the British constitution and the colonial charters. Hamilton's two pamphlets provide one of the most comprehensive defenses of American liberty to be found, one that is at least as radical as the document written by his future political enemy, the author of the Declaration of Independence.

Seabury's position was that Parliament had every right to legislate for the colonies because, by definition, a colony is subordinate to the motherland. Thus,

16. "Mr. Hopkins relates: when Hamilton hesitated his consent to republication [of *The Federalist*], that he related to him, 'Heretofore I have given the people milk; hereafter I will give them meat;' words indicating his formed purpose—to write a treatise on government." John C. Hamilton, ed., *The Federalist* (New York, 1864), Vol. I., pp. xcii, ciii. "[Hamilton intended to write] a full investigation of the history and science of civil government and the various modifications of it upon the freedom and happiness of mankind. [He desired] to have the subject treated in reference to past experience and upon the principles of Lord Bacon's inductive philosophy, and to engage the assistance of others in the enterprise." William Kent, *Memoirs and Letters of James Kent* (Boston: Little, Brown, 1898), pp. 327–28.

17. *A Full Vindication of the Measures of the Congress, &c., Papers*, 1.45–78. *The Farmer Refuted, &c., Papers*, 1.81–165.

18. *Papers*, 1.46.

there could be no lawful resistance to the taxes imposed on the colonies by the Parliament. For Hamilton, the issue was not whether there should be a “petty duty of 5 pence per pound on East India tea.” The dispute was rather “whether the Parliament of Great Britain shall make what laws, and impose what taxes they please upon us, or not . . .”

It is true, we are denying to pay the duty upon tea, but it is not for the value of the thing itself. It is because we cannot submit to that, without acknowledging the principle upon which it is founded, and that principle is *a right to tax us in all cases whatsoever*.<sup>19</sup>

But Hamilton denies this principle. There is no unlimited power to tax, because to admit such a power is a contradiction of the law of nature, the British constitution, and the colonial charters.<sup>20</sup>

Seabury’s problem, says Hamilton, is one of ignorance. He does not know the natural rights of mankind. His total ignorance of these rights is the fundamental source of all his errors and sophisms, and his ignorance requires that Hamilton spell out a doctrine of political obligation, beginning with the law of nature.

Good and wise men, in all ages . . . have supposed, that the deity, from the relations, we stand in, to himself and to each other, has constituted an eternal and immutable law, which is, indispensibly, obligatory on all mankind, prior to any human institution whatever.<sup>21</sup>

Quoting Blackstone, he continues:

This is what is called the law of nature, ‘which being coeval with mankind, and dictated by God himself, is, of course, superior in obligation to any other. It is binding over all the globe, in all countries, and at all times. No human laws are of any validity, if contrary to this; and such of them as are valid, derive all their authority, mediately, or immediately, from this original.’<sup>22</sup>

The content of the natural law as it applies to man is “twofold.” Hamilton’s formulation suggests that there are two commands of the law of nature: a strong one and a weak one.

It is . . . a dictate of humanity to contribute to the support and happiness of our fellow creatures and more especially those who are allied to us by the lines of blood, interest, and mutual protection; but humanity does not require us to sacrifice our own security and welfare to the convenience, or advantage of others. Self-preservation is the first principle of our nature. When our lives and properties are at stake, it would be foolish and unnatural to refrain from such measures as might preserve them, because they would be detrimental to others.<sup>23</sup>

19. *Papers*, 1.67.

20. *Papers*, 1.43.

21. *Papers*, 1.87.

22. *Papers*, 1.87; Blackstone, *Commentaries on the Laws of England*, (Chicago: University of Chicago Press, 1979 [First published, London, 1765–69], Vol. I, p. 41.

23. *Papers*, 1.51.

The strong command of the law of nature is: “preserve yourself.” The weak command is “help, or at least, do not harm, others.” The end of the strong command is to preserve one’s life. The means to that end are within the choice of the individual, but are constrained by the weak command.

The “natural rights of mankind” depend upon the natural law, and include the inviolable right to “personal liberty” and “personal safety,” as well as the natural right to freedom, or “which is the same thing security for life and property.”<sup>24</sup> These natural rights to life, liberty, and property are all in accordance with the dictates of the law of nature. The relationship between natural law, natural rights, and self-preservation can be understood because the supreme being “endowed [man] with rational faculties, by the help of which, to discern and pursue such things, as were consistent with his duty and interest . . .” and which enable him to understand and employ “the means of preserving and beatifying [his] existence.”<sup>25</sup>

It is reason that indicates these “luminous principles.” “They speak the plainest language to every man of common sense; and must carry conviction where the mental eye is not bedimmed, by the mist of prejudice, partiality, ambition, or avarice.”<sup>26</sup>

Reason and the law of nature operate even when there is no civil society, but the sanctions against those who violate the law of nature are very weak in the absence of civil society. The best Hamilton can say is that “in a state of nature, no man had any *moral* power to deprive another of his life, limbs, property or liberty; nor the least authority to command, or exact obedience from him.” Hamilton’s emphasis on moral power indicates that there is a problem here. If the law of nature commands “preserve yourself,” if, that is, every man has the right to self-preservation, he must also have the right to the means of self-preservation. In the state of nature, the right of self-preservation of one man necessarily comes into conflict with that of another, and since every man is the judge of his own cause, this means that the state of nature is either actually or potentially a state of war.<sup>27</sup>

The natural, inviolable rights which Hamilton proclaims are thus not complete in the state of nature, “since a right implies a remedy.” The weaker dictate of the law of nature will always be overwhelmed by the stronger, and that “moral” power one has in the state of nature turns out to be no power at all.

