

# Did the Founders Hate Government?

**Exclusive:** Orwell's insight that who controls the present controls the past, and who controls the past controls the future could apply to the American political debate in which the Right has built a false narrative that enlists the Framers of the Constitution as enemies of a strong central government, writes Robert Parry.

By Robert Parry

In the coming months with a new fight over the federal budget, the Supreme Court's review of health-care reform and the November elections the battle in the United States will pit not just political parties and economic ideologies against one another but competing national narratives of how and why the United States was founded.

Indeed, it is that conflict over the American narrative that may well determine the outcome of the presidential election and the future direction of the United States. Yet, this dispute over the Founders' vision is rarely debated in the mainstream news media.

The argument does, however, inspire right-wing groups which obsess over "strict construction" of the Constitution and the "originalist" intent of the Founders. Such references also have become standard fare on the Republican campaign trail with the four remaining major candidates claiming to be in this fight to defend American "liberty."

On Saturday, for instance, ex-Sen. Rick Santorum declared that President Barack Obama's health-care reform is "a threat to the very essence of who America is." As the New York Times noted, "numbers like 1776 and 1860 increasingly pepper his speeches as he stresses the historical urgency of his candidacy."

The Right's historical narrative holds that the Founders designed the United States to have a weak central government barred from confronting most domestic problems (though with broad powers for defense). Under this "free-market" system, wealthy business interests had the "liberty" to set their own rules and the average citizen had the "freedom" to make his way the best he could.

There is, of course, a counter-narrative, but Democrats and progressives rarely make it, preferring to cede the history to the Right and to argue that the Founders couldn't possibly have anticipated the complex problems of the modern age.

Still, the counter-narrative to the GOP mythology is grounded in solid history.

Indeed, the evidence is that most constitutional framers were pragmatic men interested in building a strong nation. They also were fed up with the weak central government under the Articles of Confederation. They surely weren't anti-government ideologues.

In the Constitution, they created a robust central authority, stating in the preamble the explicit responsibility of the government "to promote the general Welfare." The document also granted the federal government broad domestic powers, including authority to regulate interstate commerce, the so-called Commerce Clause.

### **Framing the Commerce Clause**

Plus, the Commerce Clause was not some afterthought at the Constitutional Convention in 1787. It was presented as one of the new federal powers in James Madison's Virginia plan on the first day of substantive debate. It also was considered one of the least controversial features of the new governing framework.

Indeed, constitutional architect Madison had been maneuvering to give this power to the federal government for years, seeking such a change in the Articles of Confederation, which governed the United States from 1777 to 1787.

Madison "sponsored a resolution instructing Virginia congressmen to vote to give the federal government the authority to regulate commerce for twenty-five years," noted Chris DeRose in *Founding Rivals*, a resolution that won the support of Gen. George Washington, one of the fiercest critics of the weak central government in the Articles of Confederation.

Because the Articles' structure of 13 "independent" and "sovereign" states had left Washington's soldiers starving and desperate when the states reneged on promised funding Washington advocated a much stronger central government.

Regarding Madison's commerce idea, Washington wrote that "the proposition in my opinion is so self evident that I confess I am at a loss to discover wherein lies the weight of the objection to the measure. We are either a united people, or we are not. If the former, let us, in all matters of a general concern act as a nation, which have national objects to promote, and a national character to support. If we are not, let us no longer act a farce by pretending it to be."

When the Virginia legislature slashed Madison's proposal for federal control of commerce from 25 years to 13 years, he voted against it as insufficient. His thoughts then turned to a more drastic scheme for consolidating power in the hands of the federal government, a constitutional convention, albeit under the guise of simply proposing some changes to the Articles.

## A Dramatic Change

In spring 1787 with a convention called in Philadelphia to amend the Articles of Confederation Madison unveiled his radical alternative, not simply some modifications to the Articles but an entirely new system that wiped away the Articles' language about the "independence" and "sovereignty" of the states.

On May 29, 1787, the first day of substantive debate at the Constitutional Convention, a fellow Virginian, Edmund Randolph, presented Madison's framework. Madison's Commerce Clause was there from the start, except that instead of a 25-year grant of federal authority, the central government's control of interstate commerce would be made permanent.

Madison's convention notes on Randolph's presentation recount him saying that "there were many advantages, which the U. S. might acquire, which were not attainable under the confederation such as a productive impost [or tax] counteraction of the commercial regulations of other nations pushing of commerce ad libitum &c &c."

