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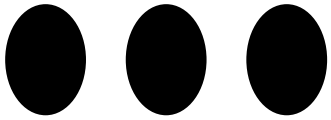
Forgotten Influences of the Founders

Our own Founding Fathers were convinced, and history has proven them prescient, that they were building a new and everlasting republic that would do what other republics of the ancient world had failed to do: survive the effects of the maladies of self-government and bequeath to the subsequent generations of Americans a sound and stable republic — if they could keep it.



For the ingredients necessary to brew the right antidote to the poisons of democracy and tyranny, the Founders drew from several sources. From the recent past, there was the English legacy of the right of the people to the enjoyment of certain unalienable rights such as trial by jury and due process; there was the legacy of ancient Greece and Rome that citizens are and by rights should be entrusted with the power of self-determination; and there was the faculty of renown continental thinkers and jurists who propounded the principle of natural law and its blessings and burdens better than any theorists before or since. The Founders wisely chose from among the best and brightest, and combined their words and deeds into a potent concoction that they then reduced down with the fire of revolution into a remedy that, despite its base of history, was uniquely American.

There are many illustrious names whose books and treatises were read and assimilated by our Founding Fathers. Some of those influences are still well known, and their names and their ideas (or at least a vague notion of their ideas) are still heard in lectures on government (Locke and Montesquieu, for example). There are others, however, whose identity and influence are now largely lost to Americans in general, and the books and papers that were once always at hand for Madison, Hamilton, Jefferson, et al., are now to be found only in dusty “Special Collections” rooms at the library and online repositories of the foundational tracts of American political philosophy.

Four of these forgotten influences on the Founders are the subject of this article. Their names may sound peculiar, but their wisdom, as distilled through the handiwork of our Founding Fathers, will have as familiar a ring as “We the People” or “life, liberty, and the pursuit of happiness.” Their names are (in order of their birth): Algernon Sidney, Samuel von Pufendorf, Jean-Jacques Burlamaqui, and Emmerich

de Vattel.

These great thinkers may be rightly called the Four Horsemen of American liberty, the antithesis of the "Four Horsemen of the Apocalypse," who brought havoc and upheaval. These men and their enlightened interpretations and expositions on self-government informed and inspired our Founding Fathers, and their words were as lamps lighting the feet of pioneers searching diligently to find and avoid pitfalls that doomed the best-laid plans of other equally earnest lawgivers. Their ideas forged a new way in the wilderness of man's attempts to break the shackles of tyranny and to take upon himself the burden of self-restraint and self-rule.

And it is from the study and debate of the works of these Four Horsemen that the Founding Fathers learned the keys to ably maneuvering steadily and safely among the traps and trials of establishing a system of government. The keys to producing a government that at once was powerful and dynamic enough to unite distinct peoples and yet limited enough to give sway to the noblest impulses of its citizens was, first, the recognition of the supremacy of natural law and the fettering of the branches of government through a system of checks and balances and powers expressly enumerated in the constitutional documents of the nation. The first subject of this brief survey is Algernon Sidney.

Algernon Sidney

Algernon Sidney (1623–1683) was the son of Robert Sidney, the 2nd Earl of Leicester. All extant evidence points toward Sidney's early devotion to republican principles. So pure and deeply rooted was Sidney's adherence to the principles of mixed government that he opposed the execution of English monarch Charles I for treason, and he distanced himself from former allies after becoming disillusioned with Oliver Cromwell, the 1st Lord Protector of the Commonwealth of England, for abandoning republican principles, including heavy-handedly side-stepping Parliament.

Sidney left England and was living in France when the English monarchy was restored in 1660. He spent the years of self-imposed exile trying to negotiate with the governments of Holland and France to back a republican invasion of England. Unsuccessful in his diplomatic efforts, Sidney returned to England in 1677 and immediately joined his fellow republicans in opposition to Charles II, who had ordered the dismissal of Parliament. Soon, Sidney was implicated on the flimsiest of evidence in the Rye House Plot, a scheme to assassinate Charles II and his brother, and was forthwith arrested. His arrest was chiefly a means to silence one known to be antithetical to despotism.

As the trial began, the King's solicitors decried Sidney as a "false, seditious, and libelous traitor" whose writings fomented revolution by inciting the people to "rise up in arms against the King." While Sidney denied the charges of fomenting an uprising, he did not deny that he was an enemy of absolute monarchy. His study of history made it apparent that the best of all government was a mixed government wherein the royal prerogatives are limited and restrained, and are counterbalanced against the inviolable and natural right of a free people to be self-governing. A book of his beliefs, *Discourses Concerning Government*, was used against him by the prosecution.

