

LIBERTY UNIVERSITY

ASSOCIATIONAL REPUBLICANISM: ANTIFEDERALISM IN CONTEXT, 1790 - 1830

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BY

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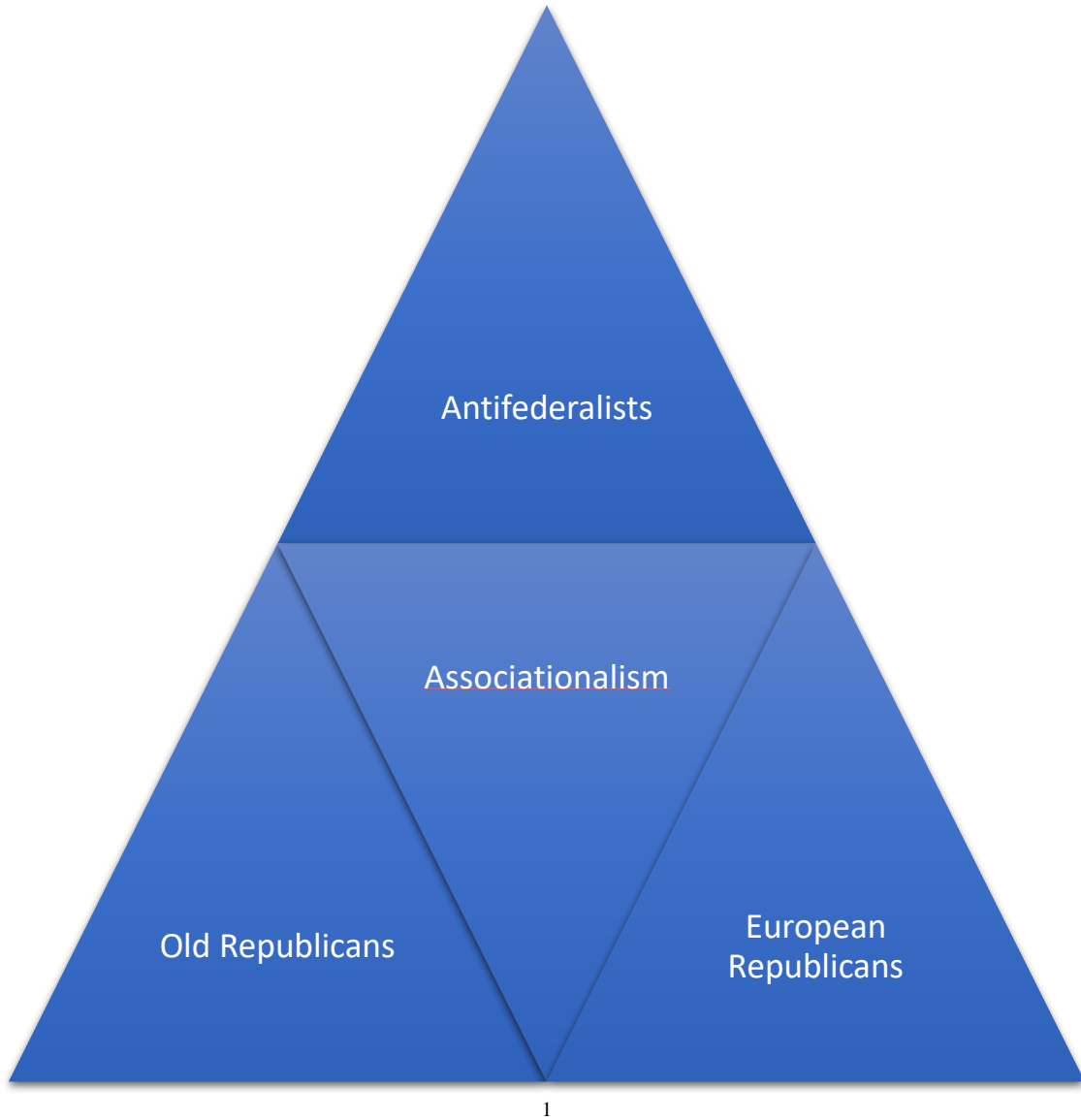
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Timeline

Important Events and Publications

The American Revolution.....	1775 – 1783
The Articles of Confederation.....	March 1, 1781 – September 17, 1788
Constitutional Convention.....	1787 – 1789
Constitution Ratified.....	New Hampshire, June 21, 1788
Declaration of the Rights of Man and of the Citizen.....	August 26, 1789
The French Revolution.....	1789 – 1799
Edmund Burke’s <i>Reflections on the Revolution in France</i>	1790
Polish Constitution.....	May 3, 1791
Bill of Rights Ratified.....	December 15, 1791
Kościuszko Uprising.....	1794
The Virginia and Kentucky Resolutions.....	1798
The Napoleonic Era.....	1799 – 1815
<i>The Virginia Report of 1800</i>	January 7, 1800
Thomas Jefferson’s Administration.....	1801 – 1809
French Constitution - Charter of 1814.....	1814
Bourbon Restoration.....	1814 – 1830
Jonathan Elliot's <i>Debates</i>	1827
Charles A. Beard’s <i>An Economic Interpretation of the Constitution</i>	1913
Cecelia M. Kenyon’s “Men of Little Faith”.....	1955
Merrill Jensen’s <i>The Documentary History of the Ratification of the Constitution</i>	1976
Herbert Storing's <i>The Complete Anti-Federalist</i>	1981
M.E. Bradford’s <i>Original Intentions</i>	1993
Saul Cornell’s <i>The Other Founders</i>	1999
Melvin Yazawa’s <i>Contested Conventions</i>	2016

Associationalism Diagram



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¹ Ashley Jordan, *Associational Diagram*. Illustration within Presentation, Thesis Defense. Lynchburg, Virginia: Liberty University, 2018.

Preface

There exists an ongoing discussion regarding the rights of individuals and that of the state. While individual liberty must be fiercely protected to prevent tyranny, individualism without limit is on par with the oppression wielded by despotism. As the old adage claims, “everything best in moderation,” so too must the individual exercise freedom in a balanced manner. Classical Liberalism, together with Associational Republicanism, presents a route in which this can be accomplished. As an analogy, each individual is comparative to the stars cast in the heavens. While independently radiant, when conjoined in constellation, the multitude shines more starkly against the night. In the same course, the fellowship fostered by an association of individuals committed to one another shines all the brighter. Anchored in the achievements of the 18th century, Classical Liberalism ushered in a school of thought which inferred that civil liberties were protected under a system of natural law, upheld by public and private institutions, and were strengthened by the free marketplace of ideas, the unhindered realm of economics, and through the belief that the common interest of all members of society would assure individual rights.² The discovery of republicanism as the “reigning social theory of eighteenth-century America” has been increasingly utilized by historians to examine the Constitutional debates and the factional divisions of the Antebellum era while also denoting the “ornate rhetoric of classical political theory” that shaped 18th and 19th century political discourse.³ Other terminology linked to Associational Republicanism appears in the form of Classical Liberalism, Classical republicanism, strict constitutionalism, Austrian economics,

² Richard Hudelson, “Classical Liberalism” in *Modern Political Philosophy*. New York, New York: Routledge, Taylor & Francis Group, (1999): 37-38.

³ Joyce Appleby, *Liberalism and Republicanism in the Historical Imagination*. Cambridge, Massachusetts: Harvard University Press, (1992): 277-278.

Jeffersonian democracy, and a variation of libertarian models.⁴ Associational Republicanism explores the continuation of the 18th century comprehension of the individual's role in society and how voluntary cooperation would maintain the republic.

Individualism, limited and functioning through voluntary collective contributions, largely embodies the Founders' conception of liberty and exhibits tenets of modern-day conservative and libertarian political theories. The tradition of the individual operating in a self-moderating society is not a new phenomenon brought on purely by Enlightenment thought. Rather, the principles of limited government and representative republicanism espoused by the Antifederalists that were passed on to the second generation of republicans who rose up in the 19th century to carry on their mission, shares deep bonds rooted in the forums of ancient Greece and Rome, Western Christendom, and the constitutional republican framework of medieval Europe. In these trajectories march the plight of the individual against the encroaching development of invasive nation-states. However, the individual is not alone. Together, through associating with other defenders of liberty, can the rights of all be ensured.

Chapter 1 – Historiography of Antifederalism

Generational misconceptions of the intentions and political ideology of the opponents to the ratification of the Constitution led to an ingrained misrepresentation of the Antifederalists that lingers to this day. Not only have they been considered wayward politicians, but also as men lacking vision and confidence in the new American republic. Thus, their civic and historical influence has been relatively cast as unsuitable for patriotic or academic attention. A study of this diverse and principled collective of intellectuals, obscured by potential scholarly bias and revisionist historical treatment, discerns when and why those opposed to the Constitution and the

⁴ Ibid, 58-60.

Federalists were cast into the dim recesses of history. These forgotten Founding Fathers ought to be re-evaluated as a substantial link to the continuation of the conservative tradition in America compared to those credited with the shaping of America's political discourse and foundational structure.

An intriguing aspect regarding the historiography of the Antifederalists is that, despite a few notable biographies being present, they were not evaluated systematically by early 19th century historians, though a handful of local biographies were present. Equally bewildering from the standpoint of modern scholarship is that the Federalists were also seldom examined. Academic negligence further afflicts the ensemble which has been collectively overlooked by scholars until the 21st century. Antifederalists, whose membership predominantly evolved into Jeffersonian Republicanism and other party-affiliates sharing a common heritage, were largely ignored as a subject of interest as "Forgotten Founders" between 1800 – 1828. They were restored in part throughout the period from 1828 – 1860, primarily due to issues of nullification and popular sovereignty, before slipping once more into obscurity until the 20th century. Critical gaps exist in the historiography pertaining to the Antifederalists as their notoriety tends to wane and meander through periods of scarcity and renewal. Dismally, that period ranges from 1860 – 1910 before Antifederalists were then reconsidered through an economic and social lens by Progressives from the 1910s to the 1940s. Thereafter, throughout the 1950s to the 1990s, consensus interpretations portrayed these men as ineffectual, narrowminded, and conventional. However, after decades of obscurity and mistreatment, recent historians reinterpreted these "men of little faith" into stalwart representatives of the republican tradition. Significantly inspired by libertarianism and the findings of conservative academics, present scholarship has

overwhelmingly reprised Antifederalists as true Founders and as unwavering defenders of liberty.

Motives, whether stemming from benign ignorance or the potential purposeful erasure of these individuals and their ideologies by historian biases, perhaps due to the threat of their influence in shaping republican policy and the character of the national vision, reveal a modern connotation and necessity to redefine and approach these figures anew. Following the 19th century gap in historiography, the scholarship of historians such as Saul Cornell, Robert Shalhope, Jackson Turner Main, Gordon Wood, and Herbert Storing explores this dissenting tradition and illustrates the significant influence of Antifederalists as politicians, authors, and theorists. Still, the reputation of the Antifederalists has remained either in ignominy or has been neglected by professional historians and advocates of centralized government. Associationalism in the republican sense has also suffered comparable treatment. Perceiving the ancient customs of Christian fraternity, pastoralism, and the model of village communities as inherently communist instead of associative, 19th century early progressives highjacked associationalism, especially progressive religious reformers such as Walter Rauschenbusch, Charles Sheldon, Richard Theodore Ely, Josiah Strong, Washington Gladden, Lyman Abbott, and George D. Herron.⁵ These reformers, many of whom participated in the American “Social Gospel” movement, shared Fabian socialistic aims, were outspoken critics of capitalism, and were channels for labor advocacy.⁶ Over the 19th and 20th centuries, the term “associationalism”

⁵ For insight into 19th century progressive “Social Gospel” interpretations of an ideal Christian society and appropriation of “associationalism,” see Walter Rauschenbusch, *Christianity and the Social Crisis*. Harvard Divinity School; New York, New York: MacMillan Company, 1907, 410-423. Accessed March 9, 2018. <https://archive.org/details/christianityand01rausgoog/page/n409>.

⁶ Stanley I. Kutler, ed. “Social Gospel.” *Dictionary of American History*, 7. New York, New York: Thomson Gale, 2003. Accessed May 20, 2018. <https://www.encyclopedia.com/philosophy-and-religion/christianity/protestant-denominations/social-gospel>.

quickly became codified into vague interpretations supposedly in favor of collectivist governance. This was one reason why the Antifederalists were lost to scholarship and why associationalism is, often ironically and detrimentally, associated with socialist views. The very thing that should have defined Antifederalists – associationalism – was commandeered to serve the antithesis of their localist and republican principles. Likewise, postmodernist systems of history have altered the reception of Antifederalists who seem to have largely disappeared from public recollection as overlooked or inconsequential. However, their tradition did not disappear. Rather, Antifederalism morphed into a revived and powerful legacy that fundamentally contributed to America’s political, social, and theoretical processes under the mantle of Jeffersonian classical republicanism.

1800 – 1828: “Forgotten Founders”

Though minimal, the earliest period of Antifederal historiography, ranging from 1800 – 1828, primarily features local histories that include biographical sketches of Antifederalists. Two of the most popular are the biographies of Patrick Henry by William Wirt Henry and John R. Musick and Stephen Higginson’s biography of John Hancock. Local histories grew from early American literary icons, notably James Fenimore Cooper, William Gilmore Simms, Washington Irving, Nathaniel Hawthorn, and Herman Melville, who provided entertaining and insightful compositions which merged colonial life and ethnic pathways. American historiography was in its infancy. Early historians popularized travel diaries and colloquial journals throughout the young states. Biographies and local histories soon joined the literary tradition as Americans

interpreted the emerging national record. As a result, few early historians provided overarching interpretations of the Founding era and the contest between Federalists and Antifederalists.⁷

In 1817, William Wirt Henry's *Sketches of the Life and Character of Patrick Henry* posed as a rare example of a local biographical publication which details a renowned Antifederalist orator.⁸ A noted Virginian lawyer and historian, Wirt hailed from Charlotte County, Virginia, and selected one of the area's most revered residents as the subject: Patrick Henry. In addition to composing a biography on his grandfather, Wirt also arranged three volumes of *Patrick Henry's Life, Correspondence and Speeches* which was published the same year he served as president of the American Historical Association and the Virginia Historical Society (1819). A contemporary with Thomas Jefferson, James Monroe, and John Quincy Adams, Wirt relied on personal interviews to formulate his narrative. However, he fell prey to the inaccuracies of concealed animosity, specifically tales provided by Jefferson's account of Henry that Wirt largely accepted as fact, including his slights against Henry's education and the denial of his contribution in forming resolutions in the Virginia Assembly against the Stamp Act.⁹ Historian Eric Burns elaborates by suggesting that *The Sketches of the Life and Character of Patrick Henry* may not be an "abundance of truth, [but] at least a kind of balance [fraught with] conflicting images [which] illuminate...an imperfect protagonist, which gives the book the emotional complexity of good fiction."¹⁰ Though criticized for fictionalizing aspects of Patrick Henry as a leader and commendable being by including anecdotes of questionable validity and

⁷ See also Arthur H. Shaffer's *The Politics of History: Writing the History of the American Revolution, 1783-1815*. New York, NY: Routledge: Taylor & Francis Group, 1975.

⁸ William Wirt Henry, *Sketches of the Life and Character of Patrick Henry*. Philadelphia, Pennsylvania: James Webster, William Brown, 1817.

⁹ Eric Burns, *Virtue, Valor, and Vanity: The Founding Fathers and the Pursuit of Fame*. New York, New York: Arcade Publishing, Inc., 2007, 156.

¹⁰ Burns, *Virtue, Valor, and Vanity*, 157-158.

overt exaggerations, Wirt greatly influenced future methods of American biographers in pursuing contacts, recording the reflections of witnesses, and extensively covering his subject's life beyond the scope of public office. However, while laudable, his best-selling biography on the life of the 'Voice of the Revolution' remained the prime, if not the only extensive account of Henry's life until the 1860s. Historians perhaps believed there was little else to discover regarding Henry due to this first volume.

Although a unique accomplishment in the early field of American biographies, Wirt's contribution runs parallel with others on the Founding Fathers. Burns records that "virtually all the biographies and biographical fragments that appeared in the first century after the deaths of the Founders were rave reviews of the lives they led. The Declaration of Independence and the Constitution put forth the ideals for the new nation; the early biographies personified those ideals."¹¹ For all their discrepancies, early biographical materials prove vital in not only recording, preserving, and encapsulating elements of regional history, but also offer a more rounded perception of the Founders as belonging to the nation not merely as legendary figureheads, but far-seeing men composed of real flesh and blood.

However, historiography in this era is rather sparse. Fortunately, the publication of the ratifying debates in the mid-nineteenth century rekindled historical interest in the Antifederalist perspective.¹² Before this, the Antifederalist party dwarfed, almost entirely destroyed by the results of the ratification of the Constitution in 1788. James McClellan, Ph.D. in Political Science from the University of Virginia and a historian of American Constitutional law and politics, reveals how Antifederalists were:

¹¹ Ibid., 158-159.

¹² Jonathan Elliot, ed. *The Debates, Resolutions, and Other Proceedings in Convention, on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia on the 17th of September, 1787*. Washington D.C.: Publishing Sanction by Congress, Vol. II, 1828.

concerned that northern States might use their superior numbers in Congress to discriminate against southern commercial and economic interests. It was Patrick Henry who opposed the Constitution because it impeded majority rule. Opposition to the Constitution stemmed not only from republican considerations and a general distrust of centralized power, but from other causes as well, including sectional differences and jealousies among the States.¹³

A clash of values is inherently present within the contention between the acceptance or rejection of the proposed Constitution. Antifederalists perceived this document as a “threat to liberty, order, and justice, whereas the Federalists believed that it would secure these values.”¹⁴

Furthermore, McClellan clarifies how it is unwise to “presume that the Antifederalists were wrong about any or all of these issues. In the course of the debate, both sides tended to exaggerate their claims, the Federalists playing down the fact that the Constitution did indeed confer great power on the Federal government, and the Antifederalists overstating the deficiencies of the Constitution.”¹⁵ Astutely, McClellan advises “not [to] over-inflate the effect and significance of the Antifederalists’ victory in securing the adoption of the Bill of Rights (1791). For the Bill of Rights neither increased nor decreased the powers of the Federal government [but] made explicit what was already implicit in the Constitution.”¹⁶ Semantics aside, while routed politically and academically from 1788 – 1800, the Antifederalists’ desire for limited government – at the national level – refused to be curbed.

Cast in partial defeat in comparison to the Federalist victors of the Constitutional debates, the Antifederalists were afterward perceived in part as “Forgotten Founders” now removed from the national legacy as fellow crafters of the Union. Instead, their lot in the decades and scholarship to come was to be overshadowed by a celebration of Federalist “Founding Fathers”

¹³ James McClellan, *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government*. Indianapolis, Indiana: Liberty Fund, Inc., 2000, 390.

¹⁴ McClellan, *Liberty, Order, and Justice*, 403.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, 406.

like George Washington and Alexander Hamilton. A symbolic antagonist, through his monarchist, modernizing, urbanizing, and federal inclinations, Hamilton, and his colleagues, stood in sharp contrast to the Antifederal vision of rugged individualism, yeomanry, and the belief in the natural development of the market and republic without the interference of dubious merchants and bureaucrats.¹⁷ Likewise, Jeffersonians feared and opposed innovations that they believed would reconstruct society by placing government agencies in service to an ‘acquisitive instinct’ initiated by Hamiltonian fiscal and administrative theory which would resuscitate in Whig and Lincolnian Republican agendas post-Reconstruction.¹⁸

Caution espoused by Jeffersonians was not without substance. As correctly foretold during the debates by leading Antifederalists, Samuel Adams, Robert Yates, George Clinton, Patrick Henry, George Mason, and Richard Henry Lee, the Constitution would “usurp the sovereignty of the individual states and become a highly centralized national state” ill-equipped to combat the mire oozing from the tainted covenant.¹⁹ Writing under the pseudonym of ‘Brutus’ during the Constitutional debates, Robert Yates, a New York Antifederalist and judge, prophesized of the Supreme Court’s nearly unlimited power, the inability of an overly-extended free republic to last, and that the Constitution would be misinterpreted and not corrected by either the people or those elected in positions to do so. He foresaw that such abuses would compound silently after repeated precedents of abuse. Wary of judicial tyranny, Brutus wrote that in “every free government, the people must give their assent to the laws by which they are

¹⁷ McClanahan, Brion and Clyde N. Wilson, *Forgotten Conservatives, Forgotten Conservatives in American History*. Gretna, Louisiana: Pelican Publishing Company, 2012, 26.

¹⁸ *Ibid.*

¹⁹ Antonius Aquinas, “Secession and the Antifederalists.” June 23, 2014. Accessed December 11, 2017. <https://antoniusaquinas.com/2014/06/23/secession-and-the-antifederalists/>.

governed. This is the true criterion between a free government and an arbitrary one.”²⁰ From *The Anti-Federalist: Writings by the Opponents of the Constitution*, Herbert J. Storing’s compilation of their letters and pamphlets furthermore echoes Brutus’ woes regarding the potential dissolution of the American states by explaining how history “furnishes no example of a free republic anything like the extent of the United States. The Grecian republics were of small extent; so also was that of the Romans. Both of these extended their conquests over large territories of the country; and the consequence was that their governments were changed from that of free governments to those of the most tyrannical that ever existed in the world.”²¹ As predicted by ‘Brutus’ and many other Antifederal writers, the ongoing political rift and lack of sufficient legal restraints would form one of the foundational catalysts to the outbreak of violence and formal division of the federal bond between the States.

Before official calls for separation could be drafted, further diffusion of Antifederalist power diminished. Inter-party disagreements and organized dissension crippled their momentum upon the toppling of the Federalists through the rise of the administrations of Jefferson and Madison. In Paul S. Boyer’s *The Enduring Vision, Volume I: To 1877*, he claims that Antifederalists’ concerns for the sovereignty of states would be bitterly overwhelmed by factionalism and the “enormous scope for special interests” to effect policy.²² Truly, Jeffersonian ideas and the practical realities of governance pitted principled adherents to their Antifederal

²⁰ Herbert J. Storing, ed. “To the Citizens of the State of New York 2.9.15” in *Essays from ‘Brutus’* from *The Anti-Federalist: Writings by the Opponents of the Constitution*. University of Chicago Press, 1981, 114.