Because the equal right of self-preservation for all will lead to universal conflict, the state of nature is unendurable and thwarts the intention of natural law. This must be corrected by placing *actual* force behind the ineffectual moral force

24. *Papers*, 1.66.

25. *Papers*, 1.87–88.

26. *Papers*, 1.97.

27. *Papers*, 1.88. Hobbes, *Leviathan*, ed. Nelle Fuller (Chicago: Encyclopaedia Britannica, 1952). Vol. 23 of *The Great Books*. Chapter XIII, pp. 84–86. Locke, *Two Treatises of Government*, ed. Peter Laslett (New York: New American Library, 1960), Second Treatise, Chapter III; Sections 45. 48–51.

of that part of natural law which says do not harm others. In other words, for the law of nature to effect even its minimal purpose, i.e., to secure self-preservation, men must be prevented from harming each other. A real sanction must be provided where nature does not provide one. Civil society is the necessary correction of the state of nature.

The purpose of civil society is to protect those absolute rights which, though ordained by the law of nature, are not secure in the state of nature. “*Civil liberty is only natural liberty, modified and secured by the sanctions of civil society.*”

Again quoting Blackstone, Hamilton says:

The principle aim of society is to protect individuals in the enjoyment of those absolute rights, which were vested in them by the immutable laws of nature; but which could not be preserved, in peace, without that mutual assistance and intercourse, which is gained by the institution of friendly and social communities. Hence, it follows, that the first and primary end of human laws is to maintain and regulate the *absolute rights* of individuals.<sup>28</sup>

For civil society to be just, it must be a voluntary compact, based on the consent of the governed.

No reason can be assigned why one man should exercise any power, or pre-eminence over his fellow creatures more than another; unless they have voluntarily vested him with it.<sup>29</sup>

. . . the origin of all civil government, justly established must be a voluntary compact, between the rulers and the ruled; and must be liable to such limitations, as are necessary for the security of the absolute rights of the latter; for what original title can any man or set of men have, to govern others, except their own consent?<sup>30</sup>

Thus does Hamilton derive the purpose and foundation of civil government from first principles or the law of nature.

Governments that violate these principles are illegitimate. As Hamilton quotes Blackstone: “[N]o human laws are of any validity if contrary to [the law of nature]; and such of them as are valid, derive all their authority . . . from this original.”

To usurp dominion over a people, in their own despite, or to grasp at a more extensive power than they are willing to entrust, is to violate that law of nature, which gives every man a right to his personal liberty; and can therefore, *confer no obligation to obedience*. (Emphasis added)<sup>31</sup>

Hamilton does not hesitate to proclaim the right to revolt against such illegitimate governments.

28. *Papers*, 1.104, 88; Blackstone, 1.120. The editors of the *Papers* mistakenly give the page reference of this passage as 124.

29. *Papers*, 1.47.

30. *Papers*, 1.88.

31. *Papers*, 1.88.

The nations of Turkey, Russia, France, Spain and all other despotic kingdoms in the world, have an inherent right, whenever they please to shake off the yoke of servitude (though sanctified by the immemorial usage of their ancestors;) and to model their government, upon the principle of civil liberty.

*When the first principles of civil society are violated, and the rights of a whole people are invaded, the common forms of municipal law are not to be regarded. Men may then betake themselves to the law of nature; and if they but conform their actions, to that standard, all cavils against them, betray either ignorance or dishonesty. There are some events in society, to which human laws cannot extend; but when applied to them lose all their force and efficacy. In short, when human laws contradict or discountenance the means, which are necessary to preserve the essential rights of any society, they defeat the proper end of all laws, and so become null and void.*<sup>32</sup>

Hamilton clearly advocates a natural rights position expressed in language similar to that of Jefferson in the Declaration of Independence. Hamilton's principles understood as beginnings are rooted in human nature which requires a free government, a government of political equality based on consent. His principles understood as ends are the perfection of virtue, or human excellence through the expansion of liberty.

Guided by what he took to be the natural ends of men, Hamilton varied his practice to meet the exigencies of the time and place. What was best simply, might not be best under the circumstances. This is the essence of prudence. Thus while in private Hamilton criticized the various state constitutions, in public he attempted to attach the people to law-abidingness by praising those same constitutions; while he privately characterized the Federal Constitution as a "frail and worthless document," he mounted a major effort to see it ratified; and while he asserted that Jay's Treaty had been negotiated by "an old woman," he publicly defended it as the best means of preserving the regime under the prevailing conditions of international affairs.

Hamilton's fullest account of prudence is found in *The Defence of the Funding System* written after his resignation as Secretary of the Treasury. But even in his first pamphlets there is a brief discussion of the relationship among good policy, principles, and prudence. A good policy must meet these practical criteria:

First, the necessity of the times [must] require it, secondly . . . it [must] not be the probable source of greater evils than those it pretends to remedy: and lastly, . . . it [must] have a probability of success.<sup>33</sup>

In the *Defence*, Hamilton wrote that his duty as Secretary of the Treasury, and by implication the duty of any statesman, had been "to unite [in his policy] two ingredients . . . intrinsic goodness [and] a reasonable probability of success." He could not in good conscience, he wrote, "have submitted the best financial plan simply because it was too remote from the prevailing opinions . . ."