In other words, the Founders at their most "originalist" moment understood the value of the federal government taking action to negate the commercial advantages of other countries and to take steps for "pushing of [American] commerce." The "ad libitum &c &c" notation suggests that Randolph provided other examples off the top of his head.

Historian Bill Chapman has summarized Randolph's point as saying "we needed a government that could co-ordinate commerce in order to compete effectively with other nations."

So, from the very start of the debate on a new Constitution, Madison and other key framers recognized that a legitimate role of the U.S. Congress was to ensure that the nation could match up against other countries economically and could address problems impeding the nation's economic success and the public welfare.

The constitutional framers understood what they were doing. As historian Richard Labunski wrote in *James Madison and the Struggle for the Bill of Rights*, "no one knew better than the delegates that the proposed Constitution would drastically alter the structure of government. Much of the power of the states would be taken from them."

The point also was not missed by the advocates of states' rights. After the Constitutional Convention, these Anti-Federalists, led by Madison's chief rival Patrick Henry, mounted a fierce campaign to defeat Madison's scheme because they recognized that it concentrated power in the central government.

For instance, dissidents from Pennsylvania's convention delegation wrote: "We dissent because the powers vested in Congress by this constitution, must necessarily annihilate and absorb the legislative, executive, and judicial powers of the several states, and produce from their ruins one consolidated government." [See David Wootton, *The Essential Federalist and Anti-Federalist Papers*.]

As resistance to Madison's plan spread and as states elected delegates to ratifying conventions Madison feared that his constitutional masterwork would go down to defeat or be subjected to a second convention that might remove important federal powers like the Commerce Clause.

### **Finessing the Opposition**

So, Madison along with Alexander Hamilton and John Jay began a series of essays, called the Federalist Papers, designed to counter the fierce (though generally accurate) attacks by the Anti-Federalists against the broad assertion of federal power in the Constitution.

Madison's strategy was essentially to insist that the drastic changes contained in the Constitution were not all that drastic, an approach he took both as a delegate to the Virginia ratifying convention and in the Federalist Papers.

Today's Right has sought to transform Madison from his role as the chief advocate for a strong central government into the opposite a modern-day Tea Partier before his time by citing Federalist Paper No. 45, entitled "The Alleged Danger From the Powers of the Union to the State Governments Considered," in which Madison used the pseudonym Publius.

Trying to finesse the opposition to his plan for enhanced federal powers, Madison wrote: "If the new Constitution be examined with accuracy, it will be found that the change which it proposes consists much less in the addition of NEW POWERS to the Union, than in the invigoration of its ORIGINAL POWERS."

But even that was an admission from Madison that the Constitution added teeth to what had been toothless authorities theoretically granted to the central government under the Articles. Making powers meaningful, rather than ineffectual, is not an insignificant change.

Madison also noted: "The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose, and from which no apprehensions are entertained."

To claim Madison as an opponent of an activist federal government, the Right must ignore both his advocacy for beefing up what had been weak authorities and

adding the crucial new one over commerce. The Right also must ignore Federalist Paper No. 14 in which Madison envisioned major construction projects under the powers granted by the Commerce Clause.

“[T]he union will be daily facilitated by new improvements,” Madison wrote. “Roads will everywhere be shortened, and kept in better order; accommodations for travelers will be multiplied and meliorated; an interior navigation on our eastern side will be opened throughout, or nearly throughout the whole extent of the Thirteen States.

“The communication between the western and Atlantic districts, and between different parts of each, will be rendered more and more easy by those numerous canals with which the beneficence of nature has intersected our country, and which art finds it so little difficult to connect and complete.”

The building of canals, as an argument in support of the Commerce Clause and the Constitution, further reflects the pragmatic and commercial attitudes of key founders. In 1785, two years before the Constitutional Convention, George Washington founded the Potowmack Company, which began the work of digging canals to extend navigable waterways westward where he and other Founders had invested in Ohio and other undeveloped lands.

Thus, the idea of involving the central government in major economic projects a government-business partnership to create jobs and profits was there from the beginning. Madison, Washington and other early American leaders saw the Constitution as creating a dynamic system so the young country could grow and overcome the daunting challenges of its vast territory.

The Founders did debate the proper limits of federal and state powers, but again Madison and Washington came down on the side of making federal statutes and treaties the supreme law of the land. (Madison had even favored giving Congress veto power over each state law, but settled for granting the federal courts the authority to overturn state laws that violated federal statutes.)