²¹ Storing, “To the Citizens of the State of New York 2.9.12” in *Essays from ‘Brutus’* from *The Anti-Federalist*, 113.

²² Paul S. Boyer, *The Enduring Vision, Volume I: To 1877*. Wadsworth Cengage Learning, 2010, 171.

roots against former associates swayed by modernization and what they perceived as disingenuous and corrupting forces contrary to the intent and longevity of the republic.

1828 – 1860: Antebellum Application

In lieu of a systematized historical record, politicians, not historians, were the key interpreters of the Antebellum period. Prominent representatives of Jeffersonian Republicanism stand in the forms of John Randolph of Roanoke, John C. Calhoun, and John Taylor of Caroline. Unflinching and resolute, these three figures bearing the same theoretical acclaim, pose as the Old Republican triumvirate of protecting and ensuring the continuation of the Antifederal heirloom.

A Virginian delegate throughout the formation of the Constitution and Senator until 1824, John Taylor of Caroline's writings and ideas promoted a blended intersectionality of classical republicanism and liberalism. Taylor served as an agrarian aristocrat who distrusted the philosophically virtuous conception of government expressed by John Adam's. His critiques of the Constitution, former administrations (primarily that of Adams and Jefferson), currency, and the judicial system continues to provide exceptional insight for many economic and legal decisions. Once heavily relied upon for defense of states' rights and slavery, Taylor's prolific writings have channeled a rise in libertarian philosophy.²³ Additionally, his interpretation of the Constitution suits the Antifederal narrative, as it appears best comprehended in the "light of the reservations stipulated in those ratifications; of the Ten Amendments, which had been promised as a condition of ratification and which reiterated the limited nature of the federal power; and of the Virginia and Kentucky resolutions of 1798 – 1800, which restated the sovereignty of the

²³ Garrett Ward Sheldon and C. William Hill Jr, *The Liberal Republicanism of John Taylor of Caroline*. Fairleigh Dickinson University Press, 2008, 224.

people of the states shortly before Jefferson and his friends assumed power.”²⁴ An early opponent to Hamiltonian militarism, nationalism, and expansive banking ventures, John Taylor's devotion to decentralization cast the theorist as a clear depiction of classical republicanism.²⁵

A rhetorically verbose, staunch conservative, eloquent agrarian, and former loyal ally of Jefferson, John Randolph, much like John Taylor, was a man whose ideas were caught between two eras: the War for Independence and the Civil War. From existing within the shadow of two constitutional crises, those disputed in the late 1780s and those of the late 1830s, Randolph's “words and deeds are of extraordinary interest to Americans anxious to understand how we got to a place in our contemporary history where the country seems once again to be straining at the seams.”²⁶ Initially aligning with nationalist and economic interference, war hawk John Caldwell Calhoun's political affiliation transformed into the antithesis of these positions before he ascended as the seventh Vice President of the United States. Following the War for 1812, his political theories drifted dramatically to the point where Calhoun became an advocate for states' rights, nullification, and opposition to high tariffs by the 1820s. Lee Cheek, Dean and Professor of Political Science and History at East Georgia State College, a Senior Fellow of the Alexander Hamilton Institute, and Senior Contributor to *The Imaginative Conservative*, reveals in “Calhoun, Jefferson, and Popular Rule” how Calhoun followed the guidance of the ‘Republican Patriarch’ and yet formed an original theory of conservative policy that enabled reconciliation.²⁷ Modeling after Jefferson himself, Calhoun “rearticulated an understanding of popular rule and

²⁴ McClanahan, Brion and Clyde N. Wilson, *Forgotten Conservatives*, 33.

²⁵ Sheldon and Hill, *The Liberal Republicanism of John Taylor of Caroline*, 2008.

²⁶ John Wolvrtan, II, J.D., “John Randolph of Roanoke.” *The New American*. October 23, 2017. Accessed December 5, 2017. <https://www.thenewamerican.com/print-magazine/item/27085-john-randolph-of-roanoke>

²⁷ Lee Cheek. “Calhoun, Jefferson, and Popular Rule.” *The Imaginative Conservative*. 2012. Accessed December 5, 2017. <http://www.theimaginativeconservative.org/2012/03/calhoun-jefferson-and-popular-rule.html>

American republicanism for a new generation who found the term nullification distasteful while accepting the concept's fundamental assumptions. Unfortunately, by the time Calhoun confronted the crises in American politics, a generation after Jefferson, nullification had lost most of its evocative power, thanks in part to the Jacksonian onslaught against state authority.”²⁸

Popular historian, Brion McClanahan and Clyde N. Wilson, explain how often Virginians considered their:

consent to the Constitution as a policy to be decided by and for Virginians. The ratification was an act of the sovereign will of a specific people at a specific historical moment, not some vague, passive reception of saintly wisdom bestowed by ‘Founding Fathers’ on an amorphous ‘people of the United States’ who did not exist as a constitution-ratifying authority. Taylor’s generation and the next several generations of Southerners understood what their fathers and grandfathers had intended in accepting the Constitution...²⁹

while dividing forces of nationalism and sectionalism gripped the United States. The remains of the Antifederalists as a movement increasingly splintered and were simultaneously removed from prominence as members exited the Antifederalist movement upon Ratification to join the Jeffersonian Democrats or competing factions preoccupied no longer with arguing against a consolidation of power, but instead, were tasked with sifting through issues brought about by the ‘Era of Good Feelings’ and the initiation of Jacksonian Democracy curtailing the Jeffersonian conservative legacy inherited from Antifederal proponents.

Similar in socioeconomic diversity like their Antifederal forerunners, Old Republicans too expressed variety in their publications, political theories, and public and private affiliations. However Jeffersonian conservatives were united around a common thread – dissent against tariffs, foreign entanglements, such as the War of 1812 and the Quasi-war with France during the Napoleonic Era, and opposition to the Alien and Sedition Acts, and defense of the sovereignty of

²⁸ M. E. Bradford, *Original Intentions: On the Making and the Ratification of the United States Constitution*. Athens and London: University of Georgia Press, 1993, 6.

²⁹ McClanahan and Wilson, *Forgotten Conservatives*, 33.

states in light of these national crises. Though not historiographic in nature, Taylor's *New Views of the Constitution of the United States* and myriad of publications, John Randolph of Roanoke's fiery performances in the House of Representatives and on the Senate floor, and Calhoun's writings and public campaigns encapsulate their joint persuasion throughout the era, most visibly through sectors arguing for nullification, states' rights, popular sovereignty, and a compact theory of the Union, all of which relied upon the strict constitutionalism that this trio safeguarded.

1830 – 1850s: The Elliot Debates Promote Discovery

Following the championing of Old Republican figures in national politics during the administrations of Jefferson and Madison, a boom of interest in the Antifederalists as political theorists appeared throughout the 1830s – 1850s. This fresh consideration of Founders lying dormant coincides with the awakening of a new American epoch. As Antifederalists proposed a compact theory of the Union, their opposition to centralized power gained the attention of nullifiers and advocates for states' rights while their writings rallied the common man to embrace standards of popular sovereignty. Their interpretation was largely one of hesitance to entrust power to fallible men without assured restraints. Their persistent adherence to principle became celebrated following the publication of Jonathan Elliot's *Debates* in the 1820s, an early publication that showcased the heated conversation throughout the State Ratifying Conventions. Historiography, though minimal, encouraged essayists and deeper readings regarding Antifederalist thought during the period, certainly given the importance and use of their critiques of federal abuses as evidence of the validity of nullification and secession.³⁰

³⁰ See Abel Upshur's *Our Federal Government: Its True Nature and Character Being a Review of Judge Story's Commentaries on the Constitution of the United States (1840)*. New York, New York: Horton and Company, 1868.

As interest regarding Antifederalist positions re-emerged in the later portion of the antebellum period with the expansion of the nation's territorial holdings. Individual components of Antifederalism preceded the historical order of events germinating within the ideological context Antifederalists provided for the following generation to work out. For example, Antifederal stances on the necessity for limited territories and their advocacy of state autonomy in national issues, such as the debate over nullification, were cited and used to oppose Supreme Court rulings, wherein politicians and spokesmen utilized Antifederalist sources as a regiment to reinforce their platforms.³¹ Robert L. Tsai's *America's Forgotten Constitution: Defiant Visions of Power and Community* shows the complications of alternative views of vague constitutional constructionism, as seen early on during the Dred Scott decision, the trial and execution of radical abolitionist John Brown, and in the constitutional rationale of Robert Barnwell Rhett, the Confederate 'father of secession;' each case looking to Antifederal theory on the rights of the individual operating within the local structure to justify their podiums.³² Historian Peter Zavodnyik additionally pinpoints key works during the period in *The Age of Strict Construction*, some of the most noteworthy early collections of historiography being Thomas Hart Benton's *Thirty Years' View: A History of the American Government for Thirty Years, from 1820 to 1850*, Nathan Sargent's *Public Men and Events from the Commencement of Mr. Monroe's Administration in 1817 to the Close of Mr. Fillmore's Administration in 1853*, and the extensive registry of debates and speeches held in Congress during the 1820s and 1830s.³³ Instead of

³¹ An example being Judge Spencer Roane's rejoinder to Marshall's decision over *McCulloch v Maryland* in defense of state sovereignty

³² Robert L. Tsai, *America's Forgotten Constitution: Defiant Visions of Power and Community*. Harvard University Press, 2014, 83-142.

³³ Peter Zavodnyik, *The Age of Strict Construction: A History of the Growth of Federal Power, 1789-1861*. Washington, D.C.: Catholic University of America Press, 2007; Thomas Hart Benton's *Thirty Years' View: A History of the American Government for Thirty Years, from 1820 to 1850*. 2 vols. New York, Appleton & Co., 1864; Nathan Sargent, *Public Men and Events from the Commencement of Mr.*

defined historical texts, political discourse encompasses the bulk of documentation. Likewise, the reflections of John Taylor of Caroline, John Randolph of Roanoke, and John C. Calhoun magnify the scholarship of this period while a synthesized historiography of the Antifederalists still lay in gestation.³⁴

Meanwhile, Jonathan Elliot gathered and produced two lengthy collections of documents related to the State Conventions of 1789-99: the Virginia and Kentucky Resolutions, and the Virginia Report of 1800. Each document fosters evidence for limited government, nullification, and states' rights. The first five-volume contribution, which came to be known as Elliot's *Debates*, covered the transitional period from 1787 to 1789 that oversaw the deliberations and application of the Constitution after conventional proceedings. Published in 1828, Elliot's edited assemblage served as one of the most complete sources of the Constitutional Ratifying Conventions until a revised edition appeared in 1861 following Elliot's death. Though his work is critiqued for preferential editing and has since been eclipsed by Merrill Jensen's *Documentary History of the Ratification of the Constitution and the Bill of Rights, 1787-1791* that appeared in 1976, Elliot's composition remains a vital collection of primary materials detailing the developing political framework of the American republic.³⁵ Elliot's *Debates* additionally serves as an essential component to early Antifederalist and constitutional historiography.

Similarly, modern historians McClanahan and Wilson present an analysis regarding Antifederal intentions at the core of the debates. In their *Forgotten Conservatives in American*

Monroe's Administration in 1817 to the Close of Mr. Fillmore's Administration in 1853, 2 vols. Philadelphia, Pennsylvania: J.B. Lippincott & Co., 1875.

³⁴ Kenneth Shorey, ed., *Collected Letters of John Randolph of Roanoke to Dr. John Brockenbrough, 1812-1833*. Piscataway, NJ: Transaction Publishers, 1988; Clyde N. Wilson, ed., *The Papers of John C. Calhoun 1819-1845*. The University of South Carolina Press, 1986.

³⁵ Merrill Jensen and John P. Kaminski and Gaspare J. Saladino, ed. *The Documentary History of the Ratification of the Constitution, Volume II: Ratification by the States*. Madison, Wisconsin: Wisconsin Historical Society Press, 1976.

History, the duo dissects how Jeffersonians “sought preservation of what to them was a largely satisfactory American society that had emerged from the colonial experience and the War of Independence. They opposed innovators and devotees of forced ‘progress.’”³⁶ An interesting commentary regarding this topic exerts itself in Francis Lieber’s 1849 Essay, *Anglican and Gallican Liberty*. Lieber’s timely social inquiry, published after the European revolutions of 1848, delves into the contributions of the English and the French in how these civilizations promulgated civil liberty and strove to conservatively maintain it.³⁷ Lieber’s 1849 study has remained relevant over the centuries, proven a reliable source from which the 1973 recipient for the Nobel Prize for Economics, Friedrich A. Hayek, would later rely upon to support his treatise within *The Constitution of Liberty*.³⁸ Hayek’s numerous publications have become staples of conservative intelligentsia and Austrian economic theorists, however his *The Constitution of Liberty* is a worthwhile source to consider as it highlights the Antifederalists and Jeffersonian Republicans’ aims of limited government and individual merit.

Though vacant of specific historical works analyzing Antifederalist individuals, their accomplishments, inter-party tensions and rifts, writings from the 1820s to the 1860s subtly interweave and relate their positions in a variety of forms. Writings from the era suffice to encapsulate predilections of thought, though they do not provide a substantial analysis of this collective in an observant and structured historical manner. The James McClellan Library hosts a collection of fundamental primary materials regarding limited government, secessionist views, and writings belonging to an Antifederalist heritage. The collection spans from the 1700s to the

³⁶ Brion McClanahan and Clyde N. Wilson. *Forgotten Conservatives in American History*. Gretna, Louisiana: Pelican Publishing Company, 2012, 26.

³⁷ Steven Alan Samson, “Francis Lieber: Anglican and Gallican Liberty Reading and Study Guide” (2000). *Liberty University Faculty Publications and Presentations*. 151. http://digitalcommons.liberty.edu/gov_fac_pubs/151.

³⁸ Friedrich A. Hayek, *The Constitution of Liberty*. University of Chicago Press, 1960.

1890s. The vital database accessible through the Abbeville Institute provides documentation originating from the publication of the Ratifying Constitutions of 1788 (Virginia, North Carolina, Massachusetts), critiques on the Alien and Sedition Laws (1799), and entails precise and useful related documents. Examples of Antebellum historiography encapsulated often in the forms of political statements and speeches given by Antifederalists and the up-and-coming generation, such as Robert Turnbull's *The Crisis or Essays on the Usurpation of the Federal Government – Brutus* (1827), senatorial displays of rhetoric, like John C. Calhoun's *Original Draft of the South Carolina Exposition* (1828), and through anonymous editorials, such as the *Remarks on State Rights by A Citizen of Massachusetts* (1824), while others like Thomas Cooper discussed factionalism in his *Consolidation: An Account of Parties in the United States from the Convention of 1787 to the Present Period* (1834).³⁹ Following the 1840s historiography developed towards a more technical approach focusing on constitutionally-based interpretations that appeared prior to the Civil War. These attempted to explain growing sectionalism, such as Abel Upshur's *Separate State Secession Practically Discussed* (1851) and his *True Theory of Government* (1856) while other writers in the 1860s, like Emory Washburn, tried to rationalize the national divide in his *Sovereignty and Its Bearing Upon Secession and State Rights* (1865).⁴⁰ These prominent literary pamphlets, or rather legislative commentaries, serve as examples from the 1820s through the 1860s which defend positions akin to Antifederal claims.

³⁹ Robert Turnbull – “Brutus,” *The Crisis or Essays on the Usurpation of the Federal Government*. Charleston, South Carolina: A. E. Miller, 1827; Richard K. Cralle, ed. and John C. Calhoun, *The Papers of Calhoun - Original Draft of the South Carolina Exposition*. New York, New York: D. Appleton and Company, 1828; A Citizen of Massachusetts, *Remarks on State Rights*. Boston: Richardson & Lord, 1824; Thomas Cooper, *Consolidation: An Account of Parties in the United States from the Convention of 1787 to the Present Period*. Woodbridge, Connecticut: Fine Antiquarian Books LLC, 1834.

⁴⁰ Abel Upshur, *Separate State Secession Practically Discussed*. Edgefield, South Carolina: Rutledge; Library of Congress, 1851; John R. Thompson, ed. and Abel Upshur, *The True Theory of Government*. Richmond, Virginia: MacFarlane, Fergusson & Co., Proprietors, 1856; Emory Washburn, *Sovereignty and Its Bearing Upon Secession and State Rights*. Cambridge: Dakin and Metcalf, 1865.

Though these authors adhere to federal-wariness, again, developed historical publications remain minimal. Upon reflection, these figures seem to view the Antifederalist-Federalist rivalry as being irrelevant to their present conditions and concerns of state. This distancing from the Founding era may indicate why historical engagement over the prolonged debate and political division of the 1780s-90s diminished with the rise of subsequent generations following in the wake of their parents' constitutional squabbles and political factionalism. While their arguments were extensions of the 1780s discourse, few in the 1800s – 1840s thought of them in this way except for a handful of Jeffersonians. Sentiments of this mentality are condensed in a brief portion taken from letters by James Otis while presenting a defense of the Hartford Convention and Massachusetts's claims of the valid right to secede in 1824. He explains that after the conclusion of the War of 1812 and return of domestic peace, the Federalists have “withdrawn to their farms, merchandize, and have talked about ‘good feelings.’”⁴¹ They conduct themselves “as if it did not require as many parties to lay aside a quarrel as it does to make one. Meanwhile the efforts to keep alive the excitement of the old controversy have been incessant on the part of the conductors of the democratic papers [which] incites the children to dishonor their fathers for opinions which have long ceased to have any relation to the present state of affairs.”⁴² Tellingly from this document, the politicians of the 1820s had grown tired of the battles of their fathers. Nevertheless, vague disinterest in the former clashes of their parents would revive throughout the 1830s-1850s as cries for secession became louder. The Antifederal tradition of dissent and decentralization would come to be looked upon as a beacon by supporters of nullification and

⁴¹ James Otis, *Letters in Defense of the Hartford Convention*. Boston, Massachusetts: Simon Gardner, 1824, vi-ii.

⁴² *Ibid.*

states' rights. However, Antifederalists and the Old Republicans trailing in their stead would soon lose credibility as scholarly interest soured following the results of the Civil War.

1860 – 1910: “Re-Forgotten”

After this brief period of engagement, Antifederal rhetoric and academic focus fell into a period of languor, historians having apparently cast this school of thought into a “re-forgotten” period from 1860 which remained relatively untouched until the turn of the century. Presumably, the Civil War defused interest or a willingness to approach Antifederalism as a body of valuable research in light of a desire for unity and national healing. Confederate justifications based on Antifederal ideas further stifled academic participation. For instance, authors like Albert Taylor Bledsoe offered important reflections after the war in *The Southern Review* on the Philadelphia Convention in conjunction to his publication, *Is Davis a Traitor* (1866).⁴³ Bledsoe even references Francis Leiber, John Stuart Mill, and the “formula of 1787” to depict the “purely imaginary” antagonism between the State, what he calls the “true Leviathan,” and the “twin stars of liberty and order” that “lend mutual support to each other.”⁴⁴ Additionally, he suggests that Madison, ‘the father of the Constitution,’ unintentionally contributed to the ‘Revolution of 1861’ through the decisions made during the 1780s.⁴⁵ Likewise, sources like Robert Lewis Dabney’s *In Defense of Virginia and the South* (1867) and Jefferson Davis’s *The Rise and Fall of the Confederate Government* (1881) each mention and connect Antifederalist ideas to their defense of the

⁴³ Albert Taylor Bledsoe, *Is Davis a Traitor or The War Between the States or Was Secession a Constitutional Right Previous to the War of 1861*. Baltimore, Maryland: Innes & Company, 1866.

⁴⁴ Albert Taylor Bledsoe, “What is Liberty.” *The Southern Review* vol. 5, no. 49 (1867): 267.

⁴⁵ Albert Taylor Bledsoe, “The Great Error of the Eighteenth Century.” *The Southern Review* vol. 5, no. 49 (1867): 34.

Confederacy.⁴⁶ Theoretically this application, in cohesion with the suppression of claims for secessionism and states' rights, postures what has been associated with Antifederalist themselves; an unfavorable bearing due to how their policies and ideas were used throughout the Antebellum period. In addition to the seeming triumph of federalism in 1865, further linkage to the "Lost Cause" in part tarnished the cooperative as a respectable field worthy of academic discourse and political application.

Despite another absence of scholarly interest following yet another sectionalist defeat, biographies existed as the prime vehicle in which Antifederalist figures were recalled. Respectful treatment appeared via the contributions of Henry Adams. The Harvard graduate turned political journalist and historian hailed from the prominent Adams line yet, instead of embracing an entirely Federalist bent, Adams considered the traditionalist Jeffersonian vision of the early republic. As a professor of medieval history at Harvard in the 1870s, Adams was one of the first academic historians to practice historical seminars in the United States. The historian notably composed an 8-volume series depicting *The History of the United States of America (1801 to 1817)* that was published between 1889 – 1891 in which he elaborated upon the administrations of Jefferson and Madison.⁴⁷ The volumes were dedicated to exploring American diplomacy as well as the ideals of functional democracy as espoused by Founders who possessed a strict constructionist view of federal authority. As an elected member of the American Antiquarian Society and president of the American Historical Association in 1894, Adam's contributions were robust. His work features more obscure political theorists and representatives belonging to

⁴⁶ Robert Lewis Dabney, *In Defense of Virginia and the South*. New York, New York: E. J. Hale & Son, 1867; Jefferson Davis, *The Rise and Fall of the Confederate Government*. New York: D. Appleton & Co., 1881.

⁴⁷ Henry Adams, *History of the United States of America During the First Administration of Thomas Jefferson to the Second Administration of James Madison*. New York, New York: C. Scribner, 1889.

the Old Republican tradition, such as seen in his biography on the *Life of Albert Gallatin* (1879)⁴⁸ and *John Randolph* (1882)⁴⁹ alongside three volumes of *The Writings of Albert Gallatin* (1879)⁵⁰ which he edited before producing *Democracy: An American Novel* (1880).⁵¹ Adams remains the central academic figure representing the historiography of the Antifederalists from this era fraught not with historiographical research but biographical exposes and character studies.