32. *Papers*, 1.125, 136 (Emphasis added).

33. *Papers*, 1.52.

In pursuing too far the idea of absolute perfection in the plan unaccommodated to circumstances. The chance of an absolutely bad issue was infinitely enhanced, and the evils connected with it.

Such evils included the collapse of credit, the subversion of union (and hence effective government), and “a severe blow to the security of property.”<sup>34</sup>

Hamilton’s prudence did not, however, mean the subordination of principle to simple expediency. Although we should act according to the dictates of prudence, we must keep our eye upon an objective standard of human behavior.

accommodation was not to be carried so far as to sacrifice to it any essential principle. This is never justifiable. But with the restriction of not sacrificing principle was it not right and advisable to shape the course as to secure the best prospect of effecting the greatest possible good? To me this appeared the path of policy and duty and I acted under the influence of that impression.<sup>35</sup>

But it was also a dictate of Hamilton’s prudence to recognize that the constant appeal to first principles is destructive of the stability necessary to the very preservation of those principles. *This*, it seems is the source of the real debate between Hamilton and Jefferson. While Jefferson advocated a constant appeal to first principles, Hamilton believed that positive law must of necessity replace that appeal. Revolutionary fervor is inappropriate to living in a stable political society, even one that protects individual rights. Prudence teaches that ultimately individual rights can only be preserved when there exists in the regime a strong sense of law-abidingness.

Thus, as suggested before, much of Hamilton’s enterprise was the prudential attempt to make a revolutionary people law-abiding. Before he could hope to see a regime of liberty fully established in America, and its benefits enjoyed, it was necessary to make a revolutionary people, who desired only to acquire whatever their wills directed, see the necessity of paying their debts. In an infant nation whose survival depended on the restraint and good will of great powers, a revolutionary people had to be shown the necessity of subordinating gratitude to other countries and attachment to revolutionary principles, to the dictates of international law. Perhaps the foremost requirement of prudence was to make an *ancient establishment* of a new government, to attach the people to the laws of the new government in order that their rights might be protected, and that stable government might be preserved.

In order to understand the importance of prudence to the implementation of a regime of principles, it is helpful to examine Hamilton’s justification for revolution and the source of that justification. As Gerald Stourzh has brilliantly demonstrated, the source of both Hamilton’s “radicalism” and his “conservatism” was the “eminently respectable” Blackstone.<sup>36</sup> Much has been made of Blackstone’s

34. “Defense of the Funding System,” *Papers*, XIX.3–6.

35. *Papers*, XIX.7.

36. Gerald Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Stanford, Calif.: Stanford University Press, 1970), pp. 9–37.

conservative influence on the Revolution. But he also provided a justification for “the resort to first principles” that characterized the radical aspect of the Revolution. The jurist whom Jefferson accused (along with Hume) of having “made Tories of all England,” and of doing the same to “those young Americans whose native feelings of independence do not place them above . . . wily sophistries . . .”<sup>37</sup> could nonetheless write about:

those extraordinary recourses to first principles, which are necessary when the contracts of society are in danger of dissolution, and the law proves too weak a defense against the violence of fraud or oppression.<sup>38</sup>

The historian Claude Van Tyne writes that:

a South Carolinian spoke of those latent, though inherent rights of society, which no climate, no time, no constitution, no contract, can ever destroy or diminish . . . To a mind that venerated the Constitution such ideas were poisonous, and pointed plainly to anarchy.<sup>39</sup>

But the source of those sentiments was precisely one who venerated the British constitution.

Indeed, it is found by experience, that whenever the unconstitutional oppressions, even of the sovereign power, advance with gigantic strides and threaten desolation to a state, mankind will not be reasoned out of their feelings of humanity; nor sacrifice their liberty by a scrupulous adherence to those political maxims, which were originally established to preserve it. And therefore, though the positive laws are silent, experience will furnish us with a very remarkable case, wherein *nature* and *reason* prevailed . . . [Abdication of James II]. In these, therefore, or other circumstances, which a fertile imagination may furnish, since both law and history are silent, it becomes us to be silent too; leaving to future generations, whenever necessity and the safety of the whole shall require it, the exertion of those inherent (though latent) powers of society, which no climate, no time, no constitution, no contract, can ever destroy or diminish.<sup>40</sup>

37. To Horatio G. Spafford (March 17, 1814) in *The Writings of Thomas Jefferson*, ed. A. A. Lipscomb and A. E. Bergh (Washington, 1903), Vol. 6, p. 335.

