Epilogue

What We Can Do

WHAT WOULD THE FOUNDERS SAY ABOUT THE AMERICA OF TODAY? Is our nation what it was supposed to be, or what they hoped it would be? As Cicero asked in his first speech against Catiline: What kind of country have we become?

The picture is mixed.

Over the last 150 years there has been progress in expanding the franchise, so that women and nonwhites now exercise far more political power than the founders envisioned. I think they would be pleased to see that the machine they designed has proven both durable and flexible. More than anything else, I have learned in researching this book that America is a moving target, a goal that must always be pursued but never quite reached. As it has moved, it has expanded rights—for blacks, for other minority groups, for women, for the LGBTQ community, for others who have been oppressed—and revisited the question of what it means to provide equality before the law. This is not just the right thing to do but the smart thing. America works best when it gives people the freedom to tap their own energies and exploit their talents.

On the other hand, I think the founders would be appalled by how money has come to dominate American politics, particularly in the last forty years. They did not design the United States to be an oligarchy, governed by the rich few. Most would have deemed such an outcome inconsistent with being a republic. Money has always influenced our politics, but it now wields more clout than it has for most of our history. This is unhealthy, and undermines

the representative democracy the framers labored to produce. As John Adams wrote, "Property monopolized or in the Possession of a few is a Curse to Mankind. We should preserve not an Absolute Equality.—this is unnecessary, but preserve all from extreme Poverty, and all others from extravagant Riches."

Here are ten steps that I think might help put us more on the course intended by the Revolutionary generation, to help us move beyond where we are stuck and instead toward what we ought to be:

1. Don't panic

Did the founders anticipate a Donald Trump? I would say yes. As James Madison wrote in the most prominent of his contributions to the Federalist Papers, "Enlightened statesmen will not always be at the helm." Just after Aaron Burr nearly became president, Jefferson wrote that "bad men will sometimes get in, & with such an immense patronage, may make great progress in corrupting the public mind & principles. This is a subject with which wisdom & patriotism should be occupied."

Fortunately the founders built a durable system, one that often in recent years has stymied Trump. He has tried to introduce a retrogressive personal form of rule, but repeatedly has run into a Constitution built instead to foster the rule of law. Over the last several years we have seen Madison's checks and balances operate robustly. Madison designed a structure that could accommodate people acting unethically and venally. Again, our national political gridlock sometimes is not a bug but a feature. It shows our system is working. The key task is to do our best to make sure the machinery of the system works. This begins with ensuring that eligible citizens are able to vote. This ballot box is the basic building block of our system.

We should appreciate how strong and flexible our Constitution is. It is all too easy, as one watches the follies and failings of humanity, to conclude that we live in a particularly wicked time. In a poll taken just as I was writing the first part of this book, the majority of Americans surveyed said they think they are living

at the lowest point in American history. So it is instructive to be reminded that Jefferson held similar beliefs about his own era. He wrote that there were "three epochs in history signalized by the total extinction of national morality." The first two were in ancient times, following the deaths of Alexander the Great and Julius Caesar, he thought, and the third was his own age.

As an aside, Trump's attacks on immigrants might raise a few eyebrows among the founders. Seven of the thirty-nine people who signed the Constitution were themselves born abroad, most notably Hamilton and James Wilson.

2. Curtail campaign finance

We should drop the bizarre American legal fiction that corporations are people, enjoying all the rights of citizens, including unfettered campaign donations as a form of free speech. Indeed, corporations possess greater rights than do people, as they cannot be jailed or executed, while citizens can and do suffer those fates. As the legal historian Zephyr Teachout has observed, the founders would have considered corporate campaign spending the essence of political corruption.

3. Re-focus on the public good

The coronavirus pandemic of 2020 reminded America of a lesson it had forgotten about *the public good*—a phrase that occurs over 1,300 times in *Founders Online*. Health is a public good—which is one reason everyone should have access to health care. In the longer term, so are education, transportation infrastructure, the environment, and public safety. These are the things that come under "the general welfare" of the people that is mentioned twice in the Constitution—the preamble and Article I, Section 8. The idea has its roots in an assertion by Cicero that *"salus populi suprema lex esto"*—that is, "Welfare of the public is the supreme law." Salus was the Roman goddess of "health, prosperity, and the public welfare." John Adams wrote in 1766, "The public Good, the salus Populi is

the professed End of all Government." With that in mind, Americans need to put less emphasis on the property rights of the individual and more on the rights of the people as a whole. The market should not always be the ultimate determinant of how we live, or always allowed to shape our society. As the social philosopher Michael Sandel puts it, "to be free is more than a matter of pursuing my interests unimpeded, or satisfying my desires, whatever they happen to be. It is to share in self-government, to deliberate about the common good, to have a meaningful voice in shaping the forces that govern our lives." It may take a long time—a generation or two—to restore this balance to our system. We should follow Sandel's lead and start changing the discourse.