1910 – 1940s: The Progressive School

It was not until the turn of the 20th century that historians began to more deeply analyze the classist structure of the Antifederalists and their ideas. Perceiving the Founders through a social and economic lens ushered in the Progressive School of Antifederalist historiography throughout the 1910s to the late 1940s. Notable scholars exhibited during this period of scholarship are Frederick Jackson Turner, Carl L. Becker, William Appleman Williams, Charles Beard, and Jackson Turner Main.

The Progressive school of interpretation emerged with the interdisciplinary methodology of pioneering Frederick Jackson Turner, a midwestern American historian based at the University of Wisconsin until 1910 before relocating to Harvard. Most interested in sectionalism promoted by geography, his “Frontier Thesis” within *The Significance of the Frontier in American History* (1893) bolstered theories of how “Manifest Destiny” influenced the spread of American republicanism until 1890.⁵² His work stripped away ideology and emphasized the

⁴⁸ Henry Adams, *Life of Albert Gallatin*. Philadelphia, Pennsylvania: J.B. Lippincott & Co., 1879.

⁴⁹ Henry Adams, *John Randolph*. Boston and New York: Houghton Mifflin and Riverside Press, 1898.

⁵⁰ Albert Gallatin, *The Writings of Albert Gallatin*. ed. Henry Adams. 3 Vols. Philadelphia, Pennsylvania: J.B. Lippincott, 1879.

⁵¹ Henry Adams, *Democracy*. New York, New York: Henry Holt & Co, 1880.

⁵² Frederick Jackson Turner, *The Significance of the Frontier in American History* (1920). Charlottesville, Virginia: The University of Virginia, 1996.

egalitarianism and violence of America's wild frontier that began to increasingly demand imperial expansion. The Turnerian model came to direct the course of American historiography and educational designs as his thesis found support among Franklin Roosevelt's New Deal Progressives of the 1930s and with those interested in militarily spreading democracy following the two world wars.

Alongside Frederick Jackson Turner, Charles A. Beard ought to be considered one of the most prominent 20th century American historians. A professor at Columbia University through the 1930s, he merged the disciplines of political science and history to reconsider the Founding Fathers in an economic light. *An Economic Interpretation of the Constitution of the United States* (1913) has been his most controversial and digested books. Arguing that the Constitution was adopted largely out of the financial interest of land-holders, Beard's economic ideology of class-conflict frustrated many who believed *An Economic Interpretation* demeaned the Constitution and large aspects of America's heritage. Historian Clyde W. Barrow clarifies how Beard's book "challenged the certainties of constitutional formalism and in doing so it offended the American plutocracy and the judicial establishment."⁵³ Evident of this, a newspaper owned by Warren G. Harding, *The Marion Star*, denounced Beard's scholarship as "libelous, vicious, and damnable in its influence and urged every patriotic citizen of the United States to condemn him and the purveyors of his filthy lies and rotten perversion."⁵⁴ Though accused of failing to project that the votes of Constitutional delegates were derived primarily due to economic concerns, Beard's work remained largely hailed until later discredited in the 1950s when new scholarship indicated flaws in his study and where he also lost favor during the Cold War. Still, the independent, daring non-

⁵³ Clyde W. Barrow, *More Than a Historian: The Political and Economic Thought of Charles A. Beard*. New Brunswick, New Jersey: Transaction Publishers, 2000, 5.

⁵⁴ Barrow, *More Than a Historian*, 5.

interventionalist, progressive scholar's blend of agrarian and corporate interests reflected in class structure was a needed aspect that re-cast the driving forces of the Founders towards a more realistic approach that considered substantive motivators beyond mere ideas.

An early Progressive student, Carl Lotus Becker eagerly absorbed the writings of Frederick Jackson Turner, his doctoral advisor at the University of Wisconsin-Madison before he proceeded to teach at Cornell University from 1917 – 1941. Credited as a laudable scholar of Enlightenment philosophes, Becker also enjoyed recognition for his 1908 thesis, a detailed regional survey of *The History of Political Parties in the Province of New York, 1760-1776*.⁵⁵

Touted as a revisionist historian of the New Left, William Appleman Williams constructed the department of history at the University of Wisconsin-Madison into a Progressive epicenter by the 1950s. He challenged accepted U.S.-centric historiography regarding international relations by producing *The Tragedy of American Diplomacy* that became known as the “Open Door Thesis,” which lampooned American foreign affairs of constructing an informal span of empire. His contributions throughout the Cold War of the 1960s assisted in solidifying not only a Progressive interpretation of the founding, but also celebrated Frederick Jackson Turner’s “Frontier Thesis.” He titled Turner as belonging to the first generation of America’s progressive historians.⁵⁶ Aligning with the moral and socially refining aspirations of politicians such as John Quincy Adams and the likes of Herbert Hoover and F.D.R., Williams praised populist localism and continued to mold future interpreters of the Wisconsin school.⁵⁷ His underlings, William B. Hesseltine and Merrill Jensen, would continue his legacy and the

⁵⁵ Carl L. Becker, *The History of Political Parties in the Province of New York, 1760-1776*. The University of Wisconsin-Madison, 1909.

⁵⁶ William Appleman Williams, “The Frontier Thesis and American Foreign Policy.” *Pacific Historical Review* 24, no. 4 (1955): 379-95.

⁵⁷ Bill Kauffman, “When the Left Was Right.” *The American Conservative*. 2008. Accessed December 3, 2017. <http://www.theamericanconservative.com/articles/when-the-left-was-right/>.

Progressive interpretation, which in turn, would come to shape lasting perceptions of the Antifederalists.

Finally, a graduate of the University of Wisconsin, Jackson Turner Main studied underneath the likes of Merrill Jensen, William Hesselstine, and Merle Curti. Receiving his Ph.D. in 1948, Main produced over five works regarding the Founders, and became most notable for his social and intellectual focus on Antifederalism. His 1965 piece, *The Social Structure of Revolutionary America*, was the “first systematic attempt to use probate inventories and tax lists to make large arguments about the social and economic contexts of the Revolution.”⁵⁸ Like other Progressive historians before him affiliated with Wisconsin, Main indeed paved a permanent place of scholarship for himself in the Neo-Progressive school of the 1970s that stripped the motivating principles of the Antifederalists to nothing more than a contention between rural society against urban development; a view which ignores sophisticated Antifederalists who were “neither democratic nor exclusively agrarian” and whose local populism was driven by far more than commercial interests.⁵⁹

1950s – 1990s: “Men of Little Faith” – A Consensus View

Critiquing the Turnerian model for its lack of focus on minorities, social historians desired to cultivate an alternative method for America’s experiment with democracy.⁶⁰ This shift in historiography additionally altered the approach of how the Antifederalists were handled by Cecelia Kenyon, Samuel Cornell, Herbert Storing and other mid-twentieth century scholars.

⁵⁸ Fred and Virginia Anderson, “An Exceptional Historian: Jackson Turner Main (1917-2003).” Williamsburg, Virginia: Omohundro Institute of Early American History & Culture. *Uncommon Sense* no. 118 (Spring 2004): 118. <http://oieahc.wm.edu/uncommon/118/main.cfm>.

⁵⁹ Saul Cornell, *The Other Founders: Anti-Federalists and the Dissenting Tradition in America, 1788–1828*. Chapel Hill: University of North Carolina Press, 1999, 5.

⁶⁰ Roger L. Nichols, ed. *American Frontier and Western Issues: An Historiographical Review*. Westport, Connecticut: Greenwood Press, 1986.

Trailing from the Progressive school of scholarship, Merrill Monroe Jensen, professor of history at the University of Washington (1935-1944), greatly defined the developing “consensus” interpretation of the Constitution that would later be implemented in Antifederalist historiography. Jensen’s view was assumed positively through his suggestion that the Articles of Confederation, though weaker, yet supported a purer idealism and access to a truer form of democracy than its replacement. Acknowledged for his considerable use of primary sources and collections of pamphlets, Jensen has produced some of the most beneficial pieces of Antifederalist historiography through his construction of works such as *The Documentary History of the First Federal Elections, 1788-1790* (1976) and *The Documentary History of the Ratification of the Constitution and the Bill of Rights, 1787-1791* – an enormous project started in 1976 that has reached over 31 volumes since 2010 that has surpassed the production of the *Elliot Debates*.⁶¹

Furthermore, scholars in the 1960s began to pull apart the conclusions of the Progressives. Alfred F. Noble E. Cunningham Jr's 1968 peer review of Alfred F. Young's *The Democratic Republicans of New York: The Origins, 1763-1797* (1967) exemplifies how scholarship required modification from the theses of Charles Beard and Carl Becker.⁶² Noble agrees with Young in how the Federalist and Antifederalist divide of 1788 “requires more complicated explanations than provided by Becker's description of a clash between the ‘privilege’ and the ‘unprivileged.’ The Federalist-Anti-Federalist alignment of 1788 which Beard projected into the 1790s is seen by Young as continuing but with important discontinuities that

⁶¹ Merrill Jensen and Robert A. Becker, ed. *The Documentary History of the First Federal Elections, 1788-1790, Volume 1*. The University of Wisconsin Press, 1976; Jensen. *The Documentary History of the Ratification of the Constitution and the Bill of Rights, 1787-1791*, 1976.

⁶² Alfred F. Young. *The Democratic Republicans of New York: The Origins, 1763-1797*. Chapel Hill, North Carolina: The University of North Carolina Press, 1967.

Beard did not recognize. Young rejects Beard's agrarian versus capitalist dichotomy” and associates the conservative Whigs as the later leaders of the Republican party.⁶³

Proceeding into the 1980s – 1990s, many historians rotated away from Progressive interpretations, leaned closer to social histories, and attempted to blacken the deification of Founding leaders. Consensus scholars, such as Bernard Bailyn and Gordon Wood, have set against Antifederalist figures, casting these delegates dismissively as non-patriotic and unable to grasp the full vision of what the adoption of the Constitution afforded the nation.

A professor at Smith College during the 1960s – 1980s, Cecelia M. Kenyon edited “The Anti-Federalists” in 1966 and reviewed them rather sharply. She famously bestowed the proponents of representative government a lasting moniker, decrying these “Men of Little Faith” in an article bearing the same name.⁶⁴ The ‘middling sort,’ divided by a non-homogeneous culture, class, and sectionalism, were riddled with doubt, distrust in their constituents, and were “gloomy about the lack of stability” in the new style of government which they perceived as “destructive to liberty.”⁶⁵ Critical of their loyalty to principle, Kenyon accused the Antifederalists of “clinging to a theory of representative government that was already becoming obsolete.”⁶⁶ Distinctively, Kenyon diverges from the Progressive school by rejecting Beard’s analysis and by offering a Consensus narrative that projects the Antifederalists as narrow-minded and conservative while painting the Federalists as the radicals of 1787 that they were.⁶⁷ Ultimately, Kenyon suggests that the Antifederalists failed due to their absence of “faith and the

⁶³ Noble E. Cunningham, Jr. *Review of ‘The Democratic Republicans of New York: The Origins, 1763-1797’* by Alfred F. Young. Williamsburg, Virginia: Omohundro Institute of Early American History and Culture, *The William and Mary Quarterly* Vol. 25, no. 2 (1968), 294.

⁶⁴ Cecelia M. Kenyon, “Men of Little Faith: The Anti-Federalists on the Nature of Representative Government.” *The William and Mary Quarterly* 12, no. 1 (1955): 1-43.

⁶⁵ Kenyon, “Men of Little Faith,” 33.

⁶⁶ *Ibid*, 38.

⁶⁷ *Ibid*.

vision to extend their principles nation-wide.”⁶⁸ Whether she is correct in this regard, Kenyon’s analysis is balanced in how the Antifederalists compare to their opponents and justly reflects their dismay in how their beloved republic increasingly bowed to the mercy and subjugation of majority rule.

Vast amounts of publications were produced before and after the 1976 bicentennial that reinvigorated the study of the Constitution's formation and the actors in its unfolding drama. This sparked new interest in Antifederalists for their own sake as historians worked steadily to compile and publish documents that had previously not seen their forms in print.

Herbert Storing is an example of this phenomenon whose *The Complete Anti-Federalist* alleviated the gap of Antifederal materials.⁶⁹ Again however, historiography remains sparse amid minor annotations regarding the context of a document or a snippet of a bibliographic sketch of a text’s often anonymous author. Lacking materials from North Carolina and Rhode Island, Storing's collection does not display the deep underlying Antifederal sentiments in these locations. Thus, Paul Finkelman viewed Storing's work rather as “the Incomplete Antifederalist,” while it still proves invaluable as one of the largest collections of Antifederalist documents, expanded across seven volumes.⁷⁰ Additionally, Storing’s assemblage would be a boon to the escalating array of Constitutional scholarship developed during the 1980s to the 21st century as many sought and continue to seek vestments of original intent.

Another author who has provided weighty historiography regarding the Antifederalists during this period is Saul Cornell. His 1989 article, “The Changing Historical Fortunes of the

⁶⁸ *Ibid.*, 43.

⁶⁹ Herbert Storing, *The Complete Anti-Federalist*. Chicago, Illinois: University of Chicago Press. 1981.

⁷⁰ Paul Finkelman, *Complete Anti-Federalist*. Cornell Law Review, vol. 70, 182 (November 1984), 183-184.

Anti-Federalists,” and book, *The Other Founders: Anti-Federalists and the Dissenting Tradition in America, 1788–1828* (1999), offered renewed insight into the otherwise neglected group.⁷¹ His work assists in revealing the connection between Antifederalists and their Jeffersonian and Jacksonian counterparts while also providing a historiographic section that investigates how Antifederal writings and stances have been utilized in issues of nullification, states’ rights, and legal history through Supreme Court cases such as *McCulloch v. Maryland*.⁷² *The Other Founders*, in addition to including a substantial index of primary sources, includes a brief historiographic epilogue that looks at the trouble of Antifederalist ideas applied to constitutionalism and the public sphere. He includes Jurgen Habermas’ proposition of dissecting the value of “rational communication” and how vital this form of discourse is in not only comprehending constitutionalism, but the ideas cherished by the Antifederalists.⁷³

While negative liberal and consensus historians defaced the revered visage of the Founders, like the “Antifederalists, Democratic Republicans, and Jacksonian Democrats, the Progressives were principled social critics before they were social reformers.”⁷⁴ Elvin T. Lim in his *The Lover's Quarrel: The Two Founding's and American Political Development* merged the “moralistic tones in Becker's writing” to the “jeremiadic warnings” of the Antifederalists, penning both as committed to the recreation of public virtue “untainted by corruption, greed, and lust for power.”⁷⁵

⁷¹ Saul Cornell, “The Changing Historical Fortunes of the Anti-Federalists.” *Northwestern University Law Review* 84 (1989): 39–73; and Saul Cornell, *The Other Founders: Anti-Federalists and the Dissenting Tradition in America, 1788–1828*. Chapel Hill: University of North Carolina Press, 1999.

⁷² Cornell, *The Other Founders*, 274-286.

⁷³ *Ibid.*, 306.

⁷⁴ Elvin T. Lim. *The Lover's Quarrel: The Two Founding's and American Political Development*. New York, New York: Oxford University Press, 2014, 115.

⁷⁵ *Ibid.*

1990 – Present: Post-Structuralism and the Original Intent of the “True Founders”

Though relatively ignored academically, partisans in moral and political conflicts continue to utilize the words and rationale of the Antifederalists to provide a sense of legitimacy or prophetic warning to their stances. With the rise of constitutional interpretations in the 1980s, legal and revisionist narratives sprung evermore from issues of post-structural consensus historiography as libertarian and conservative historians reclaimed Antifederalists as “True Founders.”

For instance, Thomas S. Kidd, a Patrick Henry biographer, notes in *First Among Patriots* (2011) how abolitionists and Confederate apologists simultaneously called upon Henry’s oratory much to the misapplication of his words and intentions, or at least, in ways which Kidd does not approve.⁷⁶ Distortions of Henry’s intentions are not foreign to modern usage either. It is easy to misattribute Henry’s ideas as he represents a synthesis of virtue and intellectual rigor. A descendant of Henry, Patrick Henry Fontaine, stated that Henry “won the primacy in that pantheon precisely because he maintained ideological consistency as both a patriot and an Antifederalist.”⁷⁷ However, Kidd rectifies this generalized praise, stating how “most observers have agreed with the historian Albert J. Beveridge, who in 1900 said that although Henry was sincere in his opposition to the Constitution, his sincerity did not make him right. To Beveridge, Henry was struggling against America’s national destiny.”⁷⁸ This mentality contributes to the historical trend popularized in the 1990s that suggests that Antifederalist concerns were antiquated and unable to glimpse the full picture of political progress while the figures themselves may yet be admired for their other admirable qualities.

⁷⁶ Thomas S. Kidd, *Patrick Henry: First Among Patriots*. New York, New York: Basic Books Publishing, 2011.

⁷⁷ Kidd, 249.

⁷⁸ *Ibid.*

The ascendancy of conservatism under the administrations of Ronald Reagan and George H.W. Bush in the 1980s and 1990s saw a revival in utilizing Antifederalist stances as factors of persuasion that has kindled even more engagement in the 2000s by way of digital mediums. The aim to restore the authentic form of government relied on an interpretive methodology which expounded upon original-intent jurisprudence. R. B. Bernstein notes in *The Founding Fathers Reconsidered* (2009) how constitutional historians such as Martin S. Flaherty, Jack N. Rakove, H. Jefferson Powell, and James H. Hutson questioned original-intent jurisprudence on “grounds of evidentiary analysis and historical context.”⁷⁹ They argue that judges tend to fail to “consider the historical and intellectual contexts of the Constitution’s origins and the ways in which those contexts differ significantly and often radically from today.”⁸⁰ In addition, the “new constitutional system repeatedly surprised and dismayed those who framed, adopted, or supported the Constitution in 1787-1788.”⁸¹ However, this does not dissuade Supreme Court Justices from seeking verdicts that align with strict constitutionalism as they attempt to uncover the original intent of the delegates. Constitutional historian Leonard W. Levy is quoted in Melvin Yazawa’s *Contested Conventions* (2016) to show how numerous justices have sought to base verdicts on original intent while their ability as capable historians ought to be questioned. He says this is because they “tend to reason backward from their decisions.”⁸² Often, they have previously formulated an interpretation only to then stumble through texts to support their verdict. An example of this is showcased within Justice Clarence

⁷⁹ R. B. Bernstein, *The Founding Fathers Reconsidered*. New York: Oxford University Press, 2009, 165.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² Melvin Yazawa, *Contested Conventions: The Struggle to Establish the Constitution and Save the Union, 1787-1789*. Baltimore, Maryland: John Hopkins University Press, 2016, 278.

Thomas' dissent regarding *Whole Woman's Health v. Hellerstedt* wherein he stated a particularly relevant clarification:

Our Constitution renounces the notion that some constitutional rights are more equal than others. A law either infringes a constitutional right, or not; there is no room for the judiciary to invent tolerable degrees of encroachment. Unless the Court abides by one set of rules to adjudicate constitutional rights, it will continue reducing constitutional law to policy-driven value judgments until the last shreds of its legitimacy disappear.⁸³

Such were the fears of Antifederalists who foresaw how policy could eventually be determined by those with the loudest voices or the largest wallets.

Furthermore, historian Jack N. Rakove clarifies how there is no single grand narrative of consensus awaiting discovery. Instead, he claims that there was a “range of understandings on the manifold provisions of the Constitution. Thus, [a] spectrum of complex views and different shadings of opinion [permeate] any clause.”⁸⁴ M.E. Bradford furthers this point, stating how there existed in the constitutional and state-ratifying conventions a broad narrative and contrasting interpretive agendas in each state put forth by the “assembly representing the people of the states.”⁸⁵ While these narratives often contradicted those in other states, it is important to realize that resistance to centralization existed, that local concerns were paramount to the manner of interpretation of the new charter, and that the adoption of the Constitution did not “institute the new regime. That task belonged to the state conventions” and to the respective understanding of each state delegate.⁸⁶ Correspondingly, Frank B. Cross emphasizes in *The Failed Promise of*

⁸³ Samuel A. Alito, Jr. *Whole Woman's Health v. Hellerstedt*, 579 U.S. Justia: Supreme Court of the United States, 2016. <https://supreme.justia.com/cases/federal/us/579/15-274/dissent5.html>

⁸⁴ Yazawa, 278.

⁸⁵ M.E. Bradford, *Original Intentions: On the Making and Ratification of the United States Constitution*. University of Georgia Press, 1993, 9.

⁸⁶ David Gordon, “America's Many Propositions.” Review of *Original Intentions: On the Making and Ratification of the United States Constitution* by M.E. Bradford. *The Mises Review* 1, No. 2 (Summer 1995). See also Kevin Gutzman, Review of *Original Intentions: On the Making and Ratification of the United States Constitution* by M.E. Bradford. *The Imaginative Conservative*, January 20, 2013. Accessed

Originalism how the best sources are those that “provide evidence of ordinary usage of language at the time” and those which consider a litany of interpretation. Cross encourages those genuinely seeking original intent to “look at hundreds of pieces of evidence from the era and seek a clear pattern. In reality, though, this is seldom done, and [only a] few classical sources [are relied upon], such as *The Federalist*” while many justices and politicians ignore the voices of their opposition.⁸⁷

Offering a 21st century perspective adhering to a merged libertarian-conservative school of historiography, Gary Galles, writing for *Mises Daily*, asserts that Antifederalists like Robert Yates had been too optimistic when writing in a period before the 16th Amendment enabled the federal income tax in 1913. He implies how immensely dissatisfied Yates and his colleagues would be with the current form of government which had “far exceed[ed] its constitutionally enumerated powers. The results burdens citizens beyond his worst nightmare.”⁸⁸ Recently, icons of dissenting traditions have been politicized. For example, according to Yazawa, the image of Patrick Henry has been appropriated and recast as a radical dissenter across the political spectrum. “Much of this use of Henry is based only on current applications of the ringing phrase, ‘give me liberty or give me death.’ Henry is a favorite of the contemporary Tea Party, a movement that reacted against President Barack Obama’s massive increases in domestic spending. Henry has also become a hero to many Christian conservatives who see him as a defender of both Christian virtue and liberty.”⁸⁹ This nostalgic aspect has aligned conservative

May 5, 2018. <http://www.theimaginativeconservative.org/2013/01/constitution-invoking-patrimony-original-intentions.html>.