38. Blackstone, 1.243.

39. Claude Van Tyne, *The Causes of the War of Independence* (Boston, 1922), pp. 236–37. Cited in Stourzh, p. 13.

40. Blackstone, 1.238. Stourzh maintains that Blackstone had a major impact on Hamilton, especially in terms of his understanding of natural law. Stourzh, pp. 9–36. McDonald minimizes the influence of Blackstone on Hamilton, suggesting that “he may have merely skimmed through [the *Commentaries*] during the six or eight weeks between his writing of the two tracts,” since he did not refer to them in his earlier pamphlet. McDonald, p. 51. McDonald also claims that Hamilton did not “derive his understanding of natural law from Blackstone: that came principally from Vattel.” McDonald, p. 57. Concerning Stourzh’s opinion, McDonald writes “I believe that Stourzh, in his not unflawed but generally excellent study . . . misinterprets and overstates Blackstone’s influence upon Hamilton.” McDonald, p. 378, note 17. I follow Stourzh in this debate. Indeed, anyone familiar with Stourzh’s work will recognize how much my discussion here depends upon his view. I believe that Blackstone demonstrates the unique way in which the “natural law” was transmitted in the British tradition. For instance, it is interesting to note at this point that Hamilton’s use of Blackstone may point the way to reconciling two apparently irreconcilable views of the Revolution: the “conservative” or “legalistic” view of, e.g., Daniel Boorstin, and the “ideological” view of Bernard Bailyn. Boorstin neglects the role of resort to first principles. Taking issue with Carl Becker’s explanation of the role

For Blackstone (and Hamilton writing in 1775) the English law and the British constitution were coeval with the natural law. Thus the first Resolve of the Massachusetts House of Representatives proclaimed “that there are certain essential rights of the British Constitution of Government, which are founded in the Law of God and Nature, and are the common Rights of Mankind,” and the Massachusetts Circular Letter of 1768 expressed the view that the “essential, unalterable right, in nature . . . What a man has honestly acquired is absolutely his own [was] engrafted into the British Constitution, as a *fundamental law*.”<sup>41</sup>

of natural law in the Revolution, Boorstin writes: “According to this view, the colonists began their arguments on a low legalistic level, finding it convenient to debate first within the framework of the imperial constitution and the common law; but they gradually and inevitably climbed the ladder of abstraction until, by mid-1776, they were thinking and talking in the arid heights of natural law [Becker’s account] supposes a kind of intellectual mobility—near disingenuousness—which enable the Americans to shift their grounds to suit their needs. It takes for granted . . . that the colonists could as readily abandon the legal for the philosophical level of argument as a hired counsel could alter his plea from guilty to not guilty.” Daniel J. Boorstin, *The Genius of American Politics* (Chicago, 1953), pp. 77–78, 79.

Bailyn’s interpretation on the other hand stresses the ubiquity of natural rights thinking, and goes far toward suggesting that there was no conservative element to the Revolution. Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967). Both of those views, it seems, can be reconciled by recognizing the special status of the natural law in English thought, represented most of all by Blackstone, and the prudence of the colonists in adapting their arguments to their needs.

First of all, the absolute distinction between positive law as the pure command of the sovereign and other species of law such as natural law, which we inherit from Hobbes via John Austin, did not exist for the Founders. Writers, particularly Christian writers such as Fortescue and Hooker, interpreted the common law and the British Constitution in terms of medieval Natural Law. Thus there was a merging of common law rights, such as the right to trial by a jury of one’s peers, “natural” and sacred by virtue of the very antiquity of their tradition, and the rules of moral conduct ordained by God and revealed by scripture and reason: the “*Lex Aeterna*,” in the words of Sir Edward Coke, “the moral law, called also the law of nature . . . written with the finger of God in the heart of man.” Quoted by Hamilton in *Papers*, 1.91. Onto this tradition of English natural law was engrafted the fundamental law of self-preservation. Perhaps, as later thinkers have argued, modern natural rights as articulated by Hobbes and Locke are incompatible with the older tradition, but for the statesmen of the Revolutionary period, who embraced a lawyer’s understanding of law and the constitution, such an incompatibility was not important.

Boorstin is correct in recognizing the importance of Blackstone to the founders, but he misses the fact that the conservative Blackstone provided the means of constitutional reasoning used by the colonists in their radical enterprise. The colonists’ concern with the “true nature of the British Constitution” must not obscure the fact that, as transmitted by Blackstone’s *Commentaries*, that concern was inseparable from natural law and natural rights. And further it is not disingenuousness but prudence, that led the Americans to change their arguments from a defense of the colonies in terms of the “rights of Englishmen” to the “rights of mankind.” At the beginning, they were in fact the same, but as Parliamentary supremacy gained ground, the colonists suited their arguments to their changing needs. Thus John Adams recollected that during the drafting of the Declaration of Rights in 1774, it was discussed “whether we should recur to the Law of Nature, as well as to the British Constitution and our American Charters and Grants. Mr. Galloway and Mr. Duane were for excluding the Law of Nature. I was very strenuous for retaining and insisting on it, as a Resource to which we might be driven, by Parliament much sooner than we were aware.” John Adams, *The Diary and Autobiography of John Adams*, ed. L. H. Butterfield (Cambridge, Mass.: Harvard University Press, 1962), Vol. III, p. 309.

41. Edmund S. Morgan, ed., *Prologue to Revolution: Sources and Documents on the Stamp Act Crisis* (Chapel Hill: University of North Carolina Press, 1959), p. 56. The Massachusetts Circular

Hamilton, in his early pamphlets argued with equal fervor on three levels that the “security to our lives and property [is afforded by] the law of nature, the genius of the British constitution, and our [colonial] charters . . .” Hamilton could with equal facility argue his position from natural law or from a pre-Lockean understanding of such a concept as “legiance.” Thus, “[t]he law of nature and the British constitution both confine allegiance to the person of the King; and found it upon the principle of protection.”<sup>42</sup>

Blackstone’s role in unifying, in the minds of Englishmen and colonists alike, the law of nature and the British constitution is most forcefully demonstrated in this little noticed passage.