### **After Ratification**

The narrow ratification of the Constitution in 1788 did not end the confrontations over states' rights, especially when the South began to fear that its agriculture-based economy and its lucrative industry of slavery might be threatened as the industrialized North expanded and the anti-slavery movement grew.

In the early 1830s, President Andrew Jackson faced down South Carolina over its claimed right to “nullify” federal law. And three decades later, President Abraham Lincoln fought the Civil War to settle the issue of states having the

right to secede from the Union.

Still, as late as the 1950s and 1960s, Southern white supremacists were still citing the principle of states' right in defending segregation. Though the segregationists lost those fights in federal courts and in the battle for public opinion, they never surrendered. They simply regrouped.

In the mid-1970s, as the Vietnam War ended, the American Left began shutting down or selling off much its media, which had proved effective in reaching out to the public to build opposition to the war. At the same time, the Right began investing heavily in its own media infrastructure.

Wealthy right-wing foundations and industrialists, like the Koch Brothers, also poured money into think tanks, which hired clever individuals who began reframing the national narrative. Part of that effort was to support "scholarship" that transformed Madison and other key framers from advocates of a strong central government into proponents for states' rights.

A few of Madison's quotes from 1788 as he tried to downplay how radical his new constitutional system actually was were plucked out of context, while other parts of his biography as an advocate for a strong central government were simply erased.

By Ronald Reagan's inauguration in 1981, Americans were being told that "government is the problem" and that the nation had deviated from the Founders' original vision of an Ayn Rand-style "free-market" society in which everyone was on their own and the government only worried about fighting wars.

Increasingly, the Right pitched itself as the defender of the nation's founding ideals. Any time the central government sought to address vexing national problems from the need to regulate Wall Street to extending health coverage to the tens of millions of uninsured Americans these proposals were labeled "unconstitutional."

Some right-wing jurists, most notably Supreme Court Justice Antonin Scalia, advocated "originalism," insisting that constitutional powers should apply only to what the Founders had in mind at the time. The Right ignored the clear record that the Founders intended their governing structure to meet both their immediate needs and the distant interests of their "posterity."

Indeed, if there was any true "originalism," it was that the Constitution should be sufficiently dynamic to cope with any number of anticipated and unanticipated challenges that might confront the nation. As the discussion about canal building shows, Madison, Washington and other key framers were pragmatists.

## **One-Sided Debate**

Yet, while the Right was bending the founding narrative to its purposes, the Left largely dismissed the importance of this debate, perhaps in part because the Left tends to disdain many Founders as slave-owning aristocrats who hypocritically denied their precious “unalienable rights” to women, blacks, Indians, the poor and many others.

While that surely was true, the nation’s founding narrative retains a strong mythic appeal to many Americans and the Right’s twisting of the history has proved a powerful tactic to rally many middle- and working-class Americans, particularly white men, to the Tea Party cause and to the Republican Party.

Believing they’re channeling the true spirit of the Founders, many of these average Americans end up siding with ultra-rich plutocrats who see an effective and democratized federal government as the last obstacle to their total domination of the United States.

Thus, the Tea Partiers and their allies fight: to let Wall Street banks operate as recklessly as they wish; to let health insurance companies deny coverage to sick people; to let rich investors pay lower tax rates than their secretaries; to let billionaires buy up the political process through Super-PACs; to let companies outsource jobs; to let industry despoil the environment; and to slash life-saving federal programs like Medicare, food stamps and Social Security.

The “logic” behind this “populist” support for the interests of the rich is that many average folk think they are engaged in a principled stand for “liberty” with the federal government their oppressor, standing in for the British Crown in 1776. That’s why the Tea Partiers wave “Don’t Tread on Me” flags and dress up in Revolutionary War costumes.

Simply put, these Tea Partiers have been fooled by a well-funded propaganda campaign tricking them by substituting a false narrative about the nation’s founding and thus enlisting their help in dismantling the Great American Middle Class.

## **Building the Middle Class**

Many of these Americans have forgotten a basic truth: that the Great American Middle Class was largely a creation of the federal government and its policies dating back to Franklin Roosevelt’s New Deal. For many Tea Partiers, it is more satisfying to think that they or their parents climbed the social ladder on their own, that they “didn’t need no gov-mint help.”