⁸⁷ Frank B. Cross, *The Failed Promise of Originalism*. Stanford, California: Stanford University Press, 2013, 67.

⁸⁸ Gary Galles, “The Antifederalists were Right.” *Mises Daily; The Mises Institute: Austrian Economics, Freedom, and Peace*. 9/27/2006. Accessed December 11, 2017. <https://mises.org/library/antifederalists-were-right>.

⁸⁹ Yazawa, *Contested Conventions*, 251.

activists, the homeschool movement, and may even entertain Providential revisionism, as displayed through the form of history espoused by David Barton's *WallBuilders* organization.

More reputedly, the considerations of Ron Paul, his son Rand Paul, Mike Lee, Victor Davis Hanson, Thomas DiLorenzo, Ben Shapiro, Justice Antonin Scalia, Glenn Beck, Walter Williams, Thomas G. West, Charles C. W. Cooke, and Thomas Sowell, among other widely regarded conservative, classical liberal, and libertarian politicians, political commentators, and academics, look to Antifederalists for inspiration and guidance in the shaping of Constitutional application and civic engagement in preserving liberty. As stated by Cornell, the “legacy of the Other Founders will likely continue to be a source for inspiration for individuals from across the political spectrum as long as the Constitution shapes the limits of legitimate dissent in American political life.”⁹⁰

Although Antifederalist ideas are becoming quite powerful in the disjointed society of the late 2010s, often progressive and neoconservative political outlooks still tend to besmirch the Forgotten Founders' supposed inability to grasp the profusion of benefits that a strong government affords. Most have arrived at conclusions without thoroughly analyzing their writings and thoughts, comfortable enough to assume that the Federalists were entirely correct because they won the Constitutional debate. That they have been ill-represented throughout American history does not help resolve matters. Furthermore, many discredit Antifederal concerns without considering the disadvantages of an overextended state riddled by debt and internal division – realities that Antifederalists managed to foresee before widespread industrialization, government-propagated economic interference, modern militarization, international interconnectivity, and globalization. Although some Antifederalist qualms may not

⁹⁰ Cornell, *The Other Founders*, 307.

have been realized, many of their apprehensions regarding the overreach of the federal government have compounded with the deterioration of the classical ideal of maintaining small republics, yeoman individuality, and adherence to a strict interpretation of the Constitution.

Antifederalism, as explored by historians since the formation of the United States, has experienced lulls in a proper focus and handling of materials, let alone recognition of the leading figures who have steered the political and moral vision of the nation. A resurgent gap in the historiography complicates the collective frequently misunderstood, misquoted, and most egregiously, forgotten. Their reputation remains stained, still generally perceived as disillusioned and irrelevant men by most, thus fittingly unworthy of being heralded amongst the pantheon of the Founders for daring to question the legitimacy and necessity of the Constitution in trepidation of the potential for tyranny and the obstruction of the individual rights they sought to procure and extend to all generations of Americans. Although Antifederalist ideology and the figures who have contributed to the persistent heritage of limited government have been sustained as a mere ember in light of the flame of patriotic scholarship, the enduring spark left by their writings perhaps will instill future historians and scholars to continue to explore and reconsider the contributions and influence of genuine advocates of classical republicanism. While hindered and overshadowed, their legacy remains.

The continuation of the Antifederalist tradition did not stop because academics failed to recognize their value. Far from it. The American public harbored the convictions of 1788 deep within their hearts from which voluntary devotion to the Founding principles overflowed and consciously shaped their actions for generations thereafter. From the 1800s onwards, instead of solely looking to the state for guidance, citizens from all walks of life ventured to apply the lessons their forefathers had taught them through the proceeding decades. During the 19th

century, Europeans would look on curiously and attempt to apply the benefits of America's republican experiment as a salve to their own national crises. Friendships forged in blood and ink during the 1780s would connect the advances of liberty beyond America's shores. Farmers, authors, politicians, diplomats, and revolutionaries from both sides of the Atlantic all would operate in associations, collectives of individuals committed to upholding the heritage that the Antifederalists had bestowed to those capable of perceiving their vision of the future.

Chapter II – Antifederal Associated Republicanism

As the Revolutionary generation came to power, the task fell to Federalists and Antifederalists alike to discern what the best form of government would be for their new nation. Revering the republican examples of ancient Greece and Rome, Antifederalists in particular strove to reassert the necessity for administrative power to be limited so that statesmen, the representatives of the people, could protect and uphold the rights they had been entrusted with. However, the way in which to do this successfully differed between both political parties. Following the Revolution, the Federalists saw the dangers of a weak national government incapable of collecting taxes or putting down insurrection. Though dissatisfied too by the insufficiencies of the Articles of Confederation, Antifederalists were reluctant to place too much control in the hands of administrators far removed from the people they were responsible to. While separated by sectional interests, intense political rivalries, and different definitions of federalism, the proponents and the critics of the Constitution desired national harmony. Though less unified compared to the Federalists, who enjoyed the advantage of wielding the press and the benefit of typically being based out of lucrative, interconnected centers of commerce, rural and elite Antifederalists banded together through the vigor of their writing, public appeals, and their devotion to a traditional comprehension of individualism that connected the assurance of individual rights to the endurance of a flourishing republican community.

Until the mid-20th century, no united series of Antifederalist papers existed in a form equivalent to that of the Federalists. As aristocratic and middling-sort individuals drafted separate responses to the stream of articles and pamphlets flooding local and regional gazettes, their work so too existed in disjointed isolation. Works such as *The Complete Antifederalist*, compiled by Herbert Storing and Murray Dry, link their publications into a single, accessible

contemporary entity that reveals the underlying themes and rhetoric utilized by those striving to preserve the federal arrangement won and crafted by the Revolutionary generation.

Though not altogether unanimous in their positions, with many Antifederalists clashing over miniscule internal differences, the loyalty of moderate adherents, or through a willingness to concede should amendments become available, their diversity of thought does not tarnish their united common mooring. Opposed to the consolidation of extended powers, standing armies, a permanent aristocracy created by long legislative terms, and the imposition heavy taxation, foreign interference, schemes of wealth, secrecy, and the corruption of political and communal character would weigh upon the nation, a majority of Antifederalists, though offering diverse solutions, promoted a limited constitutional scope aligned for a limited republic.

Often, they pointed to the financial burden, looming public debt, and deficiencies paper money wrought upon the economy rather than any inherent weaknesses apparent within the Articles of Confederation. The language and tone of Antifederalist writers varies between systematic approaches, displayed in the widely-circulated essays of Cato, Brutus, or through the letters of the Federal Farmer, to those more akin to poetic sermons spouting high republican ideals, resembling the speeches of Patrick Henry or the lesser known letters of the Impartial Examiner, to the impassioned yet fragmented dispatches of Agrippa or the Centinel directed at more regional or institutional concerns. Their individualistic writings shift in tone, spontaneity, and themes according to their audience or the matter being discussed, some arguments oft repeated or hardly developed, yet revolving about generally accepted notions. A large portion of their writings voice disapproval to the overt authority granted to members of Congress and the judiciary through the adoption of the new Constitution. Differences in political interpretation were also accompanied by a distaste for the underhanded tactics employed by the Federalists

during the ratifying conventions, namely their obstruction of the press. This often took the form of inciting public opinion against Antifederal critiques or proceedings as unpatriotic, cumbersome, or irrelevant to the needs of the conjoined union of states.

While numerous sources are to be contrasted, the balanced approach of the Impartial Examiner, who earns his title for conceding issues brought against impractical Antifederal solutions, reveals a fundamental aspect circulating within each of the arguments penned by his anonymous colleagues: that the adoption of the Constitution did not wholly resolve the underlying problems facing the republic. The Constitution alone was not enough. Unlike Cecelia Kenyon's charge, Storing notes how Antifederalists did not "fail to *see* the opportunity for American nationhood that the Federalists seized so gloriously."⁹¹ However, they could not embrace an opportunity so problematic "that it could be neither grasped nor let alone without risking everything. The Antifederalists were committed to both union and the states; to both the great American republic and the small, self-governing community; to both commerce and civic virtue; to both private gain and public good."⁹² Antifederalist opposition held rational reasons for caution and restraint. Rather than weak-willed, they grappled with the tension of reconciling contradictions within their suggested solutions while unable to fully accept an America devoid of the very principles which crafted her origin.

Antifederalists supported genuine federalism yet were derisively mislabeled by those who stole their moniker. Opposed to a broad constructionism of the Constitution, other circular themes espoused in their writings were opposition to a powerful central government and extended republics, belief in direct citizen participation in political and community affairs, and

⁹¹ Herbert J. Storing, *The Anti-Federalist: An Abridgment, by Murray Dry, of The Complete Anti-Federalist Edited, with Commentary and Notes*. Chicago, Illinois: University of Chicago Press, 1981, 4.

⁹² Storing, *The Complete Anti-Federalist*, 4.

their mistrust of industrialists and politicians far removed from the sphere that their regulations and policies will affect. In addition, southern Antifederalists were accused of wanting to split the associated confederation into a southern confederacy. This was a proposition considered by some Antifederalists both as a bargaining ploy, a threat, and a real solution in light of Federalist reluctance to compromise on amendments to the proposed constitution. Nevertheless, this accusation proved a rhetorical advantage that Federalists lobbied against leaders, such as Patrick Henry, who were lampooned by this claim, though Henry consistently denied that this was his intentional aim.

Though aristocratic and middling-sort of southern politics revolved mostly around established and well-respected leaders than purely upon men of industry or policy-makers, this colonial hierarchical context provided ample ground for one of the most thorough clashes of an aristocratic society “filled with the spirit of republican freedom.”⁹³ For example, though Virginian politics were divided between rural and social interests, the state boasted a stronghold of Antifederal elites led by the caliber of men such as George Mason, Richard Henry Lee, and the likes of Patrick Henry. Each were well-known, wealthy plantation owners who had earned the respect and trust of their constituents through years of devoted public service, in addition to their contributions during the War for Independence. However, their robust oratory and personal reputations could not prevent the debates held at the Virginian Ratifying Convention from becoming some of the most lengthy and contested experiences. Despite effectual appeals from these delegates, Virginia became the tenth state to ratify by a marginal vote of 89 to 79 after three intense weeks of stimulating performances on both side of the aisle. Furthermore, Virginia only ratified upon the agreement that amendments would be secured at a later date.

⁹³ George Ticknor Curtis, *Constitutional History of the United States I: From Their Declaration of Independence to the Close of the Civil War*. New York, New York, 1889, 632.

The Impartial Examiner

The writings of the Impartial Examiner, attributed to Patrick Henry, were written in contrast to Federalist James Wilson's denials of the necessity for a Bill of Rights found within Federalist no. 10. The Impartial Examiner's grievances are echoed by the submissions of the Federal Farmer, Brutus, and Plebian, indicating causes for dissent among the states and issues brought about by potential consolidation.⁹⁴ Regarded for his emotional appeals and splendid eloquence, Patrick Henry raised concerns for defenders of the Constitution as to whether it would pass ratification in Virginia. Disdained by others friendly to the adoption of the Constitution, such as Thomas Jefferson and James Madison, Henry's oratory skills were nonetheless admired by his compatriots and rivals. Richard Henry Lee notably commented on Henry's inability to offer "solid argument and strong reasoning" but alongside Gouverneur Morris, they firmly acknowledged his "power of speech to stir men's blood."⁹⁵ Unable to alter Henry's influence or counter his prolific rhetoric ability to sway his audience, Jefferson and Madison concluded that their best remedy to Henry's interruption of their plans for the Constitution was "devoutly to pray for his death."⁹⁶

Incapable of preventing Henry from inspiring a large following, Federalists resorted to heresy and false allegations that claimed he desired the dissolution of the Union. Henry viewed this as nothing more than a scare tactic to discredit him, as had been done successfully to other Antifederalist speakers, and to frighten voters into a premature adoption of Virginian ratification.

⁹⁴ See also Kevin R. C. Gutzman's *Virginia's American Revolution: From Dominion to Republic, 1776-1840*. Lanham, Maryland: Lexington Books, 2007.

⁹⁵ See Pauline Maier, *Ratification: The People Debate the Constitution, 1787-1788*. New York, 2010. Also Melvin, Yazawa. "Pray for His Death," *Contested Conventions: The Struggle to Establish the Constitution and Save the Union, 1787-1789*. Baltimore, Maryland: John Hopkins University Press, 154.

⁹⁶ Yazawa, ed. "Pray for His Death" - Thomas Jefferson to James Madison, December 8, 1784, Republic of Letters, I:353-54" in *Contested Conventions*, 154-155.

Although inaccurate, the swirl of rumor would force him to moderate his tone slightly, causing him to proclaim his love for the American Union and to deny support for small confederacies, which he dubbed as merely “‘little evils’ in the face of the ‘absolute despotism’ of a consolidated government.”⁹⁷ Melvin Yazawa’s *Contested Conventions* reveals that Henry did theoretically side with a southern confederation as a reality, though not an ideal one. If obligated, he saw that non-ratifying states could join together into a separate confederation from the United States. Regardless, Henry and his affiliates would not stand idly by while the association between the states unraveled.⁹⁸

Like other Antifederalists, Henry did not desire to abandon the Articles of Confederation which assured state sovereignty, yet, after the ratification of the Massachusetts convention, there remained little hope in reviving the “Old Confederation.” In light of such circumstances, opponents to ratification could either abandon their position altogether or compromise by conceding to ratify an imperfect Constitution they yet hoped to correct through the addition of further amendments.

In a letter dated March 5, 1788 published in the *Virginia Independent Chronicle* and directed to the “free people of Virginia,” the Impartial Examiner’s essay speaks urgently to his readership, benevolently addressing his fellow citizens with the “language of sincerity and candor” to recall the importance of the civil compact that ought to frame government flowing from the “natural state of liberty.”⁹⁹ In a series of linked letters, he calls upon their character as freemen and as “valiant defenders of their country...exhibiting such bright examples of true patriotic heroism” to not be inconsistent by giving up the independent sovereignty of each

⁹⁷ Ibid, 157.

⁹⁸ Ibid.

⁹⁹ Storing, “The Impartial Examiner no.1, March 5, 1788, 5.14.1- *The Complete Anti-Federalist*, 276-280; 286-87.

state.¹⁰⁰ His letters indicate an appreciation of federalism, directly pondering “for what can be more truly great in any country than a number of different states in the full enjoyment of liberty—exercising distinct powers of government; yet associated by one general head, and under the influence of a mild, just, and well-organized confederation duly held in *equilibrio*?”¹⁰¹ Poetic by nature, the diction within his writing harkens to the biblical words of Christ which display the merit of equal members functioning in tandem while performing their own unique roles within individualistic spheres of influence. His text provides an allegory of how the federal states mirror the trinity, suggesting that by functioning together, the association of states “will form a beautiful species of national grandeur,” thus spreading “glory all around.”¹⁰²

Separate independency existed in each portion of the federal union, promoting harmony and a defense from a consolidation of power and its predictable abuses. The Impartial Examiner clarified the stance of each party, showing how the Federalists “seem not to regard any fundamentals in government” unless the plan for the Constitution involved benefitting measures, while those opposed are “marked with the epithet of anti-federal.”¹⁰³ He urged his readers to remember that the revolution brought about an enduring aspiration of “union between the American states,” and that opposers to the plan were not in fact, unfriendly to federal concepts.¹⁰⁴ Yet “on the sound of names they build their fame,” the Impartial Examiner denotes, the Federalists mislabeling their so-called “anti-federal” opponents who “seem to act on the broader scale of true federal principles.”¹⁰⁵ Illustrating how the Antifederalists were promoting

¹⁰⁰ Ibid, “Impartial Examiner, no. 1, March 5, 1788, 5.14.10,” 287.

¹⁰¹ Ibid, “Impartial Examiner, no. 1, March 5, 1788, 5.14.13,” 290.

¹⁰² Ibid, 290; Biblical reference, John 13:31-32. *The Message* (MSG).

¹⁰³ Herbert J. Storing, ed. “Impartial Examiner no. 2, May 28, 1788, 5.14.25-26” in *The Founders’ Constitution*, Vol. 1, Chp. 8, Document 36. Chicago, Illinois: University of Chicago Press, 1981.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

more refined aims of the American Revolution in comparison to the “advocates for the new code [who] wish[ed] all sovereignty to be lodged in the hands of Congress,” the Impartial Examiner challenged the proposed scale of national government.¹⁰⁶ He saw the ratifying of the Constitution as an action, which would not strengthen the “thirteen independent states, but form one extended empire by compounding the whole, thus destroying the sovereignty of each.”¹⁰⁷ On the contrary, the Antifederalists hoped to preserve the essence of each member of the confederation while also desiring a federal system that would “cement the union in the strongest manner.”¹⁰⁸

The words of the Impartial Examiner express the willingness of “Antifederalists” to place the constellation of conjoined republics under a loose federal hold, one which the author viewed as a great blessing to the endurance of the nation. Despite the struggles experienced during the administrations of Washington and Adams, many Antifederalists did not view an increase of power in the hands of an elected few a risk worth potentially dismantling the unity that currently existed among the states.

In a different portion of his letters, the Impartial Examiner warned of the lessons taught by history: that “dangerous consequences generally result from large and extensive powers. Every man has a natural propensity to power, and when one degree of it is obtained, *that* seldom fails to excite a thirst from more.”¹⁰⁹ He additionally predicted the peril posed by a corrupt state due to how luxury and prosperity produce a climate ripe for bribery and corruption. He feared that a powerful group or individual could absorb and wield further authority to the point of erecting an “aristocratic or monarchic tyranny.”¹¹⁰ The clink of gold in the hands of merchants

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Storing, ed. “The Impartial Examiner no. 1, March 5, 1788, 5.14.14-15,” in the *Complete Antifederalist*, 290.

¹¹⁰ Storing, “The Impartial Examiner, March 5, 1788, 5.14.15,” 291.

and bureaucratic civil servants poses as a lure to gather more wealth, and in time, to subvert the original structure and purpose of the government. After the “ardent glow of freedom evaporates, the charms of popular equality, which arose from the *republican plan*, insensibly decline; the pleasures, the advantages derived from the new king of government grow stale through use.”¹¹¹ Echoing the premonition envisioned by fellow Antifederalists, the Impartial Examiner could only predict the decline of liberty as people of vice and ambition fill the ranks of a strong and expanding federal government until the point that the sovereignty of each state and individual shrinks to nothing unless political restraint is enacted and public virtue restored.

Altogether, the contributions of the Impartial Examiner illustrates the “keen Antifederalist insight into the problems of perpetuating the free republic” while simultaneously revealing the flaws inhibited in the narrow alternatives proposed by his party.¹¹² His approach displays a willingness to cooperate while also directly critiquing major concerns within the Federalist schema that seems to have forgotten that a “free people ought to entrust no set of men with powers, that may be abused without control, or afford opportunities to designing men to carry dangerous measures into execution, without being responsible for their conduct.”¹¹³ He stressed that citizens must “always guard against the effects of vice,—as the securest governments are seldom secure enough; —is it not the greatest imprudence to adopt a system, which has the apparent tendency to furnish ambitious men with the means of exerting themselves—perhaps to the destruction of American liberty?”¹¹⁴

¹¹¹ Ibid, 290.

¹¹² Ibid, 292.

¹¹³ Ibid, 290.

¹¹⁴ Ibid, 290.

Henry as Oracle and Prophet

Obscure as the writings of the Impartial Examiner are, so too is the notoriety of the man to whom this work is attributed. Despite being called the ‘voice of the revolution,’ Patrick Henry is dwarfed by Federalist giants and more ambitious, erudite Antifederalist associates known for producing a higher-volume of pamphlets. James M. Elson, the executive director emeritus of the Patrick Henry Memorial Foundation, compiled and annotated a body of work relating to Henry’s speeches and what has been said about him. *Patrick Henry in His Speeches and Writings and in the Words of His Contemporaries* is a vital source in assessing the correspondence extant since Henry’s early life. From the moment he first burst onto the political stage during his successful legal defense of the Parson’s Cause of 1763, to his role in the Virginia House of Burgesses, as delegate in the First and Second Continental Congress, and as governor both in periods of war and peace, Henry’s words and deeds preceded the Founder. Content to slip away into retirement surrounded by family at Red Hill in the 1790s, the statesman briefly reappeared to answer the constitutional crisis of 1799.¹¹⁵

Prior to the struggle for ratification, from Henry's presentations of the Virginian Resolves in 1765, his fame and vitality to the cause of parliamentary representation for the colonies was certain in his role as a much sought-after lawyer known for his wit and sense of humor. However, his jovial courtroom days soon crescendoed from polite appeals into a roar calling for American independency by the time the Virginia House of Burgesses was dissolved for the first time in 1774 by Royal Governor, John Murray, 4th Earl of Dunmore. Henry additionally assisted in preparing addresses to King George III alongside bold independence proponents, such as Richard Henry Lee, one of the early creators of the inter-colonial Committees of Correspondence

¹¹⁵ James M. Elson, *Patrick Henry in His Speeches and Writings and in the Words of His Contemporaries*. Lynchburg, Virginia: Warwick House Publishers, 2007.

that emerged through the 1760s-1770s. After the Boston Affair, amounting to the Intolerable Acts of 1774, the exiled Virginian Burgesses reassembled in Williamsburg, supported the boycott of British imports, and set about conducting conventions, five in total, which elected seven representatives to the First Continental Congress hosted in Philadelphia, of which Henry was one of the leading delegates from Virginia.

The Second Virginian Convention (1775) listened to Henry's delivery of his infamous "Give Me Liberty" speech rallying men to arms as Congress became weary from receiving no reply from Parliament or the King. Recalled by Lord Dunmore to respond to British Prime Minister Lord North's Conciliatory Resolution, the former Virginian House of Burgesses and the Continental Congress rejected the proposal and came to pass the Declaration and Resolves, formally declaring American independence from Great Britain. Actively participating in the Virginian and Philadelphian Conventions, and often speaking first, Henry led in 1774 as he had done in 1765.¹¹⁶

While in Williamsburg on private business in 1774, George Mason, the principle drafter of the Virginian Declaration of Rights (1776), found attention engrossed on the measures "intended for the preservation of our rights and liberties."¹¹⁷ He noticed that they were being planned "with a great deal of privacy, and by a very few members, of whom Patrick Henry is the principal." Invited to join the secluded proceedings, Mason came to speak with Henry and found that they shared a similar mindset before their camaraderie blossomed further in later decades. Here he evaluated Henry as "by far the most powerful speaker" he ever heard.¹¹⁸ Yet he was not impressed solely by his manner of speech, stating how Henry's "eloquence is the smallest part of

¹¹⁶ Jane Carson, *Patrick Henry: Prophet of the Revolution*. Bedford, Virginia: The Descendants' Branch Patrick Henry Memorial Foundation; The Jamestown-Yorktown Foundation, 1979, 37.