The absolute rights of every Englishman (which, taken in a political and extensive sense, are usually called their liberties) as they are founded on *nature and reason*, so they are *coeval with our form of government*

Immediately above this passage, Blackstone had written:

The idea and practice of this political or civil liberty flourish in their highest vigour in these kingdoms, where it falls little short of perfection, and can only be lost or destroyed by the folly or demerits of its owner: the legislature, and of course the laws of England, being peculiarly adapted to the preservation of this inestimable blessing even in the meanest subject. Very different from the modern constitutions of other states, on the continent of Europe, and from the genius of the imperial law; which in general are calculated to vest an arbitrary and despotical power of controlling the actions of the subject in the prince, or in a few grandees.<sup>43</sup>

Blackstone argues that all men have certain natural rights “such as would belong to their persons merely in a state of nature, and which every man is entitled to enjoy whether out of society or in it.” The “natural liberty” of man which “consists properly in a power of acting as one thinks fit” must be modified in order to receive the advantage of civil society. “Every man when he enters into society gives up a part of his natural liberty, as the price of so valuable a purchase.” Civil rights, the absolute rights of individuals, are a number of “private immunities” defined by “several statutes” and consist in “that *residuum* of natural liberty, which is not required by the laws of society to be sacrificed to public convenience.”<sup>44</sup> The natural rights, now the civil rights of the people of England, consist in three articles: “the right of personal security, the right of personal liberty; and the right of private property.”

The preservation of these, inviolate, may justly be said to include the preservation of our civil immunities in their largest and most extensive sense.<sup>45</sup>

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Letter is cited in Edward S. Corwin, *The “Higher Law” Background of American Constitutional Law* (Ithaca, 1955), p. 79.

42. *Papers*, I.91.

43. Blackstone, I.123, 122–123 (Emphasis added).

44. Blackstone, I.125.

45. Blackstone, I.125.

The sum of Blackstone's argument seems to be that the British constitution is coeval with the natural rights of mankind. *All* men are entitled to these rights, but only the British constitution among all the legal systems in the world has in fact secured them.

The fact that Hamilton relied on natural rights to a greater extent in his early pamphlets, and advocated them more strongly than Jefferson did in his *Summary View of the Rights of British America*, can be explained by a circumstance to which prudence must adapt itself. As Hamilton himself tells us, New York, where he was writing, had no royal charter, and his careful argument for the charter rights of other colonies did not apply to New York.

It is true, that New York has no Charter, But, if it could support its claim to liberty in no other way, it might, with justice, plead the common principles of colonization: for it would be unreasonable to seclude one colony, from the enjoyment of the most important privileges of the rest. There is no need, however, of this plea: The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam, in the whole *Volume* of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.<sup>46</sup>

Hamilton's principles, as given in his early pamphlets, reflect a Blackstonian understanding of the British constitution. Hamilton's radicalism is thus traceable to a view of the constitution advanced by the eminently respectable jurist. But with Blackstone, and unlike Jefferson, Hamilton believed that the "resort to first principles" should be a rare occurrence, undertaken only under the direst circumstances, only when absolutely required by the "prudence of the times." "Legitimate" revolution, which may involve illegal acts, is to be undertaken only when the absolute safety of the people is at stake or, as quoted above, "when the first principles of civil society are violated, and the rights of a whole people are invaded . . ." Resistance to Parliament is justified by that body's usurpation of the rights of the people. Since the end and intention of government, is to preserve the life, property and liberty of the subjects, only the encroachments of oppression and tyranny justify a resort to first principles. When power is used illegitimately by their rules, the people may resort to legitimate, though illegal measures, and may do so with a clear conscience. Such extralegal but legitimate measures serve to restore the conditions of rule originally designed to guarantee the purpose of government.

Hamilton's sober radicalism stands in contrast to that of Jefferson. Jefferson favored a frequent resort to first principles, which explains his complacent and bookish reaction to Shays's Rebellion and the bloodshed of the French Revolution. In a letter to Edward Carrington, Jefferson spoke favorably of the "tumults in America," i.e., Shays's Rebellion, "as a means to the firmness of our [state] government," which, even when in error, "keep [their governors] to the true principles of their institutions. To Madison he wrote "I hold it that a little rebel-

46. *Papers*, 1.121–22.

lion now and then is a good thing, and as necessary in the political world as storms in the physical.”<sup>47</sup>

Gerald Stourzh has shown that the source of Jefferson’s ideas can be found in Article IV of the Virginia Declaration of Rights, which states that “no free government, or the blessing of liberty can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.” According to Stourzh, this emphasis on a resort to first principles can be traced back through George Mason, to James Burgh, Thomas Gordon and John Trenchard, the authors of the influential *Cato’s Letters*, thence to Algernon Sydney and finally to Machiavelli.<sup>48</sup> Burgh writes in his *Political Disquisitions* that “Machiavelli says, that to render a commonwealth long lived, it is necessary to correct it often, and reduce it towards its first principles, which is likely to be done by punishments and examples.”<sup>49</sup> And Sydney:

[Machiavelli proposed] reducing every state, once in an age or two, to the integrity of its first principle. . . . All human constitutions are subject to corruption, and must perish, unless they are timely renewed, and reduced to their first principles.<sup>50</sup>

Indeed, the title of *The Discourses* III, I is “To insure a long existence to religious sects or republics, it is necessary frequently to bring them back to their original principles.” The purification of the corrupt body politic could be accomplished by “extrinsic accidents” such as the sacking of Rome by the “Franks” which led to the rebirth of Rome, or internal devices such as “a law that obliges the citizens of the association often to render an account of their conduct.”<sup>51</sup> Many saw this as the source of the ideas of rotation in office, frequent elections, and other republican institutions. Sydney, for one, saw it also as a call for popular tumults, and Jefferson followed him in this regard.