Discourses Concerning Government was a response to *Patriarcha*, an apology of the divine right of absolute monarchy written by Robert Filmer. Filmer argued that the monarch was the father of the people and that as such he had a divine and unassailable right to rule as he saw fit. The people, as the children of the monarch, thrived best when they were obedient to the monarch's sovereign rule, according to the philosophy of Filmer. Sidney refuted Filmer, pointing out that monarchs are more apt to be despots than father figures. His work was a classic in political theory and a standard work in the

canon of republicanism.

But Sidney did not argue in favor of "taking up arms" against the King. Rather, he simply and without fear or favor reminded the King that he was but one branch of the mixed government so sagaciously supported by the wisdom of the ages. He reminded his readers that Englishmen were freemen and that the King was no more entitled to deference than was the House of Lords or the House of Commons.

That the people possessed basic rights that could not be denied by a King was not a new principle our Founding Fathers discovered in the pages of Sidney's writings, for this was their inheritance as freeborn Englishmen, bequeathed to them in the articles of the Magna Carta of 1215. What they found in Sidney, however, was a cogent near-poetical explication of the import of this right:

> Those who have already fallen into all that is odious, and shameful and miserable, cannot justify fear.... Let the dangers never be so great, there is the possibility of safety while men have life, hands, arms and courage to use them but that people must surely perish who tamely suffer themselves to be oppressed.

These words sounded sharp and clear as a clarion in the ears of American patriots, rousing them to righteous indignation and fastening their resolve to throw off the shackles of tyranny and monarchical abuse.

Algernon Sidney was born an aristocrat, lived as a republican, and died a fearless martyr for the cause of liberty on the gallows of a tyrant.

Samuel von Pufendorf

Look in the index of any collection of writings by any of our Founding Fathers, and you will find numerous references under the name Samuel von Pufendorf. The writings of this illustrious German jurist were as oft-quoted as any of the extraordinary thinkers whose words enlightened the hungry minds of our Founders. Pufendorf was remarkable not only for his prolific opuses, but for the approachable and direct manner of his prose. His political philosophy was an essential element of the curriculum for all educated men of the 18th century and was an indispensable source of well-crafted reasoning in the supremacy of natural law.

Pufendorf was born in 1632 in the German state of Saxony. His father was a Lutheran minister, and Pufendorf intended to follow in his father's ecclesiastical footsteps. Fatefully, Pufendorf found the dogmatic approach of the faculty of the school of theology too narrow and restrictive, and he decided to undertake the study of law.

Arriving at the University of Jena in Germany, Pufendorf's excellence and independence of character began to flourish. At Jena, he was exposed to the writings of earlier natural-law theorists such as Hugo Grotius and under the influence of such luminaries, Pufendorf set forth his own theories of man's rights and responsibilities under the law of nature and nature's God.

Two of Pufendorf's books were of unparalleled appreciation by America's Founders. The first and longer of the two works was an intimidating 1,400-page exposition of natural law entitled *Of the Law of Nature and Nations.* The philosophy and commentary expounded in this book was later condensed and more narrowly tailored in Pufendorf's next offering, *Of the Duty of Man and Citizen*. This shorter and more accessible volume was a vigorous analysis of one of the foundational maxims of American political philosophy: that all men are created equal.

In *Of the Duty of Man and Citizen*, Pufendorf affirmed that "since human nature belongs equally to all

men, and no one can live a social life with a person by whom he is not rated as at least a fellow man, it follows, as a precept of natural law, that 'every man should esteem and treat another man as his equal by nature, or as much a man as he is himself.'" Pufendorf's animated defense of the equality of man was restated simply and soundly in the lines of the Declaration of Independence as a "self-evident" truth.

It is to Samuel von Pufendorf's masterful amalgamation of the spiritual and the scientific that America owes much of the strength of the foundation of liberty upon which she was erected.

Jean-Jacques Burlamaqui

Another brilliant thinker and author now relegated to the lonely stacks of musty libraries is Jean-Jacques Burlamaqui. Burlamaqui was born on June 24, 1694 in Geneva, Switzerland. Burlamaqui was familiar with the works of Pufendorf, as he was a disciple of Jean Barbeyrac, the eminent editor of Hugo Grotius and Samuel von Pufendorf. His mentor encouraged him to study the works of his contemporaries and adjust them to the world as he sought fit. Burlamaqui dutifully followed his master's advice and at the age of 25, Burlamaqui's skill in internalizing and cogently and coherently restating the theories of natural law was so advanced and well regarded that he was appointed a professorship of ethics and the law of nature at the University of Geneva.