¹¹⁷ Carson, *Patrick Henry: Prophet of the Revolution*, 37.

¹¹⁸ *Ibid.*

his merit. He is in my opinion the first man on this continent, as well in abilities as public virtues.”¹¹⁹ This praise of Henry’s capabilities and moral integrity should not be taken lightly, for one of the Antifederalists’ pivotal concerns, besides policy opinions that differ from Federalist platforms, is the lack thereof of virtue ensured by the Constitution that prevents unethical individuals from coalescing power. As in the days before the Revolution, the writings of the Antifederalists consistently refer to the necessity and value of private and public virtue for a wholesome and sustained republic.

Later, during the Philadelphia Convention, Henry spoke in Carpenters’ Hall, declaring that due to the oppressive nature of the government, a new one ought to be formed with representation based on the weight of each state. Recognizing that the colonies were joined en masse as a single, associated conglomerate, Henry clarified how “distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders are no more. I am not a Virginian, but an American.” Rather than a direct call to nationalism, he “shifted the grounds of the argument of proportionate representation,” in a way that would benefit national unity while also securing Virginia’s portion.¹²⁰ In *Patrick Henry: Prophet of the Revolution*, Jane Carson explains his rationale that argued from a ‘state of nature.’ In such a state, if “old boundaries had disappeared, then the delegates could not be counted by colony because distinctions between the colonies would have disappeared; if each delegate represented a certain number of Americans, then numbers would have to be the basis for voting strength.”¹²¹

However, many delegates in the Continental Congress opposed his call for proportionate representation. Dissent to his propositions arose most vocally from smaller states, most notably

¹¹⁹ Ibid.

¹²⁰ Ibid, 37.

¹²¹ Ibid, 37.

from New Hampshire, Rhode Island, and Massachusetts, that viewed Virginia as wishing to domineer the electorate with their largely populated and economically viable commonwealth. Concerned that Virginia's size and influence may overshadow the interests and sovereignty of smaller states, delegates from these regions advocated for equal representation, desiring an equal say for equally risking their colony's welfare by participating in insurrection. Altogether, Henry's "appeal for unanimity of thought" conflicted with the practicality of calculating accurate scales of proportionate representation; ironically an aspect not resolved for larger colonies until the Constitution of 1789 reconfigured the equal one-vote-per-colony system Congress had assigned.¹²²

While matters of how population should be representationally counted would continue to be re-evaluated, so too would reoccur the debate regarding the proper scope of federal authority. By assisting the Virginian General Assembly through roles on special committees amid the Continental Congress' attempts to reconcile with Great Britain, Henry and Lee would foreshadow their resolve against national legislation meddling with the affairs of local rule. A precursor of this is reflected through their opposition to Joseph Galloway's 1774 proposed Plan of Union with the British Empire, arguing, as they would fifteen years later, in defense of local sovereignty.¹²³

Conjoined, Patrick Henry and Richard Henry Lee held considerable clout on the committees they contributed to and while speaking from the podium during the convening of the Continental Congress. Supporters looked to the pair for legal guidance and for their emotionally-charged, rousing speeches. Though not known for extensively writing or producing pamphlets for the circulation of his own thoughts, Henry's communicative prowess received high praise

¹²² Ibid, 39-40.

¹²³ Ibid, 41.

from those who heard him speak. Silas Deane of Connecticut expressed “the music of his voice [and] the high wrought yet natural elegance of his style and manner.”¹²⁴ Likewise, Deane observed the rhetorical contention exhibited between Henry and Lee, stating that although they may be rivals in eloquence, in “Virginia and to the Southward, they are styled the Demosthenes and Cicero of America. God grant they may not plead in vain for the liberties of their country!”¹²⁵

Furthermore, during the Second Continental Congress, St. George Tucker is known to have described Henry as speaking with the “calm dignity of Cato” and whose modest manner belonged in the polished courts of Westminster.¹²⁶ Another listener attributed Henry’s oratory to Paul preaching to the Athenians. Although known for his passion and capability to bolster it into others, Tucker remarked how Henry remained dignified and reflective, “emphatic but not vehement; animated but never boisterous.”¹²⁷ His skills in oratory were pronounced, stated to overcome Madison and rivaled Richard Henry Lee; Henry only an “inferior to Mr. Lee in gracefulness of his action, and perhaps also the chasteness of his language.”¹²⁸ However, his speeches were seldom faulty and featured distinct articulation, a firm voice, and captivating attributes. Though initially hobbling, it was by the “means of his tones and the modulation of his voice that his speaking had, perhaps, its greatest effect. He was very unassuming as to himself, amounting almost to humility and very respectful towards his competitor.”¹²⁹ Though Henry confronted rivals, while speechmaking, “no feeling of disgust or animosity was arrayed against

¹²⁴ Ibid, 42.

¹²⁵ Ibid, 42.

¹²⁶ Ibid, 46.

¹²⁷ Ibid, 24.

¹²⁸ Elson, 25.

¹²⁹ Ibid.

him.”¹³⁰ Henry’s intentional debating style, attacking the argument and not relying upon *ad hominem*, perhaps is what most distinguished the charisma of his persuasive ability and kept his rivals at bay, unable to accuse Henry of slander or malcontent. Richard Henry Lee, in comparison, spoke as a polished gentleman, though more monotone. When both men spoke in the General Assembly during 1783-84, Judge Spencer Roane, who admired Henry as a boy and later became a Virginian delegate, ardent Jeffersonian Republican, states’ rights advocate, Supreme Court Justice, and Henry’s son-in-law, noted how Lee was of “the mediate class of eloquence described by Rollin in his *Belles Lettres*. He was like a beautiful river meandering through a flowery meadow, but which never overflowed its banks. It was Henry who was the mountain torrent that swept away everything before it. It was he alone who thundered and lightened.”¹³¹ Henry normally tended to begin shakily before sliding into a style deepened by sincerity and emphasis, culminating into triumphant expressions fraught with references to classical antiquity, frequent recurrence to the fundamental principles espoused by his Scots-Irish heritage, and positions shaped by his firm belief in the free exercise of religion and the principles endowed by an Almighty Creator.¹³²

However, as with most Antifederal positions, Henry receives criticism for not pushing forward a specific proposed agenda, though he often is more consistent on broad subjects. While not advocating for one main platform, his perspective being specific to each proposed reform in its term, Henry sought applicable solutions to every-day scenarios. Avoiding the temptation of philosophizing from his advantageous appointments, instead Henry “represented the practical interests of the voters who sent him to legislative bodies. He was no theorist, like Jefferson and

¹³⁰ Ibid.

¹³¹ Ibid, 24.

¹³² Ibid.

Madison, and he distrusted innovative, theoretical programs. He understood the weaknesses of the Continental Congress as clearly as anyone else and urged the strengthening of the Confederation, particularly in the regulation of commerce.”¹³³ Seeing the Spanish offer of access to the Mississippi River for special commercial privileges as a threat to western interests, of which he was a ready spokesman for, Henry also perceived potential negotiations with foreign bodies, sought primarily by the seven industrial states to the north, as counterintuitive to the nation’s communal welfare.¹³⁴ Distrusting the economic interference of the North as posing a hazard to the longevity of their six southern neighbors, Henry and other Antifederalists came to oppose what they considered a consolidated government.

Apostate

Declaring himself a “sentinel of the people,” Henry however declined to attend the Philadelphia Constitutional Convention of 1787 yet made an impassioned appearance during the Virginia Convention on the Ratification of the Constitution of 1788, concerned that the consolidated government made no assurances of civilian rights. At the 1788 Ratifying Convention held in Richmond, Henry dominated the conversation. Speaking eighteen of the twenty-three days, he examined the articles of the proposed Constitution and feared that the document would “destroy the state governments, and swallow the liberties of the people, without previous notice.”¹³⁵ He was especially suspicious of the implied powers, wary that the “good qualities of this government are founded [on] a supposition” that all federal officials would be “honest” while the document may perpetuate horrors should the officials be found corrupt.¹³⁶ Again and again he returned to the need for a federal bill of rights similar to the one found within

¹³³ Carson, 63.

¹³⁴ Ibid.

¹³⁵ Ibid, 64.

¹³⁶ Ibid.

Virginia's Declaration of Rights.¹³⁷ While hoping to postpone the Constitution's adoption until a Bill of Rights could be added, immediate adoption was pushed through with the promise by James Madison that a Bill of Rights would be added through an amendment; a promise which was later upheld. Henry Mayer, a Patrick Henry biographer, formulated the striking "question of apportioning credit of the Bill of Rights between the man who drafted the first ten amendments and the man who made him do it."¹³⁸

George Washington and Thomas Jefferson acknowledged Henry's influence in the General Assembly of Virginia following the adoption of the Constitution, and though he refused to run for office, he dismantled the platforms of Jefferson, Madison, and their backers, with Jefferson conceding to Henry's "omnipotence in Virginia" while yet considering him an apostate to the republican cause.¹³⁹ Still, Jefferson and Madison sought to reconcile with Henry over their mutual interest in preserving the sovereignty of the states, yet in 1793, after the experiment of constitutional republicanism failed in France when "King Louis XVI was executed and Lafayette imprisoned, Henry saw in the place of our old ally a bloody despotism paying homage to the Goddess of Reason, and he could no longer support Republican foreign policy."¹⁴⁰ Patrick Henry continued to distance himself from the Republican faction forming behind Jefferson after the dismantling of the Antifederalist movement and the Sage of Monticello's rising popularity as Vice President during the late 1790s. He further drifted to the center of politics, seeming to take a moderate stand that abandoned his original Antifederalist position when he publicly denounced the Kentucky and Virginia Resolutions as unconstitutional, asked to do so personally by Washington in an attempt to sooth rivalry and diminish early whispers of secession. In this event,

¹³⁷ Ibid.

¹³⁸ Elson, *Patrick Henry in His Speeches and Writings*, 3.

¹³⁹ Carson, 65.

¹⁴⁰ Carson, 65-66.

so it transpired that the “two most eloquent orators in Virginia history appeared together” at Charlotte Courthouse in 1799 where the budding young John Randolph of Roanoke delivered his first speech as a Republican candidate for the House of Representatives while Henry concluded his last.¹⁴¹ While Henry faded into the background as other politicians took center stage, rising tensions between the developing political factions refused to allow the elderly patriot enjoy a peaceful retirement at scenic Red Hill.

Urgently George Washington called upon Henry in January 1799 to enter the General Assembly, stressing that “I conceive it to be of immense importance at this crisis that you should be there.”¹⁴² Although he did not accept the call to office on account of poor health, Henry’s response echoed Washington’s reservations regarding American neutrality and the hostility posed by foreign interference. Furthermore, Henry’s soured relations with Madison, disillusionment with the unfulfilled republican ideals of the French Revolution, and the encroaching fear of resuming war with Britain, contributed to Henry’s departure from the Republicans near the end of his life.¹⁴³ Judge Roane presumed that “lucrative administrative titles and positions were offered by the administration of Washington and Adams following Henry’s [divergence] from the Republican Party, and measures were afterward taken to widen the breach and to inflame him against the Republican leaders.”¹⁴⁴ Judge Roane admits that it is of his opinion that in Henry’s dwindling years, he was set upon by the “misrepresentation of artful

¹⁴¹ Carson, 66.

¹⁴² Dorothy Twohig, ed. “George Washington to Patrick Henry, January 1799,” in *The Papers of George Washington: Retirement Series 3, September 1798 – April 1799*. ALS, DLC:GW (January 1799). Charlottesville, Virginia: The University of Virginia Press, 1999, 317-320.

¹⁴³ Dorothy Twohig, ed. “Patrick Henry to George Washington, February 13, 1799,” in *The Papers of George Washington: Retirement Series 3, September 1798 – April 1799*. ALS, PHi: Gratz Collection (February 13, 1799). Charlottesville, Virginia: The University of Virginia Press, 1999, 370-372.

¹⁴⁴ Elson, 36.

and designing men under circumstances of seclusion and debility” through how successful their seductions were is debatable, as Henry declined all positions offered to him.¹⁴⁵ Uniquely as Henry is allegedly to have become a Federalist during the last portion of his life, it can be argued that Jefferson and Madison also had a change of mind, as they became staunch vocal proponents of traditional Antifederalist stances relatively around the same time, as seen through their defense of the Virginian and Kentucky Resolves and repudiation of the Alien and Sedition Acts. By allowing the centralized government to further consolidate to the point where the rights of the states become obsolete, Jefferson warned in the Kentucky Resolutions of 1788 and 1799 that the creation of such a distortion of the Constitution will be a nonconsensual arrangement and would in fact result in the nation “surrender[ing] the form of government we have chosen;” forcing all citizens to endure a structure “deriving its powers from its own will, and not from our authority.”¹⁴⁶ Madison echoed Jefferson’s point in the Virginia Resolutions of 1798, stating that reckless centralization would create “infractions of the federal compact” resulting in resentment to the point that the people would be forced to “appear in the majesty of their strength.”¹⁴⁷ Wishing to prevent forthcoming resistance and potential cause for revolution, Madison challenged the Virginia House of Delegates whether they would allow the Constitution of the United States to “yield to a construction which defies every restraint, and overwhelms the best hopes of republicanism.”¹⁴⁸ The shifting political lines of Jefferson and Madison mirrors Henry’s

¹⁴⁵ Elson, 37.

¹⁴⁶ Jonathan Elliot, ed. “Kentucky Resolutions of 1788 and 1799, November 10, 1798” in *Debates of the Several State Conventions on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia in 1787*. Washington D.C.: Publishing Sanction by Congress, Second edition, Vol. IV, 1836, 540.

¹⁴⁷ Jonathan Elliot, ed. “Virginia Resolutions of 1798, Pronouncing the Alien and Sedition Laws to be Unconstitutional, and Defining the Rights of the States” in *Debates of the Several State Conventions on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia*. Washington D.C.: Publishing Sanction by Congress, Second edition, Vol. IV, 1836, 530.

¹⁴⁸ *Ibid.*

and can be observed in William Wirt Henry's defense of Patrick post-mortem.¹⁴⁹ Despite differing on policy from men he once united so firmly with, committed Jeffersonian Republican Judge Roane's verdict rang resoundingly: "As to fundamentals, however, I must always believe he remained a true Republican."¹⁵⁰

Although this was the case, Henry exhibited "strong prejudices for and against many of his political associates, though he only expressed them" in the confidence of choice friends.¹⁵¹ Henry viewed the "talents, patriotism, and republican principles" of George Mason with the highest regard.¹⁵² Historian James M. Elson notes how the men shared a pleasant and life-long friendship, with Henry seeing Mason "as a man well acquainted with the interests of the people and warmly attached to the liberty of his country."¹⁵³ The same congeniality could not be said of Richard Henry Lee, as "they were very often opposed to each other. Yet they coalesced on great questions, as that of independence and opposition to the federal constitution."¹⁵⁴ Likewise, Henry shared a deep admiration for Governor John Tyler whom he viewed as a "warm-hearted patriot and an honest, sensible man."¹⁵⁵ Inversely, speaking more than he ever wrote, Henry's personal contentions with Jefferson are not quite as well-known as Jefferson's obvious disdain for Henry's views and accomplishments. As to James Madison, Henry admired his "great acquirements but [found him] too theoretical as a politician, and that he was not well versed in the affairs of men. This opinion increased in the Convention of 1788."¹⁵⁶ Upon Henry's

¹⁴⁹ William Wirt Henry, *Patrick Henry: Life, Correspondence, and Speeches*. New York, New York: Charles Scribner's Sons, 1891, 614-622.

¹⁵⁰ Ibid.

¹⁵¹ Elson, 33-34.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

successful dismantling of Madison's election as senator in 1788 due to his overt fondness for strong constructionism, perhaps to "regain the confidence of his native state, [Madison] brought forward the amendments introduced in 1789 into the Constitution."¹⁵⁷

Henry's contemporaries outlived him by a decade and their praise or criticism solidified his historical interpretation. Many adhered to the maligning of Jefferson who cast the "great apostate" as being a "backwoods oratorical savant" and "a man of very little knowledge."¹⁵⁸ Such claims were given to William Wirt Henry in 1805 that were preserved in the first biography produced on the Prophet of the Revolution. However, others recalled Henry differently. In the same year, Roane provided William Wirt a Memorandum on Patrick Henry in which he "reminded Virginians of Henry's admonition in 1788 that their mission was not to build an empire but to defend liberty."¹⁵⁹ Wirt highly respected Roane's memoirs and evaluation of Henry's character, virtue, and articulation in light of Jefferson's charges. Roane's perspective uniquely clarifies how in 1794 there was "no difference between his opinions and mine that I could discover," despite the former's seeming resignation as a "peaceful citizen" whose purpose was to "retrieve the loss of liberty and remove the defects of that system – in a constitutional way."¹⁶⁰ Henry's partisanship grew over time as displayed in an excerpt from a letter to Richard Henry Lee on November 15, 1788 that simultaneously congratulated the election of the senator and gleefully announced Federalist displeasure that "Mr. Madison was left out of the choice" due to his aversion in procuring amendments.¹⁶¹ He continued on, elaborating how the "universal cry

¹⁵⁷ Ibid.

¹⁵⁸ Elson, 6.

¹⁵⁹ Elson, "Spencer Roane's Memorandum on Patrick Henry" in *Patrick Henry in His Speeches*, 11.

¹⁶⁰ Elson, 2.

¹⁶¹ Ibid, 147.

is for amendments, and the Federals are obliged to join in it –but whether to amuse or conceal other views seems dubious. You know too well the value of the matters in contest to trust their safety to those whose late proceedings, if they do not manifest enmity to public liberty, yet show too little solicitude or zeal for its preservation...I firmly believe the American union depends on the success of amendments.”¹⁶²

Although his library and learning may accurately have been described by Jefferson as being incomplete, relying most upon his own observations and study, Henry is known to have appreciated reading Livy and Montesquieu, and to have gained knowledge and expertise through practicing law in country courts, and through his associations with “men of genius,” such as Dr. James McClurg, with whom he frequently acquainted and sought their council.¹⁶³ He believed in associations, private and professional, and would frame an ideal, systematic approach to federalism with the same belief. That same ability to persuade delegates with the fortissimo of his voice, appeal to a higher power, and the swell of conviction over legal precedent would continue to equip Henry throughout his conventional dealings, civil administration, and political advocacy during the formative years of the American republic.

Richard Henry Lee

In contrast to the nationalistic Federalist vision of a “large, diverse republic in which a wealthy elite would have a powerful voice,” Antifederalists treasured “local autonomy ahead of national prestige; they sought to preserve the broadly-based state assemblies as guarantors of the

¹⁶² James M. Elson, ed. “Chapter IX: The Battle for Amendments, 1788-1791 The Papers of George Washington: Presidential Series (1978) 1:112-115” in *Patrick Henry in His Speeches and Writings and in the Words of His Contemporaries*. Lynchburg, Virginia: Warwick House Publishers, 2007, 147.

¹⁶³ Elson, 31.

democratic hope inspired by the Revolution.”¹⁶⁴ Richard Henry Lee embodied this view. Educated primarily by Anglican private tutors at Stratford Hall, the famed Lee estate in Northumberland County, Lee would become fundamental in formulating the prestigious Westmoreland Association of 1766 which produced articles based on “Reason, Law, and Compact” to defend the rights of British subjects - notions of representational dignity that would continue to inspire his decisions and role as a Virginian statesman until his death.¹⁶⁵

Like Patrick Henry, whom he befriended during their early political experience within the Virginian House of Burgesses, the boisterous former delegate to the First and Second Continental Congress, celebrated as one of the foremost signers of the Articles of Confederation and for his bold resolution for independence in 1776, remains a stark reminder of patriotism, valor, and constitutional prowess. In October 1784, Colonel Arthur Campbell, requesting that Lee return as a delegate to the Continental Congress, mentioned how an acquaintance of Lee’s described his politics as “too theoretical, too much refined for the multitude, for rude uncivilized Americans.”¹⁶⁶ But Campbell rejected this assessment by admiring how Lee’s “stubborn virtue [stood] too much in the way of those, who with gales of popularity or political chicanery, wish to indulge a lust for domination, for rule, aristocratic rule, and certain despotism.”¹⁶⁷ The colonel’s opinion of Lee’s political theory and character were not mistaken, as Lee devoted himself faithfully throughout a lifetime of service to the republic and “to preserving and developing

¹⁶⁴ Henry Mayer, *A Son of Thunder: Patrick Henry and the American Republic*. Charlottesville, Virginia: The University Press of Virginia, 1991, 431.

¹⁶⁵ J. Kent McGaughey, *Richard Henry Lee of Virginia: A Portrait of an American Revolutionary*. Lanham, Maryland: Rowman & Littlefield Publishers Inc., 2004, 79.

¹⁶⁶ Col. Arthur Campbell to Richard Henry Lee, October 18, 1784, in “Selections and Excerpts from the Lee Papers.” *Southern Literary Messenger*, XXVIII, vol. 2 (January 1859): 34.