While Hamilton and Blackstone agreed with Jefferson that an extralegal resort to first principles was sometimes necessary they maintained that such recurrences should be rare. Hamilton’s great fear was that the end of government would be overturned and that mobs, driven by their short-sighted passions would undermine the whole basis of civil government. His *Phocion Letters* were directed against mob rule. And indeed these bookish admirers of “little rebellions,” had

47. To Edward Carrington (January 16, 1787), Koch and Peden, p. 411; To James Madison (January 30, 1787), Koch and Peden, p. 413; cf. to Col. Smith (November 13, 1787). “And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms. The remedy is to set them right as to facts, pardon and pacify them. What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants. It is its natural manure. ” Koch and Peden, p. 436.

48. Stourzh, pp. 34–37.

49. James Burgh, *Political Disquisitions* (London, 1774–75), Vol. III, p. 298.

50. Algernon Sydney, *Discourses Concerning Government*, in *The Works of Algernon Sydney* (London, 1772), pp. 405, 124.

51. Machiavelli, *Discourses*, ed. Bernard Crick (Baltimore: Penuin Books, 1970), III. I, p. 386.

they read the whole of Machiavelli's chapter on resort to first principles would have seen the essential correctness of Hamilton's fear. For Machiavelli's return to the beginning of republics involved terrible and striking deaths, i.e., a return to the terrible beginning out of which civil society necessarily arose. A return to beginnings is the renewal of the fear that characterizes the state of nature. As Machiavelli writes in this section:

[Some men] used to say that it was necessary to reconstitute the government every five years, otherwise it was difficult to maintain it; where by "reconstituting the government" they meant instilling men with that terror and fear with which they had instilled them when instituting it . . . Provision has of necessity to be made against [misbehavior and corruption] by restoring that government to what it was at its origins.<sup>52</sup>

For Blackstone or Hamilton, frequent rebellions or rules for overthrowing tyrants undermine the stability of government which is necessary for the very preservation of liberty. While Blackstone admitted that extrajudicial, extralegal acts against authority might be legitimate under certain circumstance, he took issue with Locke's position, expressed in Sect. 149 of *The Second Treatise*, that the people have the inherent power to remove or alter the legislature, when they find the legislative act contrary to the trust reposed in them.

But however just this conclusion may be in theory, we cannot adopt it, nor argue from it, under any dispensation of government at present actually existing. For this devolution of power to the people at large, includes in it a dissolution of the whole form of government established by that people; reduces all the members to their original state of equality; and, by annihilating the sovereign power, repeals all positive law whatsoever before enacted. No human laws will therefore suppose a case, which at once must destroy all law and compel men to build afresh upon a new foundation; nor will they make provision for so desperate an event, as must render all legal provisions ineffectual.

The supposition of *law* therefore is, that neither the king nor either house of parliament (collectively taken) is capable of doing any wrong; since in such cases the law feels itself incapable of furnishing any adequate remedy. For which reason all oppressions, which may happen to spring from any branch of the sovereign power, must necessarily be out of the reach of any *stated rule*, or *express legal* provision: but if ever they unfortunately happen, the prudence of the times must provide new remedies upon new emergencies.<sup>53</sup>

It was the "prudence of the times" which required "new remedies upon new emergencies during the period of the Revolution." According to Hamilton

When the first principles of civil society are violated, and the rights of a whole people are invaded, the common forms of municipal law are not to be regarded. Men may then betake themselves to the law of nature; and, if they but conform their actions to that standard, all cavils against them, betray either ignorance or dishonesty. There are

52. *Discourses* III.1, p. 388.

53. Blackstone I.157, 237-38.

some events in society, to which human laws cannot extend; but when applied to them lose all their force and efficacy.<sup>54</sup>

But the prudence of the times also recognizes that extralegal but legitimate revolution is not to be confused with mere violence, no matter under what pretence that violence may erupt. Revolution is not anarchy.

The young “radical” Hamilton was as much concerned about rash violence as the mature “conservative” Hamilton, as his reaction to the attack on the press of Tory James Rivington in the previously cited letter to John Jay indicates:

Though I am fully sensible how dangerous and pernicious Rivington’s press has been, and how detestable the character of the man is in every respect, yet I cannot help disapproving and condemning this step.

In times of such commotion as the present, while the passions of men are worked up to an uncommon pitch there is great danger of fatal extremes. The same state of passions which fits the multitude, who have not a sufficient stock of reason and knowledge to quiet them, for opposition to tyranny and oppression, very naturally leads them to contempt and disregard of all authority. In such tempestuous times, it requires the greatest skill in the political pilots to keep men steady and within proper bounds, on which account I am always more or less alarmed at every thing which is done of mere will and pleasure, without any proper authority.<sup>55</sup>

It is the prudence of the time that teaches that authority and government are necessary to the protection of those rights for which the revolution was fought. And here, Hamilton faces a particular problem, a problem that, as his letter to Jay demonstrates, concerned him even in his “radical” youth, and which will concern him to the very end of his life.