4. Promote, cultivate, and reward virtue in public life—but don't count on it

The next step is to treat people who think differently from you with courtesy. Hear them out. Try to understand their points of view. Ask yourself how they came to those views. Even better, ask them—not to score debating points, but to learn. At the very least, you might come away with a better understanding of where your own side has erred or overlooked aspects of the problem. As part of that dialogue, when members of your own side violate America's fundamental principles, speak out against them. This can be hard to do. It won't make you popular, but in the long run, it will be better for your side

As part of this, promote civic duty, seeing it as something good citizens do. "Virtue" has lost its weight and meaning, but it is still possible to honor the founders' intention by participating in the life of one's neighborhood, town, region, state, and country. Living in a small town in Maine, I was impressed to see how much its officials did voluntarily—such as a selectman driving to a town park to collect the trash and take it to the dump, or maintaining a confidential list of elderly townspeople who could not afford to have their driveways plowed and making sure that a town plow swung by to help. Along the same lines, we should assign more

moral value to the donation of time, such as volunteering for a rural ambulance squad, than to the donation of money.

5. Respect our core institutions—and push them

Even at their most bitter moments, the founders all believed that government had a central role to play in American life, even if they disagreed how that should be manifested. By 1800, almost all had rallied to a set of common notions about the country. They generally held a respect for inquiry, for the establishment of facts, and for intense debate about their meaning. These attitudes were at the heart of the Enlightenment, and they still have a place in the United States today, even as we live under a president who is anti-Enlightenment, even though he would not know what that means.

We should question the view that the government is almost always the problem. Sometimes it is the solution, especially when it serves the common good.

In this context, it is worth remembering that in the early nineteenth century, much of the original opposition to "big government" in America—in this case, federal action in support of building roads and canals—came from slaveholders who feared what might follow. "If Congress can make canals, they can with more propriety emancipate," Nathaniel Macon, a senator from North Carolina (attended Princeton), privately warned a friend in 1818. John C. Calhoun (Yale, 1804), the leading ideologist of white supremacy, warned that if emancipation of slaves were permitted, "the next step would be to raise the negroes to a social and political equality with the whites." These were men who, one modern historian notes, were "willing to block the modernization of the whole country's economy in order to preserve their section's system of racial exploitation."

6. Wake up Congress

The branch of the federal government that has failed most in recent years has been Congress. Two of its major functions are to be the

voice of the popular will and a check on the executive. The Senate especially seems chary of performing its constitutional duties.

The framers of the Constitution probably would be surprised and chagrined by the passivity of Congress in recent decades, and especially its failure to assert firmly its role as a co-equal branch of government with the executive. They intended Congress to be active, expecting it to be the most energetic branch of federal government.

One of the hallmarks of oligarchy is a legislature that is elected but tame, just active enough to divide and weaken the democratic spirit. To that end, having outspoken and controversial members of Congress is almost always beneficial. The House of Representatives especially should reflect the rowdy, demanding, contentious ways of the American people. We need more new, loud, and unpolished voices.

One thing to consider is whether we need to reinvigorate our checks and balances. The Constitution was designed to be amended—that is, improved. How can we better ensure that voting rights are respected? The gerrymandering of congressional districts in particular has had the effect of depriving the people who are not in power of a meaningful vote.

7. Enrich the political vocabulary

The Revolutionary generation had a mixed record in discussing political issues, and we can learn from both their successes and their shortfalls. They devised ways to speak about independence and equality, but struggled to develop a political vocabulary that addressed the persistence of partisanship. Do we have an adequate vocabulary for the issues of our own era—political decency, global warming, dealing with terrorism, the growing inequality in income and wealth? There is a role here especially for political commentators to try to imitate Madison in developing the concepts to deal with new situations. Do we need to "make America great again," or rather do we need to make America more American? And if the answer is the latter, how would that manifest itself?

8. Reclaim the definition of "un-American"

We actually can look up what it is to be American. The Declaration of Independence and the Constitution tell us, especially the Bill of Rights. Someone who became an American citizen yesterday enjoys all the rights of a person whose family landed here three centuries ago.

Political freedom begins with the freedoms of conscience, assembly, and speech. A congressional candidate slugging a reporter is un-American. So is preventing a controversial speaker from appearing at a university. So speak out on behalf of our rights, and remember that doing so begins by protecting the rights of others, even when we disagree with them. Especially protect repugnant speech, no matter how ugly. When in doubt, remember that someone might one day try to label your own views as too offensive to be allowed public expression.

9. Rehabilitate "happiness"

Today many Americans tend to think of "happiness" mainly in terms of pleasure-seeking, usually in physical form—sex, food, alcohol, sports, and video games that excite the senses. But by focusing on feeding the flesh we risk starving the mind and spirit. We need to appreciate the Enlightenment's broader, richer notion of happiness and make it again about finding one's place in the world, enjoying what we have and what we see in it, and appreciating the beauty of the Earth during our short time on it. None of that prescription would be a surprise to Jefferson. We should remember that as he laid out his path to happiness, the fourth of the Epicurean ideals he listed was "justice."

10. Know your history

Remember the founders made huge errors and decisions, most notably by writing slavery into the basic law of the land, with catastrophic consequences. As my friend Karin Chenoweth points

out, slavery was not a stain on the country, it was woven into the original fabric. The nation was founded in part on the acceptance of slavery. American slavery in turn was constructed on racial lines—that is, a belief that black people were inferior to white people, which is the core of white supremacism. Slavery no longer exists in this country, but that belief system remains alive. As the nation moves forward, we need to be clear-eyed about where it came from.

In studying the founders' struggles and then thinking of where the country is today, we should recognize that the American experiment is still underway—and can be lost if we are not careful. In moments of doubt, we should focus on finding ways to continue and improve this experiment. Despite its flaws, it is worth it.