¹⁶⁷ *Ibid.*

political liberty as he, Patrick Henry, and Samuel Adams understood it.”¹⁶⁸ As a Virginian House Delegate and eventual United States Senator, Lee focused his attention primarily on the need for Northwestern expansion and remained deeply troubled over consolidation and extensive public debt. Re-elected to the Continental Congress in 1784 and 1786 before becoming the sixth President of Congress under the Articles of Confederation, Lee actively contributed to politics from 1789 until his resignation in 1792. Lee’s vocal critiques of the Constitution, and those popularly circulated under his nom de plume as *the Federal Farmer*, position the “Philosopher, Patriot, and Sage” as one of the most stalwart Virginian statesmen and noteworthy advocates of associational republicanism.¹⁶⁹

Citing Montesquieu’s *Spirit of Laws*, Hume’s *History of England*, Tacitus’s *Annals*, Shakespeare, and Biblical texts, the Federal Farmer and other Antifederalist authors reflected on historical records, literature, and philosophical works from antiquity to those penned by early modern scholars. Through their classical education, politicians, especially those from Virginia, engaged the debates through reasons based on experience and upon observations of human nature in contrast to the abuses of hierarchy. This tactic served as the main rationale for the Antifederalist plank. Historian Winton Solberg notes how “references to the sovereignty of individual states were not uncommon. Some conventional members asserted that European theory was irrelevant to America; several spoke of the genius of America and of the American spirit” and let their inspiration springing from an educated and classical heritage influence their

¹⁶⁸ James Curtis Ballagh, ed., *The Letters of Richard Henry Lee*. 2 vols. New York, New York: The Macmillan Company, 1911-14, I:VII.

¹⁶⁹ *American Mercury*. Hartford, Connecticut (July 21, 1794): 3.

idealized scope of federal power over the constellation of institutions, associations, and the entities operating within the same clustered expanse.¹⁷⁰

While Lee's authorship as the Federal Farmer has come under scrutiny, most visibly through the research of Gordon S. Wood, John P. Kaminski, and Gaspare J. Saladino, findings to the contrary of his authorship remains inconclusive.¹⁷¹ Though not markedly reprinted in its time, the *Observations* of the Federal Farmer were widely successful in pamphlet form and are regarded as some of the most persuasive opposition essays, if not one of the most widely read Antifederalist criticisms. Within the *Observations*, Lee's Letters I-VII and XVI-XVII in response to the Republican extol his foremost concerns: consolidation, appropriated representation, the sustainability of large republics, and the dissolution of the states. The Federal Farmer explained that a form of federal government is necessary but that there is no reason to "hastily and blindly adopt" the partially federal plan.¹⁷² Furthermore, in section of a letter from October 8, 1787, Lee described how the Constitution does not and cannot provide two essential parts of republican government: a substantial representation of the people in the legislature and the severe lack of a trial by jury from one's peers across a sectionalized territory made up of "different laws, customs, and opinions that exist in the different states, which by a uniform system of laws would be unreasonably invaded."¹⁷³ He argued that such a system of representation will not truly

¹⁷⁰ Winton. U. Solberg, Review of *The Documentary History of the Ratification of the Constitution. Volumes VIII, IX, and X. Ratification of the Constitution by the States: Virginia Vol. I-III* by John P. Kaminski and Gaspare J. Saladino. *The Journal of Southern History* 61, no. 1 (1995): 126.

¹⁷¹ Gordon S. Wood, "The Authorship of the Letters from the Federal Farmer." *The William and Mary Quarterly*, 3rd Ser., Vol. 31, No. 2. (April 1974): 299-308. Wood attributes letters of the Federal Farmer to an Antifederalist from New York, most likely Melancton Smith

¹⁷² Herbert J. Storing, ed. "The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.1-4" in *The Complete Anti-Federalist*. 7 vols. Chicago, Illinois: University of Chicago Press, 1981, 33-35.

¹⁷³ Storing, "The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.14-16" in *The Complete Anti-Federalist*, 39-40.

epitomize the interests of all sectors of society or region, suggesting that the heartland and fringes of the nation will not share interests or mutual benefits and that the government could not provide or ensure these benefits in an egalitarian manner over such a large populace.¹⁷⁴ The Federal Farmer believed, rightly so, that irrelevant instituted measures prescribed to a large population will either intensify neglect or resentment for the law or require military intervention for their implementation; each symptoms of fraudulent despotism.¹⁷⁵ Lee also indicated that the new powers given to Congress, most notably the ability to tax without limit, are a detriment to society and will not resolve pressing concerns of national debt or long-lasting unity between the states.

In late 1787, Richard Henry Lee fondly wrote to Samuel Adams, outspoken Antifederalist leader of Massachusetts, recalling their many years of shared toil within the “Vineyard of Liberty” alongside their joint objections, and recommended amendments to the newly proposed Constitution.¹⁷⁶ He dually praised the majority of the American population who appeared to desire a government free from “despotic rule under the notion of ‘strong’ government” or “in the form of *elective despotism*,” suggesting that they understood how “chains being still chains, whether made of gold or iron.”¹⁷⁷ He informed Adams that the adoption of a clear expression of natural rights would be required for the Constitution to serve any social good in light of how corrupting service to the general welfare can become. A useful definition of natural rights would be meaningful to not only limit political power but to also defend individuals as well as associations of persons. Lee doubted the ability of the legislatures of this

¹⁷⁴ Storing, “The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.14-15,” 39.

¹⁷⁵ Storing, “The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.17-18; 2.8.22-23,” 40-42.

¹⁷⁶ Ballagh, ed. “Richard Henry Lee to Samuel Adams Oct. 5, 1787, Letters 2:444-45” in *The Letters of Richard Henry Lee*. 2 vols. New York, New York: Macmillan Co., 1911-14.

¹⁷⁷ Ibid.

new system to correct the defects of the document, the “*supreme Law of the Land*,” that he denied as “not a ground upon which a wise and good man would choose to rest the dearest rights of human nature” upon.¹⁷⁸

Admitting how he stumbled at the threshold of Independence Hall at the Philadelphia State House upon realizing that a national government was being proposed instead of a Federal union of sovereign states, Adams mourned in a letter to Lee that the sovereignty of the states and subjects therein would be lost. In such a system their autonomy would be viewed as a perpetual threat to the national government unless removed. To Antifederalists like Adams and Lee, they saw the states as a synonymous extension of the personal associations they treasured for the people that they represented. Their commitment to associational liberty existed on a personal, local, and federal scale that equated the continuation of state sovereignty as indicative of the personal autonomy they shared as individual members of the state. Echoing sentiments that George Mason would use to directly challenge the Constitutional Convention, Adams confided in Lee how he could not see the practicality of implementing competent and efficient national legislature for a free people “living in climates so remote and whose 'habits and particular interests' are and probably always will be so different.”¹⁷⁹ Distinct regional and local concerns fueled their conception of associational republicanism, as they believed that legislation should be derived from the needs of the people policy most closely affected. Foreseeing “discontent, mistrust, disaffection to government and frequent insurrections” requiring standing armies to disband, Adams mused that different regions of the nation would grow envious and resentful towards one another, seeking out preferential treatment from the national government while

¹⁷⁸ Ibid.

¹⁷⁹ Harry Alonzo Cushing, ed. “Samuel Adams to Richard Henry Lee Dec. 3, 1787,” in *The Writings of Samuel Adams*. 4 vols. New York, New York: G.P. Putnam’s Sons, (1904-8): 324-25.

aristocratic family lines would delve into the helm of legislation and direct the course of law to their own ends.¹⁸⁰ Witnessing the formation of aristocratic manipulation of the currency and official appointments, he lamented the “wicked of some Men, & the stupid Servility of others, that one would be almost inclined to conclude that Communities cannot be free. The few haughty Families, think *They must govern*. The Body of the People tamely consent & submit to be their Slaves. This unravels the Mystery of Millions being enslaved by the few!”¹⁸¹ Sharing the sentiments of his Northern ally, while writing as *The Federal Farmer*, Lee warned that the proposed reforms to the federal system would remove interconnected state bonds as thirteen separate but united “republics under a federal head” into a consolidated government.¹⁸² Without clear protections for citizens and state authority, the arrangement could convulse into revolution and civil war primarily due to the hasty measures implemented for commercial gain and the interests of the elite.¹⁸³ Citing the history of the United States’ creation, the Federal Farmer illustrated that the “confederation was formed when great confidence was placed in the voluntary exertions of individuals, and of the respective states; and the framers of it, to guard against usurpation, so limited and checked the powers” purposefully made inadequate to the functioning of the union.¹⁸⁴ Federal Farmer advocated the merit of an intentionally-weak Articles of Confederation despite its deficiencies. He did not defend the Confederation’s flaws but reminded its detractors of the purpose of its existence.

Noting how the Articles of Confederation had indeed led to squabbles over national debt, taxation, and other contentions between the states, Lee prompted the ratifiers gathered to

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Storing, “The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.3-14,” 33-39.

¹⁸³ Ibid.

¹⁸⁴ Storing, “The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.4-14,” 35-39.

remember that laws are often not promptly complied with regardless of the form of government, consolidated or not. Moreover, in the rush to abandon the Confederation's insufficiencies and adopt a new system, Lee criticized those willing to offer Congress "almost all powers of any importance without limitation."¹⁸⁵ Declaring the constitutional plan as "totally inconsistent with experience" and devoid of "sound political reasoning," Lee admonished the lapse in republican principle, citing that the defects of the confederation "are but a feather in the balance against a mountain;" the Constitution and federally-back consolidation of power a dangerous and expansive institution which would "infallibly, [result in] the loss of general liberty, and that happiness men enjoy under a frugal, free, and mild government."¹⁸⁶ Sharing an abhorrence of oppression to liberty with George Mason, both men radically desired to implement an abrupt end to the continuation of America's "peculiar institution" while the Declaration and the Constitution were being crafted, asserting that slaves were "equally entitled to liberty and freedom by the great law of nature."¹⁸⁷ However, their attempts were subdued under the frenzy of factional disagreements and mercantile interests that refused to extend individual liberties beyond those of citizenship status.

Fretting that the precarious bond of associational communities was beginning to fray at the seams due to financial, hereditary, and politically advantageous inequality, Samuel Adams however saw hope for recovery and outlined his ideas to Lee. If "distinct sovereign States, confederated for the Purposes of mutual Safety and Happiness," could continue by each state contributing the minimum portion of its domain to the government as needed and "no further"

¹⁸⁵ Storing, "Federal Farmer, no. 17, Jan. 23, 1788, 2.8.205-207," 87-90.

¹⁸⁶ Ibid.

¹⁸⁷ Mark Grossman, ed. "Richard Henry Lee" In *The Encyclopedia of The Continental Congresses*. Amenia, New York: Grey House Publishing, 2015.

than was required for the nation to sufficiently function, then the public of individuals, working under voluntary submission to the federal government, would “govern themselves more easily, the Laws of each State being well adapted to its own Genius & Circumstances, and the Liberties of the United States would be more secure than they can be, as I humbly conceive, under the proposed new Constitution.”¹⁸⁸ Determined to face adversity and accept the outcome of the Convention, Lee and his fellow Antifederalists continued to wonder “whether such a change will not totally destroy the liberties of this country - time only can determine.”¹⁸⁹

George Mason

A prevalent member of Virginian polity and elite agrarian society prior to the Revolutionary War, George Mason enjoyed the peerage and cooperation of like-minded gentry who shared his interpretation of republican discourse which came to cultivate national and constitutional arrangement. Furthermore, the *George Mason Papers*, edited by Robert A. Rutland, provide a vital lens into the persuasive and observational abilities of one of the most influential Virginian delegates to the Constitutional Convention of 1787 and the Virginia Ratifying Convention of 1788 through his writings and speeches in opposition to the Constitution.

Mason shared a deep camaraderie with Patrick Henry in which they would discuss a variety of theoretical scenarios as well as make known their positions and recommended actions throughout their political careers. For instance, a letter to Patrick Henry on May 6th, 1783 cautioned against holding a convention to alter the government without a majority approval for this decision. Mason continued his correspondence with Henry by reporting that many in

¹⁸⁸ Harry Alonzo Cushing, ed. “Samuel Adams to Richard Henry Lee Dec. 3, 1787,” in *The Writings of Samuel Adams*. 4 vols. New York, New York: G.P. Putnam’s Sons, (1904-8), 324-25.

¹⁸⁹ Storing, “The Federal Farmer, no. 1, Oct. 8, 1787, 2.8.4-14,” 35-39.

Virginia were alarmed by rumors that the Treaty of Paris (1783) would be infringed upon if resolutions were put forward to amend outstanding British debts owed by the former colonies. He demolished the notion that the American Revolution was waged merely to avoid paying debts to British merchants and passionately stated that the purpose was “surely not to avoid our just Debts, or cheat our Creditors; but to rescue our Country from the Oppression and Tyranny of the British Government, and to secure the Rights and Liberty of ourselves, and our Posterity; which we have happily accomplished.”¹⁹⁰ With peace restored, the public yet feared that the payment of British debts by some through the form of depreciated paper currency would throw the remaining balance upon their shoulders through increased taxation. Mason hoped that the “iniquitous Scheme will be rejected, with the Contempt it deserves. If it is adopted, it will probably cause some violent Convulsion; the People being determined, in many Parts of the Country, to form Associations against it, and to resist the Payment of any Taxes imposed on them for discharging the private Debts of Individuals.”¹⁹¹ His private correspondence with Henry in 1783 subsequently calls into question the danger of the depreciated value of paper-money flowing into the Treasury, an aspect he clearly publicized later during the Virginia Debates where he also advised the postponement of the collection of taxes in order to ensure a time of healing and economic growth. Robert A. Rutland, editor of the *Papers of George Mason*, supposes that Patrick Henry acted according to Mason’s observations, for only a few days later, on May 13th, he introduced a bill suspending the system of repaying British debts with paper-money under the Sequestration Act of 1778.¹⁹² Mason notes that the Virginia legislature upheld justice in terms of

¹⁹⁰ Robert A. Rutland, ed. *The Papers of George Mason, 1725-1792. Vol II 1779 – 1786*. Chapel Hill, North Carolina: The University of North Carolina Press, 1970, 772.

¹⁹¹ Rutland, ed. *The Papers of George Mason*, 772.

¹⁹² Hugh Blair Grigsby, *The History of the Virginia Convention of 1778*. Vol. I. Richmond, Virginia: 1890-1891, 266.

handling debts to Britain though repayment of outstanding national debt would continue to be a significant issue in state politics until ratification in 1788.

Perhaps if Mason's proposals were seriously and promptly heeded by other state legislative bodies, Shays' Rebellion (1786-1787), the Whiskey Rebellion (1791-1794), and the unraveling of the Articles of Confederation could potentially have been avoided in part. Perhaps reform may have deferred the entire overhaul of the associated states into a national conglomerate that would come against politician, merchant, yeoman, and patriot veterans alike. But amends were not to be.

Perceiving the rising tide of public unrest, dissatisfaction, and vice, Mason wrote another letter in 1783 from Fairfax County to then Governor Patrick Henry. Mason urged his friend to encourage the Assembly in rectifying public morality and reverence for the legislature, saying how "it is in your Power, my dear Sir, to do more Good, and prevent more Mischief that any Man in this State; and I doubt not that you will exert the great Talents with which God has blessed you, in promoting the public Happiness and Prosperity."¹⁹³ Mason clearly admired Henry's abilities and moral character during the heat of the revolution and called upon him to utilize his honeyed tongue and upstanding, popular reputation to serve the public once again, both in his role as governor and in the coming onslaught of Federalist rhetoric and pamphleteering. Observant and engaged heavily with Virginian politics, Mason informed Henry of the present Assembly's intention to "dissolve themselves, in order to make way for a General Convention, to new-model the Constitution of Government. Will such a Measure be proper, without a Requisition from a Majority of the People? If it can be done without such Requisition,

¹⁹³ Rutland, 770.

the Caprice of future Assembly's may repeat it, from time to time, until the Stability of the Constitution is totally destroyed, and Anarchy introduced in its Stead."¹⁹⁴ Local representation, public morals, and the preservation of associational republicanism remained ever at the forefront of Mason's concern.

Despite Antifederalist chagrin, state delegates were summoned to amend the present government in 1787. Humbly agreeing to represent Virginia as a delegate, the "famously private George Mason, revered above all other Virginians save one [Washington], seemed reconciled to accept his most public appointment."¹⁹⁵ Though fighting illness, one of the key points Mason tirelessly reiterated while on the floor of the convention was that the power of the judiciary should not extend beyond matters of settling debts owed by the United States, disputes between the union and foreign ambassadors, between the federal and state governments, between inter-state quarrels, and clashes between individuals and their cases before local and the federal bodies. In the *Debates of the State Conventions on the Adoption of the Federal Constitution*, compiled by Jonathan Elliot, Mason argued that such clauses should be included in the Constitution to "prevent all occasions of having disputes with foreign powers, to prevent disputes between different states, and remedy partial decisions."¹⁹⁶ He warned that the "indulgence of a fair and liberal interpretation" of the Constitution would imbed too much power in the executive and judiciary, while simultaneously conceding that "controversies affecting the interest of the United States ought to be determined by their own judiciary and not be left to partial local

¹⁹⁴ Ibid.

¹⁹⁵ Yazawa, 18.

¹⁹⁶ Jonathan Elliot, ed. *Debates of the Several State Conventions on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia in 1787*. Washington D.C.: Publishing Sanction by Congress, Second edition, Vol. III, 1836, 483.

tribunals.”¹⁹⁷ Likewise, a speech Mason delivered on June 3rd at the Philadelphia Convention articulated that the proposal of applying direct taxation altered the former confederation of states into a consolidated government. He pondered whether a national government would “suit so extensive a country, embracing so many climates, and containing inhabitants, so very different in manners, habits, and customs...without destroying the liberties of the people.”¹⁹⁸ Early in the opening portion of the convention, Mason passionately declared himself a friend to a “firm union of the American states” but pointed out that history does not offer a single exception to the rule of condensed republics. Due to this reality, and the despotic nature of governments occupying large territories, Mason did not believe the venture worth the risk of sacrificing the rights of the people.¹⁹⁹ Restrictions were acceptable to Mason within reason, but not at the expense of dissolving state governments or civil protections of common law to the point that they bore no legal mooring against an overbearing federal arrangement. The institutions which Antifederalists like Mason desired to protect arguably extended beyond protecting the states merely as states. Their aims struck deeper to the heart of the human condition with a desire to protect the members belonging to the states; the individuals comprising the body of the state through their associations.

Fundamentally, Mason questioned the loose limitations the Constitution placed on the judiciary. He believed that the powers given to the federal courts were maliciously intended to destroy the legislative power of the states – to make all state constitutions subservient to the laws

¹⁹⁷ Elliot, *Debates of the Several State Conventions*, 485.

¹⁹⁸ Jonathan Elliot, ed. “George Mason - Tuesday, June 3, 1788, Article I, Section 1 & 2” in *The Debates, Resolutions, and Other Proceedings in Convention, on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia on the 17th of September 1787*. Vol. II, Washington D.C., 1828, 52.

¹⁹⁹ *Ibid.*

of the United States, and in doing so, the federal judiciary would make state governments obsolete. He empathetically indicated that no citizen abused by the courts could find relief elsewhere. Taking his republican sympathies a step further, Mason suggested that those appointed to federal office are “not men in whom the community can place [their] confidence,” for all decisions would be made by federal judges and distant juries unfamiliar with the character of the individual on trial.²⁰⁰ Mason’s apprehensions about legitimate representation stemmed from the logical conclusion that should a president not have enforced term limits, they may serve for life and fill the administration with men of their choosing; singlehandedly eroding all republican reforms gained thus far. Citing the need for periodical rotations of those elected from his Fairfax County militia plan of 1775, Mason revived the issue during the Federal Convention while also stressing the need for an immediate end to the slave trade and a solidified bill of rights to permanently enshrine civil liberties.²⁰¹

Claiming that the constitutional article regarding the president’s rotation is the most important of all clauses, Mason doubted that should the president not return to the private sector, the ability to endlessly re-elect a candidate would enable a popular president to remain in office for life and restore the republic to autocracy. Boldly stating that the election of the president by the people is a false promise, Mason challenged his opponents by explaining how the people in reality play no part in the election process while falsely believing that they do.²⁰² While term limits had still not been set, Mason proposed that an appropriate extent to any presidential administration should be limited to eight years and that should this perceived pitfall in the

²⁰⁰ Elliot, *Debates*, 478.

²⁰¹ *Ibid.*, 483-85.

²⁰² Rutland, ed. “Election of the President by the People is a False Promise, June 18, 1788” in *The Papers of George Mason, 1725-1792. Vol II 1779 – 1786*. Chapel Hill, North Carolina: The University of North Carolina Press, 1970, 1096.

Constitution not be amended, Congress would have consented to placing themselves and the entire republic under the reigns of an elective monarchy tied to the whims of aristocratic bureaucrats.²⁰³ Allocating power to the hands of a few elite and basing the people's hopes on the "virtue and integrity of our representatives" was not something Mason viewed as "sufficient enough security" to combat the marriage arranged between the president and the Senate, which, given time, would birth vested interests with little to no accountability or means of disposal.²⁰⁴

Secluded as he was outside of the debates in Gunston Hall, his family's Georgian estate nestled along the Potomac, Mason stayed abreast of politics and possessed an insightful ability to perceive the ricocheting effects of U.S. diplomacy on a domestic and international scale. Correspondingly, Mason warned that should, after a period of time, the American public wish to elect otherwise, the powers of Europe will prevent this – meddling and manipulating in the representational processes of the American electoral system to fill the highest stations of government with those favorable to their foreign interests.²⁰⁵

In addition to his forewarnings about waltzing with foreign dignitaries, Mason wrote a letter to James Monroe a few months before his death expressing his concerns that the official agents being sent abroad to represent America in the courts of Europe aligned closest with Federalist aims. He spoke candidly about his disapproval of Gouverneur Morris being appointed as a minister to France and thought it unwise and insulting for the Senate to send a man of "known monarchical principles" to a nation reeling in the bloody throes of revolution.²⁰⁶ Mason

²⁰³ Robert A. Rutland, ed. "Unless the President is Barred from Re-Election, He will Serve for Life, June 17, 1788," in *The Papers of George Mason*, 1093-96.

²⁰⁴ Elliot, *Debates*, 478.

²⁰⁵ Rutland, "Unless the President is Barred from Re-Election," 1092-93.

²⁰⁶ Rutland, ed. "To James Monroe, January 30, 1792," in *The Papers of George Mason*, 1254-55.

noted that surely the liberty-espousing Marquis de Lafayette was aware of Morris' political leanings and that in short time, the French public would also find out this harbored secret.²⁰⁷ He feared that Morris's inclinations may harm the negotiations of French constitutional monarchists and that the French people would come to view this appointment as a distasteful act; one guilty of U.S. collusion against a free republic which had freshly ousted its *ancien régime*.