Reason teaches men the rights of mankind. But everyone has not the same “stock of reason and knowledge.” Short-sighted, self-interested men have a passionate attachment to “liberty.” Such passion can be made use of in opposition to tyranny and oppression, but if not curbed through the actions of true statesmen, can undermine the very principles of the Revolution, the principles of true liberty. The passionate devotion to freedom, understood as merely the emancipation of desires is opposed to the reason and knowledge necessary to establish true liberty. Reason and knowledge teach that it is necessary to establish a proper authority and rules of law and government in order to protect the absolute rights of individuals. But men, driven by passion and without a “sufficient stock of reason and knowledge to guide them” will recognize no principle to limit their desires, will recognize no authority because the passions are in principle unlimited.<sup>56</sup>

54. *Papers*, 1.136.

55. *Papers*, 1.176–77.

56. To James A. Bayard (April [16–21], 1802): “Nothing is more fallacious than to expect to produce any valuable or permanent results, in political projects, by relying merely on the reason of men. Men are rather reasoning than reasonable animals for the most part governed by the impulse of passion. For at the very moment [the Republicans] are eulogizing the reason of men and professing the appeal only to that faculty, they are courting the strongest and most active passion of the human heart—VANITY!” *Papers*, xxv.605.

What prudence dictates is the moderation of the passionate love of liberty, without which the love of liberty will turn into anarchy, which in turn may call forth tyranny as a necessary corrective. Prudence dictates that revolutionary passion be replaced by new “establishments and courses,” since the minds of men have been loosened from their ancient ones. What this means is that the “pilots of the people,” those who do have reason and knowledge, must guide the people toward the establishment of proper authority and government, in order that those rights for which the revolution was fought are protected and maintained.

Peace made . . . a new scene opens. The object then will be to make our independence a blessing. To do this we must secure our *union* on solid foundations; a herculean task and to effect which mountains of prejudice must be levelled.<sup>57</sup>

We have now happily concluded the great work of independence, but much remains to be done to reach the fruits of it. Our prospects are not flattering. Every day proves the inefficacy of the present confederation, yet the common danger being removed, we are receding instead of advancing in a disposition to amend its defects . . . It is to be hoped that when prejudice and folly have run themselves out of breath we may return to reason and correct our errors.<sup>58</sup>

Hamilton was concerned that in the aftermath of the Revolution, hostility to authority in general had emerged, arising from a passionate and not a reasoned attachment to liberty; and that there was a tendency for the new government to succumb to the passions of the people, causing those governments to oppress the citizens just as surely as the British government oppressed the Americans. The problem for the “pilots of the people” was to attach citizens to a government of law, based on and informed by a concern for rights and principle, but taking into account human nature in such a way as to moderate the passions of the people.

“It is an axiom that governments form manners, as well as manners form governments.”<sup>59</sup> According to Hamilton the American governments were formed by the democratic temper of the people passionately attached to liberty. Hamilton wished to have government form manners by providing an antidote to the chaotic rule of passions, prejudices, and interests. This was to be done both by proper force and by example. This example would be the government’s adherence to the very principles upon which the Revolution was based. A government which allows its actions to be swayed by passion provides no example to the people. Good government forms a model of good conduct for its citizens.

Good government requires attachment to authority, which in turn attains the object of independence. That authority must be worthy of respect. It must act honorably and not arbitrarily or tyrannically. “It will be shocking and indeed an

57. To John Laurens (August 15, 1782), *Papers*, III.145.

58. To John Jay (July 25, 1783). *Papers*, III.416–17.

59. *Second Letter from Phocion*, *Papers*, III.553. Cf. Montesquieu, *Sur les causes de la grandeur des romains et de leur décadence*. “Dans la naissance des sociétés, ce sont les chefs des républiques qui font l’institution; et c’est ensuite l’institution qui forme les chefs des républiques.” *Œuvres Complètes* (Paris: Editions du Seuil, 1964), p. 436.

eternal reproach to this country, if we begin the peaceable enjoyment of our independence by a violation of all the principles of honesty and true policy.” By adhering to the rule of principle, a government is rendered moderate and just, respectable and exemplary. The failure of good government in America signals the doom of the cause of freedom everywhere.

The world has its eye upon America. The noble struggle we have made in the cause of liberty, has occasioned a kind of revolution in human sentiment. The influence of our example has penetrated the gloomy regions of despotism, and has pointed the way to inquiries, which may shake it to its deepest foundation . . .<sup>60</sup>

But in order to provide an example to the rest of the world, “it remains for us to justify the revolution by its fruits.” If the outcome of the experiment in self-government proves that “we really have asserted the cause of human happiness,” such an illustrious example will be something that “the world will bless and imitate.”

But if experience, in this instance, verified the lesson long taught by the enemies of liberty; that the bulk of mankind are not fit to govern themselves, that they must have a master, and were only made for the rein and spur: we shall then see the final triumph of despotism over liberty. The advocates of the latter must acknowledge it to be an *ignis fatuus*, and abandon the pursuit. With the greatest advantages for promoting it, that ever a people had, we shall have betrayed the cause of human nature.<sup>61</sup>

That the cause of human nature not be betrayed, human nature must be habituated to certain behavior and away from certain tendencies. Otherwise self-government or popular government is not possible. Self-government requires moderation. The statesman needs to do more than merely establish institutions. He must teach moderation. By teaching moderation and adherence to principle to “those who have the direction of public affairs,” the statesman establishes the manners necessary for self-government.