But the truth is that it was government policies arising out of the Great

Depression and carried forward through the post-World War II years by both Republican and Democratic presidents that created the opportunities for tens of millions of Americans to achieve relative comfort and economic security.

Those policies ranged from Social Security and labor rights in the 1930s to the GI Bill after World War II to Medicare in the 1960s and to government investments in infrastructure and technological research over many decades. Even in recent years, despite right-wing efforts to choke off money to government research, federal programs such as the Internet have brought greater efficiency to markets, as well as wealth to many entrepreneurs.

So, the Right's success in dismantling the New Deal, piece by piece, and shoving more and more Americans down the social ladder has hinged on the demonization of "gub-mint." This message often wrapped in patriotic hoopla and coded appeals to bigotry was delivered most effectively by the personable Ronald Reagan in the 1980s.

Yet, while rallying many working-class "Reagan Democrats" to his banner, Reagan's most important policy was slashing taxes on the rich. Under Reagan's "supply-side economics," the top marginal tax rate what the richest Americans pay on their highest tranche of income was more than halved, from 70 percent to 28 percent.

Still, the promised surge in "supply-side" growth never really materialized and a key result was the dramatic rise in the national debt. Another less obvious change was the incentivizing of greed, which had been discouraged by the much higher marginal tax rates of the post-World War II years, from Dwight Eisenhower (when the top marginal tax rate was 90 percent) through Jimmy Carter (with a 70 percent top rate).

After all, if 70 to 90 percent of your highest tranche of income went to the government to help pay for building the nation, you had little personal incentive to press for that extra \$1 million or \$2 million in compensation.

So corporate CEOs while well-paid were happy earning about 25 times as much as their average worker in the 1960s. A few decades later, that ratio on CEO pay was about 200 times what the average worker was making.

The consequences of several decades of Reaganism and its related ideas (such as the "free-market" shipping of many middle-class jobs overseas where workers are paid much less) are now apparent. Wealth has been concentrated at the top with billionaires living extravagant lives while the middle class struggles. One everyman after another gets shoved down the ladder.

The data is now clear that the last three decades have witnessed a divergence



between the haves and the have-nots unprecedented in the United States, at least since the lead-up to the Great Depression when a similar era of income inequality set the stage for financial disaster.

For instance, the non-partisan Congressional Budget Office in an analysis of data from 1979 to 2005 found that the inflation-adjusted income of middle-class Americans rose about 21 percent (only about one-fifth the increase enjoyed by the middle class during the post-World War II era).

Meanwhile, the income for the ultra-rich (the top 100<sup>th</sup> of one percent) jumped 480 percent from 1979 to 2005, rising from an average of \$4.2 million to \$24.3 million. And CBO's analysis ends in 2005, thus missing the decimation of the middle class from the Wall Street bust of 2008.

### **Struggling Americans**

Behind the numbers, the real-life consequences are painful. Millions of Americans forego needed medical care because they can't afford health insurance; young people, burdened by college loans, crowd back in with their parents; trained workers settle for low-paying jobs or are unemployed; families skip vacations and other simple pleasures of life.

Beyond the unfairness, there is the macro-economic problem which comes from massive income disparity. A strong economy is one in which the vast majority people can buy products, which can then be manufactured more cheaply, creating a positive cycle of profits and prosperity.

Plus, the problems facing the nation grow even more severe with looming shortages of vital resources and the impending catastrophe of global warming. Only an energetic federal government can focus the national will to tackle these challenges.

The pragmatic Founders would understand this need for unified action. Yet, Republicans running for President and GOP members of Congress continue to call for further cuts in taxes for the rich and more cuts in government spending, rending the social safety net and slashing investments in infrastructure, education, research and the environment.

House Budget Chairman Paul Ryan unveiled a plan Tuesday to reduce the highest marginal tax rate from 35 percent to 25 percent even lower than it was under Reagan while domestic spending would be slashed and Medicare would be turned into a voucher system with the elderly paying a much higher share of their health costs.

As in the past, this approach is accompanied by assurances of faster economic

growth, but the record for those promises should now be clear. The GOP plans are also wrapped in rhetoric about “liberty” and the “spirit of the Founders” though in truth that spirit was infused with a pragmatic notion of the country pulling together to meet its challenges

So, what’s at stake in 2012 is not just who wins and how that will affect the immediate welfare of the American people but whether a false narrative about America’s past will lead it into a darkening future.

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