Antifederalists like Mason predicted that the great powers of Europe would be significantly invested in the outcome of U.S. elections and desire to befriend the president in the hopes of effecting favorable policies in the name of friendship. Mason offered an analogy saying that European monarchs would be more interested in the American president compared to the king of Poland for powers, notably Prussia and Russia, already managed to subdue the Polish who are never capable of deposing their king because other nations will "not suffer it."²⁰⁸ Likewise, Mason argued that if the Constitution enabled close foreign ties, America would cross the threshold of the "dangers and misfortunes which the people of Poland undergo. The powers of Europe will interpose and we shall have a civil war in the bowels of our country, and be subjects to all the horrors and calamities of an elective monarchy."²⁰⁹ Mason fretted that those running for office may either be financially coerced to support European interests through foreign emoluments or be used as a proxy through election campaigning. "Nothing is so essential to the preservation of a republican government as a periodical rotation. Nothing so strongly impels a man to regard the interests of his constituents, as the certainty of returning to the general mass of the people from whence he was taken, where he must participate [in] their burdens."²¹⁰ Mason's view of associationism involved legislators sharing the effects of their prescribed legislation

²⁰⁷ Ibid.

²⁰⁸ Rutland, "Unless the President is Barred from Re-Election," 1092-93.

²⁰⁹ Ibid., 1093.

²¹⁰ Ibid.

alongside their fellow citizens; a reality serving as a safeguard to encourage officials and legislators to not approve any policy they themselves would regret living under.

The letter George Mason wrote Patrick Henry in 1783 ironically foreshadows his own premonitions regarding European influence in the affairs of the United States. In addition to his practical solutions for repaying British debts and cry to revive morality, Mason shared a unique observation penned by his son, George, during his travels in Europe. Writing from Paris on February 20, 1783, George's letter strongly "hints of great Duplicity in some Articles of European Politics" and concludes by telling his father how "I wish America wou'd put her Trust only in God, and herself, and have as little to do with the Politicks of Europe as possible."²¹¹ During the heated stages of the French Revolution, George, the American in Paris, wearily observed the politics of Europe and collectively agreed with his father's concerns regarding foreign interference. The rapid reconfiguration of governments within the 1790s through the 1830s toward more representational formats foreshadowed issues that European Republicans would need to confront that distinctively mirror Antifederalist principles and concerns expressed through the Constitutional Convention and ratifying debates.

However, the most foreboding message left by Mason through the Virginian Debates returns to the concept of virtue once more. He stoutly held the notion that citizens were capable of possessing enough "virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation."²¹² Suitably observing that "no theoretical checks – no form of government can render us secure" in liberty and happiness without moral precepts, Antifederalists like Mason believed "if there be sufficient virtue and

²¹¹ Rutland, 773.

²¹² Elliot, *Debates*, 489.

intelligence in the community, it will be exercised in the selection of these men. So that we do not depend on their virtue, or put confidence in our rulers, but in the people who are to choose them.”²¹³ Mason’s desire for authentic local representation remained one of the prime reasons for his continual and ultimate rejection of the Constitution. Despite the eventual conclusion of the debates, trust in the capabilities of associational liberty remained paramount to the Antifederalists.

Verdict of the Ratifying Convention

Wary of the ‘empire of liberty’ espoused famously by Jefferson, Antifederalist leaders were disinterested in having a mighty and overarching national status and military swayed by the delegations and interests of other powers or nation-states.²¹⁴ An example of this foresight exhibited itself within Henry’s “Empire” speech, wherein he recognized the different visions of national destiny and the dangers that even an empire of liberty may exhibit.²¹⁵ He predicted the expansive state into which America’s republic would eventually evolve into. Ill-defined congressional powers, distant representatives, the lack of a bill of rights, and the structural integrity of the Constitution were the fundamental priority of dissenters when critiquing what they saw as a flawed document. Antifederalists, certainly with Henry standing at the forefront, opposed the idea of approving a plan that was knowingly flawed to agree to fix it later; preferring to remedy the gaps in policy and legislation first if a new form of government was to be presented and adopted at all.

²¹³ Ibid.

²¹⁴ For the concept of Jefferson’s “Empire of Liberty,” see Peter S. Onuf, *Jefferson's Empire: The Language of American Nationhood*. Charlottesville, Virginia: The University of Virginia Press, 2000.

²¹⁵ Jonathan Elliot, ed. “Shall Liberty or Empire be Sought? Patrick Henry - Thursday June 5, 1788, Article I – Sec. 1 & 2,” in *The Debates, Resolutions, and Other Proceedings in Convention, on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia on the 17th of September, 1787*. Vol. II, Washington D.C., 1828, 61-72.

Separated over the need for an addition of amendments and distracted further by divide and conquer tactics employed by Federalists busily wooing different sectors of the Antifederal platform, the Antifederalists were unable to stall the adoption of the Constitution any longer. While Richard Henry Lee tried to convince Henry that the seventeen amendments proposed to the Senate by the House on August 24, 1789 did not encapsulate the purposes of the Convention, he also exasperatedly bemoaned the fact that they were weakened further by “words feeble in their Nature or doubtful in their meaning!”²¹⁶ Joined by William Grayson of Virginia, both men were the only senators opposed to ratification.²¹⁷ Grayson in particular predicted the dissolution of the United States based on the decision crafted by the Philadelphia Convention as he “recognized the contradictions involved in a union of States so diverse as the Northern and Southern States.”²¹⁸ Furthermore, the pair argued that the propositions sent forth were “inadequate to the purpose of real and substantial Amendments.”²¹⁹ Henry too grew anxious that the “constructive reasoning” of implied powers distorted what ought to be clear limits within the Constitution. Echoing Lee’s concerns, Henry believed the language of the document was purposefully vague and too difficult for ordinary citizens to understand, and hardly much clearer for those attempting to adjust and reform the proposed bill of rights. Mason also contributed his reservations toward the government’s possible ability to restrict the press or free thought under

²¹⁶ Yazawa, 237.

²¹⁷ Weston Bristow, “William Grayson, A Study in Virginia Biography of the Eighteenth Century” in *Dictionary of American Biography*. Richmond, Virginia: Richmond College Historical Papers, June 1917, 2.

William Grayson received a law degree from the University of Oxford, served as an aide-de-camp to George Washington, became a lieutenant colonel, and served as a member of the Virginia House of Delegates during the American Revolution. A cousin of James Monroe and Antifederalist compatriot with Richard Henry Lee, George Mason, and Patrick Henry, Grayson additionally served as a delegate to the Confederation Congress (1785-1787) and as a Virginian Senator (1789-1790).

²¹⁸ James E. DuPriest Jr., *William Grayson: A Political Biography of Virginia’s First United States Senator*. Manassas, Virginia: Prince William County Historical Commission, 1977.

²¹⁹ Yazawa, 237.

the guise of protecting the general welfare.²²⁰ Throwing a dash of humor amid the hectic storm of constructionism, Henry came against Federalist claims that a bill of expressed and reserved rights were unnecessary and that such an inclusion could impair the efficiency of the federal government.²²¹ He jokingly retorted, “Is it because it will consume too much paper?”²²² He regarded the “principles of the bill of rights as too sacred and important to be left to implication” and believed it safer for individual liberties to be explicitly mentioned to prevent future disputes.²²³ While Federalists continued to belittle the significance of Antifederalist insistence that a bill of rights be included, Henry continued to hope that gentlemen of all political dispositions could “see the great objects of religion, liberty of the press, trial by jury, interdiction of cruel and unusual punishments, and every other sacred right, secured before they agree to that paper.”²²⁴ Condensing Antifederalist uncertainties about approving an incomplete and legally binding document, Lee famously decried that securing amendments after ratification ultimately amounted to a “doctrine of playing the after game” which could result in a score that the nation may never rebound from.²²⁵

Antifederalist arguments continued to be volleyed at the Federal committee led forward by compromise and consideration of James Madison’s insistence upon the benefits granted by a stronger constitutional scope. Likewise, Henry’s thunderous speech delivered at the pinnacle of the Convention amounted to a final effort eclipsed by a roar from heaven to protect the hard-won values of the public which he saw slipping away.²²⁶ Henry adamantly challenged that state-

²²⁰ Mayer, *A Son of Thunder*, 427.

²²¹ *Ibid.*

²²² *Ibid.*, 428.

²²³ *Ibid.*

²²⁴ *Ibid.*, 429.

²²⁵ *Ibid.*

²²⁶ *Ibid.*, 437.

granted rights could equally be stripped by the very same system promising insurmountable blessings. Despite their prolonged efforts, vast and sweet promises carried the day as the Federalists proposed post-ratification amendments and implemented the Constitution in its current state through a hasty adoption.

Although the recommended amendments relied heavily on Mason's *Virginia Declaration of Rights* (1776), he could not bring himself to sign the Constitution. While some previous opponents to the Constitution were swayed into becoming signatories by Benjamin Franklin's persuading plea for unity and Gouverneur Morris' "carefully drafted proclamation" bearing the "unanimous consent of the states" on ratification, fellow dissenters, Edmund Randolph, Elbridge Gerry, and George Mason "declined giving it the sanction of their names" and refused to support or sign the new federal plan in its current form.²²⁷ Unable to sign the Constitution because there was no clear "declaration of any kind, for preserving the liberty of the press, or the trial by jury in civil causes; nor against the danger of standing armies in time of peace," Mason further objected that the general clauses and enumerated powers granted to Congress enabled an extension of their authority "as far as they shall think proper; so that State legislatures have no security for the powers presumed to remain to them, or the people for their rights."²²⁸ Although dissatisfied that economic regulations, regional divides, monopolies, and the institution of slavery had not been properly addressed, more than anything, Mason could not tolerate that the House of Representatives only appeared as an apparition of representation, a body of men "little concerned in, and unacquainted with [the] effects and consequences" of the laws they pass.²²⁹

²²⁷ Yazawa, 107-8.

²²⁸ George Mason, *Objections to the Constitution*. Mason Neck, Virginia: Gunston Hall Manuscripts, 1787.

²²⁹ *Ibid.*

Writing as the “Federal Farmer” in 1788, Richard Henry Lee also referred to the consolidated government resembling a “shadow of representation” compared to the protection offered to rights and liberties through a confederated republic with national and local divisions of power.²³⁰ Without revisions, the Antifederalists opposed ratification and “proposed the calling of a second constitutional convention and allied with New York Antifederalists to further that goal.”²³¹ However, on the final day of ratification, June 25th, Henry somberly took to the podium and addressed his affiliation’s minority status in the debates, yet desired to convey the convictions of their cause while conceding that they must now protect liberty through constitutional means as peaceful citizens.

After Virginia's ratification, Antifederalists regrouped in Richmond for a meeting led by George Mason to consider openly opposing the vote regarding the Constitution.²³² A close ratification that saw an immediate proposal of forty needed amendments, especially focused on structural issues of the federal government, left Antifederalists most concerned with the authority placed over direct taxation, regulation of the economy, and federal involvement in commerce and international diplomacy. All would not be resolved until 1791, leaving Antifederalists distraught and convicted ever more so that policies should be left up to revolving spheres most effected by the outcomes of such decisions.

Swallowing his own disagreements and misgivings, Henry urged disgruntled Antifederalists to submit to the legal process and to honor the outcome of the vote. Upon delivering an inflammatory address after the June 25th vote to the minority caucus gathered

²³⁰ Forrest McDonald, ed. “Letters from the Federal Farmer, XVII, January 23, 1788.” Indianapolis, Indiana: The Liberty Fund, 1999, 10.431.

²³¹ Solberg, 126.

²³² Jon Kukla, *Patrick Henry: Champion of Liberty*. New York, New York: Simon & Schuster, 2017, 346-8.

privately to “reconcile the minds of their constituents to the new plan of government,” at the meeting Mason was “forced prudently and with temper” to “withdraw his address” after Benjamin Harrison, John Tyler, and Patrick Henry called off the agenda of those discontented with ratification.²³³ Positioning himself as a leading and public transitional figure, Henry summoned his allies “as true and faithful republicans, to go home and cherish the government.”²³⁴ Devastating and anarchical consequences for the American legal process could have arisen had the model exhibited by the losing platform resulted in a flagrant decision to detract and undermine the recent verdict. Concerned and disappointed though they were, Antifederalists willingly committed themselves to working within the elected system and established a precedent as citizens devoted for the welfare of the greater community.

John Ragosta, Fellow at the Virginia Foundation for the Humanities, clarifies the distinction recognized by Antifederalists of their loyalty to the greater association of which they were apart. While maintaining principle of thought, they individually yielded that “the personal liberty to oppose has to be subjugated to the legitimate authority of the community, the communitarian interest versus the classically liberal interests of my personal rights.”²³⁵ Their decision not to oppose the newly ratified government was a communitarian or associational response, indicating that though they valued individual liberties, they refused outright opposition, as such a display of resistance ran contrary to their interpretation of an associational framework of individual interests. While the Antifederalists as a movement disintegrated, individual

²³³ Yazawa, 172-173.

²³⁴ John Ragosta, “Loyal Opposition - Constitutional Henry” in *Patrick Henry: Forgotten Founder*. Richmond, Virginia: University of Virginia, Coursera (3:45), 2018.

²³⁵ Ibid.

attempts and coalitional efforts arose in the following decades to use the legitimate powers of constitutional authority to influence and constrain the extent of the new national government.

Throughout decades of factional rivalry and manipulative print media, the nation appeared split between Monarchists and Republicans. However, an observer in 1800, anonymously writing as “An American,” responded to this falsehood. Under the guise of harboring no prejudice, “An American” declared that “the people who brought about the formation of the present government, are Federal Republicans – a party exists that originated in a dislike to the constitution and government, and is composed of men who have and may be justly called Anti-federalists.”²³⁶ For a supposedly unbiased opinion, his writings denote a Federalist loyalty in depicting the Antifederalists as attaching themselves to the affairs of Europe since the outbreak of the French Revolution, a claim quite contrary to the aims of most Antifederalists who strove vehemently for localism and non-interference. Interestingly, the contributor manages to insightfully indicate that both sides were deficient in confidence surrounding a “strong independent national character” which he believed would “unite all real Americans, and weaken, if not destroy, foreign attachment.”²³⁷ It is understandable for the anonymous writer to question the sincerity of those “who were so frequently opposed to the adoption of the government [who] should now [pretend to] be its *best friends*.”²³⁸ However, he also wisely urged unity if the nation were to heal and move beyond Whig and Jacobin international affiliations, factional resentments, regionalism, and claims of superior attachment to the Constitution.²³⁹ The lingering tension between what the proper form of federalism should take reveals the difficult practicality

²³⁶ *An American*, “Thursday Evening Response to Mr. C.P. Wayne.” Philadelphia, Pennsylvania: *Gazette of the United States & Daily Adviser* no. 2525, Vol. XVIII (October 30, 1800), 2.

²³⁷ *Ibid.*

²³⁸ *Ibid.*

²³⁹ *Ibid.*

Antifederalists were forced to embrace: a willing adaptation to constitutionality for the welfare of their conjoined and federally associated republic.

Disorganized yeomanry and urbane aristocrats could not prevent the imposed ultimatum for the weakened Articles of Confederation as they suffered from a lack of inter-state mobilization, unified positions, bribery, and defectors, in addition to having to confront the widespread outpouring of the *Federalist Papers* to their rebuttals.²⁴⁰ Antifederalists were eventually drowned out during the Conventional debates in part by a Federalist-dominated media chain that roused the public against their true intentions. Antifederalists failed, however the spirit of Antifederalism did not. Their loss was not in vain or without record of the valid concerns they observed at the forefront of America's ascension onto the global stage. The rather silent 19th century historiography has begun to be filled by those in the late 20th and 21st centuries who have discovered a renewed interest in the Antifederal case. Undertaken in large part by lawyers and statesmen attempting to uncover the justifications for natural and individual rights, many are looking to the arguments of the Antifederalists to better understand the Constitution and the profound value of the Bill of Rights. The concepts enshrined in these documents protect civilians and associations against individual abuses and a too-powerful federal government. These positions, central to Antifederalism, are being reappraised for their foresight while the continuing debate over the proper scope of federal power likewise is experiencing reconsideration.

Republicanism would take morphean forms throughout the early 19th century.²⁴¹ Through the interlacing conduits of fragmented Antifederalists, the divided factions of Jeffersonian and

²⁴⁰ Jackson Turner Main, *The Anti-federalists: Critics of the Constitution, 1781-1788*. New York, New York: W.W. Norton & Company, 1961, 249-259.

²⁴¹ John Edward Kenney. "Ovid." *Encyclopædia Britannica*. November 15, 2017. Denoting the Greco-Roman god of dreams cited by Ovid. Inspired by the Roman poet known for his rhetoric, Henry studied and kept works by Ovid in his personal library. *Odes of Ovid* (1669), a Latin book

Old Republicans, and their contemporaries in Europe, each in their turn, strove to maintain individual and communal rights that united under mutually beneficial associations. Although laws and customs may change over time, at the very heart of the Founding exists intersectional associationism, a system that is symbiotic, interchangeable, and applicable for passing eras and localities. The detractors of the Constitution intended to preserve distinct ideals of the early republic for posterity in tangible and transferrable ways that extend beyond the boundary of nation or generation.

once belonging to the former Governor of Virginia, Lord Dunmore, was bought by Henry and is on display at Henry's Red Hill National Memorial.

Chapter III – Antifederal Inheritors: The Old Republicans

Though Antifederalism, as a distinct political movement, diminished at the turn of the 19th century, its legacy continued and intensified throughout the 1800s as statesmen attempted to correct a federal system still afflicted by errors Antifederalists had identified before the Constitution’s adoption. The Antifederalists disbanded and a few converted into full-fledged Federalists while a majority came to begrudgingly appreciate and defend the new system, replicating Patrick Henry’s reluctant transition to upholding the results of the convention.²⁴² Soon they too evolved into ardent defenders and cherishers of the Constitution and its value to the American republic. However, like Patrick Henry, Richard Henry Lee, and George Mason, many would not live long enough to witness the fruits of their labor nor experience the tension of having to decide which incarnation of Democratic Republicanism to align with. In contrast, certain members of the second generation following the American Revolution would come to identify the conservative Antifederalist vision as the authentic interpretation of the Founding while sparring with one another on how that image should manifest. Republicans embracing the Antifederalist tradition, such as John Tyler, Abel Upshur, and John Randolph of Roanoke, would define themselves as dual inheritors and protectors against threats to a limited scale of the republic and closely monitored the progressing scope of federal power. These Virginian statesmen willingly countered those outside the prominent political force of Democratic Republicanism swelling to the stern of national politics while also confronting the pervasive factionalism splintering the party into branches between Jeffersonian Republicans and those asserting “Old Republican” principles. Yet the debate shifted with the maturing compact theory

²⁴² Jon Kukla, *Patrick Henry: Champion of Liberty*. New York, New York: Simon & Schuster, 2017, 348.

of federalism that served as a basis for nullification and secession as measures of last resort should the government infringe upon constitutional limits.²⁴³ As the early American republic blossomed, inheritors of Antifederalism poised against one another in heated conflict over the proper extent and application of executive and judicial authority in matters of national and state jurisdiction that would profoundly come to affect the economic, territorial, financial, and federal expansion of the United States.

Figures of Transition

John Tyler Sr. (1747-1813) was a living Antifederalist that bridged the gap between the dissolution of his former parties, the Antifederalists and later the Democratic Republicans. An Antifederalist who oversaw the transition of the Articles of Confederation alongside Patrick Henry, Richard Henry Lee, George Mason, and the other members of the Constitution Convention, he outlived his compatriots long enough to see the robust shape the federal association took on. The former Continental army veteran, Virginia House Delegate, House Speaker (1781-1784), and judge on the Virginia Court of Appeals (1786), became the 15th Governor of Virginia (1808-1811) and remained a leader among the Virginian conservative agrarians until his death.²⁴⁴ Although he died shortly after the firm establishment of Jeffersonian

²⁴³ Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1828*. Chapel Hill, North Carolina: The University of North Carolina Press, 1999, 240-245. The anti-consolidation rhetoric of the Virginia and Kentucky Resolutions defines the compact theory of Union as bestowing the power to determine the constitutionality of federal law to the states, as the people had willingly allocated a limited portion of their power to the states to represent and protect their rights, thus it is the states, and not the federal government, which were the original members of the compact and should have the ability to oversee the states' contract with the national government. Jeffersonian and Madisonian views through these documents provide a balanced solution to how constitutional authority should be divided between the individual, state, and federal government. Their writings and the *Report of 1800* comprise the bulk of dissenting constitutional discourse since ratification

²⁴⁴ "Tyler, John." *Federal Judicial Center*. Washington, D.C. Accessed March 25, 2018. <https://www.fjc.gov/node/1389016>.

Republicanism, he passed on the reigns namely to Virginians who followed the Antifederalist mold.

Though John Tyler (1790 – 1862) would share his father’s Antifederalist positions throughout the 1820s - 1830s, the Jeffersonian eventually aligned with Whig policies to disrupt the re-election of Martin Van Buren. A U.S. Representative for Virginia's 23rd district from 1816 - 1821, Tyler was elected governor of Virginia in 1825 from which he served in this capacity until 1827 when he then succeeded John Randolph as a Virginian senator until 1836 before his “accidental” presidential term from 1841 to 1845. As a Senator, Tyler minimally participated at the state constitutional convention of 1830, framing his delivery with a united front, before becoming wrapped in national politics through the Nullification Crisis.²⁴⁵ Tyler broke with the Democratic-Republican party due to strained differences with the Jacksonian administration, notably over perceived financial threats to the nation’s economy. Through Tyler's campaigning in 1840 with William Henry Harrison, from whom he took over the executive office as the tenth president of the United States, the presidency of the compromise candidate, selected by the Whig party primarily to attract states’ rights supporters, represented a noticeable departure from his service as governor while maintaining a unique blend of Democratic-Republican sentiments in contrast to the party he belonged to. Known as a strict constitutional constructionist, Tyler disagreed with the nature of many Whig bills and vetoed numerous ones presented to him on the basis of their unconstitutionality.²⁴⁶ Likewise, the second generation of politicians and scholars reflected on what happened in the previous decade and how to rebrand Antifederalism to the needs of their constituents. The Tylers, both father and son, stand as lee-way figures that unite

²⁴⁵ Oliver Perry Chitwood, *John Tyler, Champion of the Old South* (1939). New York, New York: Russell & Russell, 1964, 88-98.