’Tis with governments as with individuals, first impressions and early habits give a lasting bias to the temper and character. Our governments hitherto have no habits. How important to the happiness not of America alone, but of mankind, that they should acquire good ones.

If we set out with justice, moderation, liberality, and a scrupulous regard to the constitution, the government will acquire a spirit and tone, productive and permanent blessings to the community. If on the contrary, the public councils are guided by humour, passion and prejudice; if from resentment to individuals, or a dread of partial inconveniences, the constitution is slighted or explained away upon every frivolous pretext, the future spirit of government will be feeble, distracted and arbitrary. The rights of the subject will be the sport of every party vicissitude. There will be no settled rule of conduct, but every thing will fluctuate with the alternate prevelancy of contending factions.<sup>62</sup>

60. To George Clinton (May 14, 1783), *Papers*, III.355.

61. *Second Letter from Phocion*, *Papers*, III.557.

62. *Papers*, III.556–57.

There is, of course, a certain “paternalism” in Hamilton’s attempt to educate the Americans to their responsibilities in self-government. But this merely takes cognizance of the fact that everyone does not have the same “stock of reason and knowledge” in order to seek “the real welfare of the community.” The welfare of the community depends upon the establishment of good law and the attachment of the citizens to the law, and those motivated by passion, humour, and interest alone cannot be properly attached to the law.

Men passionately attached to liberty must be made to see that their true interest lies in developing habits of law-abidingness. They must be shown that if they act on the basis of “political expedience,” which in practice amounts to acting on the basis of passion, humour, and interest, rather than on the basis of principle as manifested in good law, they put *themselves* “out of protection of law.” They in effect “transfer the scepter from the hands of government to those of individuals . . . [T]hey arm one part of the community against another . . . [and thereby] enact a civil war.” They “undermine all those rules, by which individuals can know their duties and their rights, and convert the government into a government of *will* not of *laws*.”<sup>63</sup>

The gratification of momentary passions through whimsical and arbitrary actions which ignores principles, while it may be in the immediate interests of the people, may well return to haunt them.

Nothing is more common than for a free people, in times of heat and violence, to gratify momentary passions, by letting into the government, principles and precedents which afterwards prove fatal to themselves.<sup>64</sup>

By teaching people that their true self-interest lay in developing a character which made them law-abiding and which engendered an affection for good laws, Hamilton tried to make self-government possible. The passionate attachment to liberty which characterized the Revolution was appropriate to the struggle *for* liberty but was not appropriate to the establishment and maintenance of true liberty. The role of the statesman and the policy dictated by the “prudence of the times” was to moderate the passionate love of liberty so that the *blessings* of liberty may be obtained. If such moderation should not take place, if violent government as the arbitrary means to fulfilling the passions of unreasoning men should become the norm, the danger would be great that such “a disorderly or violent government may disgust the best citizens, and make the body of the people tired of their independence.”<sup>65</sup>

Were the people of America, with one voice, to ask, what shall we do to perpetuate our liberties and secure our happiness? The answer would be “govern well” and you have nothing to fear either from internal disaffection or external hostility. Abuse not the power you possess, and you need never apprehend its diminution or loss. But if

63. *Papers*, III.556, 551.

64. *Papers*, III.485–86.

65. *Papers*, III.494.

you make a wanton use of it, if you furnish another example, that despotism may debase the government of the many as well as the few, you like all others that have acted the same part, will experience that licentiousness is the fore-runner to slavery.<sup>66</sup>

It should now be clear that Hamilton in no way abandoned his principles. But the mere assertion of those principles does not secure them. They must be fought for when threatened by tyranny and oppression, and they must be protected by civil authority. The passions released in the fight for one's rights can in the end destroy those rights, because of passionate hostility to authority on the one hand, and the use of authority by mobs to destroy rights on the other.

Passionate men must be attached to good laws. They must be taught that their true interest lies in law-abidingness, that the constitution is the implementation of those principles for which men fought the Revolution, that the recourse to violent political expedience, introduces precedents that will eventually render all men unsafe in their liberty.

Hamilton's political career was, for the most part, a model of prudential behavior. His aim was to establish a government that implemented the principles of the Revolution, but he had to make use of the character of the people to do it. That character was not always suited to the times, because not everyone had the same stock of reason and knowledge. Hamilton realized that only a central government could ensure the enjoyment of the fruits of the Revolution, but the character of the American people was hostile to authority, particularly centralized authority. Hamilton had to do what he could to make *all* authority as decent and effective as he could, while at the same time working to establish the necessary central government. Thus, as shown above, during the period of the Revolution and its aftermath, Hamilton publicly praised extant political authority, either the state governments or the Congress and Articles of Confederation, in order to encourage a certain character in the people, i.e., affection for a rule of conduct, and law-abidingness; while in private he expressed concern over the inadequacy of the Articles and the attachment of the people to state rather than the national government. This is not hypocrisy, but prudence. His praise of extant authority was done for the purpose of establishing the conditions necessary for the ultimate adoption of the improved constitution.

But even the establishment of the national government and the adoption of the Federal constitution did not end the requirement for Hamilton's statesmanship. The character of the new government was still unformed. Those who could make use of the institutions available, and who remembered that governments, once formed by men then form the character of their citizens, would now be able to ensure the implementation and perpetuation of those principles for which the Revolution was fought.