Before assuming this distinguished post, however, Burlamaqui traveled throughout Europe seeking enlightenment on these subjects from some of the greatest lights alive. To his credit, Burlamaqui, for all his notable achievements and skill, recognized that he would be of greater service to his pupils and to the world at large if he were to dedicate himself to the acquisition of learning and insight from those more advanced, well versed, and accomplished than himself. This humility and clear thinking would serve the young schoolman well as he set his feet on a course that would bring him fame and respect from scholars, thinkers, and most importantly, American patriots.

Two of Burlamaqui's works left an immense imprint on the minds of American political thinkers who were to become the architects of the world's most enduring republic. James Madison, Thomas Jefferson, and Alexander Hamilton all considered Burlamaqui an example of remarkable clarity of thought and breadth of understanding. Burlamaqui's two influential books were *Principles of Natural Law* (*Principes du Droit Naturel*), published in 1747, and *Principles of Political Law* (*Principes du Droit Politique*), published posthumously in 1751. The learning and admonitions set out in these books were published to the world just in time to be of significant influence on the education of our Founding Fathers. Burlamaqui's words and the spirit of his explanations of the laws of man and nature were digested and then quoted liberally by James Madison, Thomas Jefferson, and the like. In fact, all of our revered Founders eagerly gleaned insight from the pages of Burlamaqui's magnificent contribution to the natural-law canon.

Of all Burlamaqui's American students, Thomas Jefferson was probably the most devout. It was his reading and distillation of Burlamaqui's theories that inspired Jefferson's most famous phrase: "life, liberty, and the pursuit of happiness," though Jefferson restated the principles of natural law he learned from his study of Burlamaqui. Burlamaqui's words swayed him and fellow Founder James Wilson to list "happiness" as a natural right as opposed to the more familiar denomination of "property," also convincing Jefferson that while the designation of property as an "unalienable right" was politically uncertain, it was philosophically well grounded. With Burlamaqui as support, Jefferson felt confident to include the phrase in our nation's bold Declaration of Independence from England.

Emmerich de Vattel

The fourth of the Four Horsemen of American liberty is Emmerich de Vattel. Although last in this list of forgotten influences, it can be claimed, without exaggeration, that it is Vattel's interpretations and writings on the subject of the proper constitution of government that was most influential on the Founders of the American Republic. As a matter of fact, Thomas Jefferson, indisputably one of the lead framers of our nation's government, ranked Vattel's seminal *The Law of Nations, or the Principles of Natural Law* as highly as similar treatises by Grotius and Pufendorf. Further proof of Vattel's impression on the Founders is the fact that Vattel's interpretations of the law of nature were cited more frequently than any other writer's on international law in cases heard in the courts of the early United States, and *The Law of Nations* was the primary textbook on the subject in use in American universities.

The Swiss-born Vattel learned to love God from his father, a pastor in the Reformed Church. It was Vattel's belief that the law of nations was given to man by God for their happiness. Vattel wrote that the best constitution was that constitution founded most firmly on natural law and least liable to be unmoored from it. Vattel stated, "It is … the constitution of a state which determines its progress and its aptitude to attain the ends of a society." These words were instructive to the authors of the American Constitution and encouraged them in the sometimes arduous struggle to frame a well-constructed and long-lasting Constitution for the new republic. They learned from the distinguished Vattel that if a country is to be successful then it must begin as it means to continue, built upon an unshakeable foundation of natural law and separated power.

As with many of the ancient historians and our own Founding Fathers, Vattel recognized the insidious harm done to constitutions by those who weaken it from the inside over time. James Madison's warning in this regard is oft quoted: "I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations." Madison undoubtedly believed this independently, but he was certainly inspired by his reading in *The Law of Nations* wherein Vattel admonished: "The constitution and laws of a state are rarely attacked from the front; it is against secret and gradual attacks that a nation must chiefly guard." In this instance and many others, one can appreciate the weight and value of Vattel's theories on those of our most illustrious thinkers.

Words of Wisdom

The lessons our Founders learned from the wise men discussed in this article are just as valuable for us, their political and philosophical heirs. We must vigilantly and zealously guard and treasure the republican government established by the Constitution and the eternal principles of natural law upon which it is built. Let us be fervent and grateful protectors of liberty and resist all attempts to wrest our government from us or from its firm foundations of popular sovereignty and the right of self-determination.