²⁴⁶ Chitwood, 125-128.

the first and second generation of Antifederalists and Jeffersonian Republican. While each perform in a specific capacity, Tyler Snr. paved the way for his son to assume the torch passed to him, following his father's footsteps into the governorship of Virginia while also showcasing his role as an Old Republican before transitioning towards the Whig platform—a decision made more out of compromise and a willingness to tolerate and work with those of different opinions in order to form actual solutions instead of unproductive bickering.

Returning to the Virginian Constitutional Convention of 1788, John Tyler Snr.'s influence can be glimpsed mainly through his commentary near the conclusion of Jonathan Elliot's *Debates*. Opposed to a hasty ratification, Tyler cautioned relinquishing too much state privileges to an "energetic government" without "knowing the terms" hidden within each clause. Fearing the defects of the constitutional arrangement, Tyler wisely asserted towards the pinnacle of the convention that "we are not passing laws now, but laying the foundation on which laws are to be made."²⁴⁷ Like other Antifederalists, he mistrusted securing power in the hands of a few and questioned the Constitution's approval of "direct taxation, the supremacy of the laws of the union, and of treaties," and how the executive and legislature did not seem bound by their conduct.²⁴⁸ Perceiving the nation as already divided, Tyler wished for a semblance of the unity enjoyed during the Revolution. Instead, he feared that radical differences in opinion would endanger the longevity of the republic. To find common ground, he called for "clear and explicit terms" on which rights could easily be discerned.²⁴⁹ More than his certainty that confusion would spill into full out anarchy, Tyler dissuaded his fellow Virginian delegates to approve the

²⁴⁷ Jonathan Elliot, ed. *Debates of the Several State Conventions on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia in 1787*. Washington D.C.: Publishing Sanction by Congress, Second edition, Vol. III, 1836, 577.

²⁴⁸ Ibid.

²⁴⁹ Ibid, 578.

Constitution without amendments first added. He warned that “they will say, you have signed and sealed, and you cannot now retract.”²⁵⁰ His main comfort rested in the hope that the defects within the Constitution would one day be removed by politicians “when they see the country divided.”²⁵¹ His faith in the “virtue of the present age” however proved valid, not needing to see the nation torn for the virtue of his fellow statesmen to honor the conditions of ratification that they had promised.

The publication of the Elliot’s *Debates* is fundamental to the historiography of not only the Antifederalists, but of the entire Founding. Though critiqued for editing portions and allowing slight biases to slip through, Jonathan Elliot’s 1836 publication on the *Debates of the State Conventions and Adoption of the Federal Constitution* and inclusion of the Virginia and Kentucky Resolutions serve as an original compilation of Founding era primary source material.²⁵² Elliot, a 19th century American historian living from 1784 to 1846, was an “active participant...in the constitutional debates of his day” as he was a gatherer of documentation vital to the Founding.²⁵³ If not for the publishing of this collection of the proceedings of the Constitutional Convention, it may have not enabled an account of the conventions nor an academic rediscovery of early documents pertaining to overlooked figures of the Founding. Furthermore, William J. Watkins Jr. insightfully alleges that the Resolves of 1798 have been stripped from the nation’s political discourse as the country has become more consolidated. Due

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Jonathan Elliot, ed. *Debates in the Several State Conventions on the Adoption of the Federal Constitution together with the Journal of the Federal Convention, Luther Martin's Letter, Yates' Minutes, Congressional Opinions, Virginia and Kentucky Resolutions of 1800 and Other Illustrations of the Constitution*. Philadelphia, Pennsylvania: J.B. Lippincott Company, Vol. IV, expanded 2nd edition, 1836; 1907.

²⁵³ H. Jefferson Powell, “The Principles of '98: An Essay in Historical Retrieval.” *Virginia Law Review* 80 (1994): 689-743.

to the documents' clear language proposing strict constitutionalism, Americans have been purposefully "kept in the dark about the principles of '98, lest they be tempted to reclaim the decentralized republic of the Constitution's framers."²⁵⁴ Be that as it may, together, the volumes bear witness to and justify the Federal Convention while also exhibiting acknowledgement of Antifederalist speeches, propositions, and criticisms; mainly the necessity of amending the Constitution with an official bill of rights, which ultimately was provided and came into effect December 15, 1791.

Meanwhile, the often misnamed "Madison's" *Report on the Virginia Resolutions* (1800) expresses that the resolutions presented to the General Assembly were to correct concerns of the states who had agreed to ratify the Constitution in 1787. Tyler was a member of the committee responsible for the report that James Madison receives the most credit for as author. The document, containing also a sampling of Tyler speeches, serves as an examination of the state of Virginia, its defects, and a partial justification of the fierce interparty rivalries of 1798 leading up to the election and eventual triumph of Jefferson. After resolving for each state to swear fealty to the Constitution, the third resolution strikingly applies to the associational aspect of federalism. Recording in precise language and referencing the 10th Amendment (the Bill of Rights, 1791), Madison's report declares that because the Constitution was submitted by the states who ratified it, it is the states who are "consequently parties to the compact from which the powers of the federal government result."²⁵⁵ Their sovereignty, stability and dignity ought to be maintained, as sure as it "rests on this legitimate and solid foundation."²⁵⁶ The General Assembly furthermore resolved that there is no authority of last resort that goes beyond that of the state should "the

²⁵⁴ William J. Watkins Jr. "The Kentucky and Virginia Resolutions: Guideposts of Limited Government." *The Independent Review*, v. III. no. 3, Winter 1999: 385.

²⁵⁵ Elliot, 547.

²⁵⁶ Ibid, 548.

compact made by them be violated,” although Madison records a caveat that such a decision must not be done in haste or due to any case other than a deliberate breach of the Constitution.²⁵⁷ He also indicates that the judicial department shares authority with the states in a scenario of last resort but that the “delegation of judicial power” does not “annul the authority delegating it” or that of other departments, for, Madison writes that such a distortion by the judicial branch may “subvert forever...the very Constitution which all were instituted to preserve.”²⁵⁸ This distinction is important as the authority of the federal courts would come to override the decisions of constitutionality as determined by the states. Madison’s report closes by remembering the principles and political doctrine inherent in the “epoch of our revolution” and for all to remember that the “authority of constitutions over governments, and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind.”²⁵⁹

Citing the proceedings of the General Assembly as having answered and reviewed the resolutions of 1798, Madison's report insists upon a protest of the Alien and Sedition Acts as an “alarming infraction to the Constitution” and urged an incessant defense against “forced construction” and “calculations to enlarge the powers of the federal government.”²⁶⁰ Saul Cornell illustrates how the ‘Report of 1800’ was the “logical culmination of more than a decade of theorizing about how to guarantee that the Constitution would secure individual liberty.”²⁶¹ Madison, like a majority of his fellow Virginians, adhered to a strict construction of the Constitution. And while he believed the sphere of public opinion guarded liberty, after ratification, a “distinctive opposition constitutional theory emerged that owed an enormous debt

²⁵⁷ Ibid.

²⁵⁸ Ibid, 550.

²⁵⁹ Ibid.

²⁶⁰ Ibid, 580;550

²⁶¹ Saul Cornell, *The Other Founders: Anti-Federalists and the Dissenting Tradition in America, 1788–1828*. Chapel Hill: University of North Carolina Press, 1999, 241.

to Anti-Federalist ideas. The critique of consolidation and the concern that the ambiguities within the Constitution might be exploited through constructive interpretation became the cornerstones of opposition constitutional thought.”²⁶² Cornell considers Madison’s work in the Virginia Resolutions and the *Report of 1800* as having “appropriated and reshaped Anti-Federalist ideas and blended them with his own. For much of the next two decades, dissent would build on the foundations laid by Madison.”²⁶³ Thoroughly, the resolutions were designed to protect the existing social, economic, and religious connections among Americans from being reshaped by national politics.²⁶⁴

With the Federalists’ loss of political power and the start of Jefferson’s first term as President, the Republicans now had to address the tensions existing within their own party: “ideological differences, regional conflicts, and class divisions deepened fault lines within the Jeffersonian movement.”²⁶⁵ The collective hoped that the 1800 election would have revived the restriction of federal power, but Jefferson’s election left many disillusioned by his moderate course. However, Cornell indicates that many Jeffersonians, “preferred Madison’s reformulation of Anti-Federalist ideas in the ‘Report of 1800’ as the appropriate response to consolidation and constructive interpretation.”²⁶⁶ Tyler represents the tension of that divide.

Antifederalist rhetoric continued to be relied upon during the 1800s, notably as credentials for election campaigns, while their writings and ideas would be drawn on more heavily as the years approached 1860. For instance, Martin van Buren’s posthumous publication,

²⁶² Ibid, 243.

²⁶³ Ibid, 245.

²⁶⁴ For further reading on related key documents, see William J. Watkins, Jr.’s “The Kentucky and Virginia Resolutions: Guideposts of Limited Government.” *The Independent Review*, v. III. no. 3, Winter 1999: 385-411; see also Randall G. Holcombe’s “Constitutional Theory and the Constitutional History of Colonial America.” *The Independent Review*, v. III, no. 1. Summer 1998: 21-36.

²⁶⁵ Ibid, 274.

²⁶⁶ Ibid, 275.

Inquiry into the Origin and Course of Political Parties in the United States (1867), reveal his deep sense of gratitude and appreciation of the Antifederalist contributions to the “democratic localism of American politics.”²⁶⁷ Even though opposed to Democratic-Republicanism, the Democrat president acknowledged that the “constellation of beliefs that defined the Anti-Federalist mind continued to shape American political life even after the term ceased to have any political currency.”²⁶⁸ Echoing their own protestations, Van Buren agreed that the derisive label of “Anti-federalist” did not accurately describe the “opponents of the Constitution, who were fierce partisans of the traditional view of federalism at the core of Revolutionary constitutionalism. Their support for a form of [democracy] grounded in the authority of the state governments made Anti-Federalists the true spokesmen for the spirit of American politics.”²⁶⁹ According to Van Buren, Antifederalism endured in the minds of a majority of Americans as displayed through their deep “veneration and affection for their local governments as safeguards of their liberties.”²⁷⁰ Other statesmen continued to discuss the process and preferred application of the Constitution throughout the 1790s and this grew into a fever pitch during the 1830s, as the memory of the men who corrected gaps in the national fabric were celebrated by new politicians who arose to continue their fight.

Recalling Jefferson and Madison's doctrine of nullification existing within their Virginia and Kentucky Resolutions of 1798-99, while opposing the Tariff of 1828, John C. Calhoun reiterated that the union was a compact of sovereign states by outlining the compact theory of government more stridently in his *South Carolina Exposition* (1828). The document echoed

²⁶⁷ Ibid, 299.

²⁶⁸ Ibid.

²⁶⁹ Ibid.

²⁷⁰ Martin Van Buren, *Inquiry into the Origin and Course of Political Parties in the United States*. New York, 1867, 35.

Jefferson's Kentucky resolutions by stating that natural authority belonged to independent states; a prearrangement that should supersede federal law should it stand contrary to the most important local interests. Reserving exclusive rights to the federal government alone would, Calhoun suggested, consolidate the government and "divest the States of all their rights."²⁷¹ The authority of the "community of interests" is "acknowledged by all; and to deny or resist it, would be, on the part of the State, a violation of the constitutional compact, and a dissolution of the political association. This is the ultimate and highest power, and the basis on which the whole system rests."²⁷² Calhoun's words echo the concerns that were made by Antifederalists equally concerned over how sectional divides could easily be exasperated further by federal favoritism.

Similarly, South Carolinian lawyer Robert James Turnbull (1775-1833) and his adoption of the pseudonym of "Brutus" is evocative of the style of Antifederalist writers and their apprehension toward federal interference with local economic and legislative matters. Turnbull's pamphlet, *The Crisis: Or Essays on the Usurpation of the Federal Government* (1827), traces issues of nullification to Antifederalist critiques against overbearing national policies and their support of how laissez-faire capitalism should function in harmony with their independent, aristocratic agrarian societies capable of social mobility. Turnbull also cited Antifederalist stances against tariffs through his argumentation of how the Embargo of 1808 and the tariffs of 1828 and 1832 were unconstitutional and not practically enforceable.²⁷³ His work may have additionally indicated how the Nullification Crisis would later serve as a prelude to the Civil

²⁷¹ Richard K Crallé, ed. "John C. Calhoun: South Carolina Exposition and Protest (1828)" in *Reports and Public Letters of John C. Calhoun*. New York: D. Appleton, 1855.

²⁷² Ibid.

²⁷³ Robert J. Turnbull, "The Crisis: Or Essays on the Usurpations of the Federal Government by Brutus." *Gilder Lehrman Institute of American History*. Charleston, South Carolina: A.E. Miller, 1827.

War.²⁷⁴ Unfortunately, like many Antifederalists, Turnbull died before seeing the results of his predictions and how they were to be played out in national politics.

After the Nullification Crisis, the Old Republicans were largely unable to overturn Federalist-induced jurisdiction, lead successfully through numerous Supreme Court battles by powerful former Federalist, Chief Justice John Marshall (1801-1835) whose implementation of judicial review elevated the judiciary as an equal member amongst the branches of government.²⁷⁵ In a letter from Thomas Jefferson to Spencer Roane, he confided that the Constitution had become a “mere thing of wax in the hands of the judiciary,” which he saw as, “after twenty years' confirmation of the federal system by the voice of the nation, declared through the medium of elections, we find the judiciary on every occasion, still driving us into consolidation” – the very same verdict of centralization Antifederalists had prophesized against.²⁷⁶

Abel Upshur

Indicative of the sparse historiography prior to the Civil War, voices that did arise to give credence to the Antifederalist tradition were often etched from a legal precedence. Numerous statesmen and lawyers would join figures like Turnbull to evoke the style, rhetoric, and

²⁷⁴ Jane H., and William H. Pease. “The Economics and Politics of Charleston's Nullification Crisis.” *The Journal of Southern History* 47, no. 3 (1981): 335-62.

²⁷⁵ Gordon S. Wood, “Judicial Review in the Era of the Founding” in *Is the Supreme Court the Guardian of the Constitution?* Robert A. Licht, ed. (1993), 153–66.

Judicial review was not a new addition to the Constitution as its precedent was cited by Marshall in the Virginia Ratifying Convention of 1788. The decision of *Marbury v. Madison* (1803) made this component to the Constitution operational

²⁷⁶ Paul Leicester Ford, ed. “Thomas Jefferson to Spencer Roane September 6, 1819” in *The Works of Thomas Jefferson*. Federal Edition. 12 vols. New York and London: G. P. Putnam's Sons, 1904-5, 135-138. Accessed March 25, 2018. http://press-pubs.uchicago.edu/founders/documents/a1_8_18s16.html.

interpretation of the Antifederalists through the 1830s. One such as this was a Virginian born in Northampton County in 1791. Abel Parker Upshur first shared Federalist leanings like his father before transitioning into a firm proponent of states' rights and acted as a spokesman of Whig policies, as displayed through his numerous writings. While only briefly attending Yale and Princeton before returning to Richmond to practice law in 1810, Upshur rose in Virginian politics much like other educated men of agrarian and legal backgrounds. A distinct scholarly thread applicable to this study exists in that Upshur studied law under William Wirt Henry, Patrick Henry's first biographer, a tutorage that may have shaped Upshur's conception of republican values and patterned his historical approach and legal practice.²⁷⁷ A Virginia Delegate from 1812 to 1813 and then again from 1825 to 1827, Upshur afterwards served as a justice on the Virginia General Court in 1826 until his appointment into Tyler's administration. While his life was tragically curtailed in 1844 by the horrific explosion on the *U.S.S. Princeton* battleship along the Potomac, Upshur should be credited for the modernization of the navy. He also provided critical assistance in the annexation of Texas (1845) and through his important role during the Virginia State Constitutional Convention of 1829-1830. Lastly, Upshur ought to be noted for the significant political influence he wielded, not only in national policy and foreign diplomacy, but in how his conservative writings encase a philosophical framework that harkens to the Antifederalist origins of the nation.²⁷⁸

²⁷⁷ Abel Upshur, *Our Federal Government: Its True Nature and Character Being a Review of Judge Story's Commentaries on the Constitution of the United States*. New York, New York: Horton and Company, 1840, 7.

C. Chauncey Burr's introduction of an 1868 printing of Upshur's work reveals this connection

²⁷⁸ "Biographies of the Secretaries of State: Abel Parker Upshur (1791–1844)." *Office of the Historian, United States Department of State*. Accessed March 26, 2018. <https://history.state.gov/departmenthistory/people/upshur-abel-parker>.

Author of “An Exposition of the Virginia Resolutions of 1798,” and *A Brief Enquiry into the True Nature and Character of our Federal Government: Being a Review of Judge Story's Commentaries on the Constitution of the United States* (1840), Upshur provides an extensive trove of lengthy discourse on how the Constitution ought to be interpreted. His considerations also suggest how abstract political theory should be applied in meaningful, realistic, and tangible ways that provide a harmonious compact between nation and state.²⁷⁹ For instance, Upshur defiantly wrote elaborate defenses of states’ rights in the heat of the Nullification Crisis, a nationwide debate worsened further by the Force Bill which permitted President Andrew Jackson to militarily threaten states for compliance with the Tariffs of 1828 and 1832. A contemporary to Upshur, a Federalist Pennsylvanian state senator from 1818-1821, and an editor of his southern colleague’s publications, Condy Raguet (1784-1842), a Philadelphian free-market advocate, was among the “small number of Northerners who vigorously and publicly supported South Carolina through the [1828 tariff] crisis.”²⁸⁰ In face of intimidation issuing from the executive branch, Upshur recounted the Virginia Resolutions in “An Exposition of the Virginia Resolutions of 1789,” as being “amongst the earliest instances of the recognition of this State Remedy—Madison and Jefferson in '98 exemplifying the original and authentic school of Republicanism, or in other words, of State Rights. Thus, Virginia, in 1798, under the sanction of such men as Jefferson and Madison, not only recognized the principle, but actually passed an Act, enforcing the practice of

²⁷⁹ Condy Raguet, ed. and Abel Upshur, “An Exposition of the Virginia Resolutions of 1798,” *The Examiner, and Journal of Political Economy*, Volume 2 .12 (1833); Abel Upshur. *A Brief Enquiry into the True Nature and Character of Our Federal Government: Being a Review of Judge Story's Commentaries on the Constitution of the United States* (1840). Philadelphia, Pennsylvania: J. Campbell and Cornell University, 1863. Accessed March 25, 2018. <https://archive.org/details/cu31924096443498>; and John R. Thompson, ed. and Abel Upshur. *The True Theory of Government*. Richmond, Virginia: MacFarlane, Fergusson & Co., Proprietors, 1856.

²⁸⁰ Brion McClanahan and Clyde N. Wilson, *Forgotten Conservatives in American History*. Gretna, Louisiana: Pelican Publishing Company, 2012, 70.

the doctrine of Nullification.”²⁸¹ Acknowledging that the document only applied to those belonging to the state legislature, Upshur presumed that had the Alien and Sedition laws continued to have been enforced, that the effects of this doctrine to nullify the Act would have extended to all Virginian citizens, and in time, to other states who opposed abuses of censorship. The legality of nullification in the Virginian Resolutions inspired Upshur to apply the same principle of 1789 to the circumstances of 1830.

Likewise, Upshur posed numerous questions regarding the nature of states’ rights, how they can be maintained, and what practical solutions can be accomplished to provide “security against a consolidated and essentially monarchical government.”²⁸² Writing in 1833 under the pseudonym of Locke to Thomas Ritchie of *The Examiner*, Upshur called for action, dissatisfied as he was with “abstractions in principle or speculations in reasoning. The arm of the Federal Government,” he warned, “is even now uplifted to shed the blood of our citizens. It is time for us to know, not only that we have rights, but also, in what those rights consist, and in what manner they may be asserted.”²⁸³ Writing candidly, Upshur declared that “every Virginian, who has ever turned his attention to constitutional law at all” knows the thorn agitating the nation: divisions of old party lines intermingling and the continuation of federal abuses without redress together sowing confusion and regional discontent.²⁸⁴ In his letters, Upshur entreated Ritchie to define the “principles of that Republican party,” and explain how sincere republicans “may assert those principles in defence of our rights and liberties.”²⁸⁵ Within the same letter, Upshur additionally

²⁸¹ Condy Raguet, ed. and Abel Upshur, “An Exposition of the Virginia Resolutions of 1798.” *The Examiner and Journal of Political Economy*, Volume 2. 12 (1833): 183.

²⁸² Ibid.

²⁸³ Condy Raguet, ed. and Abel Upshur, “To Thomas Ritchie Esq. - An Exposition of the Virginia Resolutions of 1798.” *The Examiner, and Journal of Political Economy*, Volume 2. 4 (1833): 49-50.

²⁸⁴ Raguet, ed. and Upshur, “An Exposition of the Virginia Resolutions of 1798,” 49-50.

²⁸⁵ Ibid.

referenced the Virginia Resolutions as well as Madison's *Report of 1800*, explaining how he has “always considered the reserved powers of the States, as the only real check upon the powers of the Federal Government.”²⁸⁶ He went on to affirm that it is “not only the right, but the imperious duty of the States, so to apply that check, as not to dissolve the Union.”²⁸⁷ Based upon the rhetoric of his correspondence, it is clear how the Virginian statesman viewed secession and nullification as a “*remedy for a breach of that instrument*” and how he desired constitutionally legal solutions. Like the Antifederalists before him, he did not entertain abstract theories but wanted viable and concise language upon which laws could be enforced so that the federal arrangement of the states could peacefully endure.

Titled a “philosophical judge” by Claude H. Hall, Upshur’s biographer describes how he and other Old Republicans were turned toward the past; concentrating on “defending his section’s interests and protecting minorities from tyrannous majorities when most were singing the praises of nationalism and democratization.”²⁸⁸ Upshur’s regional devotion as a son of Virginia, in an era of his states’ waning influence, set him alongside influential politicians, such as John C. Calhoun. Their treatises both vividly defended a strict interpretation of the Constitution that became shrouded by mercantile interference. Due to this, Hall views Upshur’s work as an attempt to “revitalize the ideas of Thomas Jefferson, Spencer Roane, and John Taylor of Caroline, and to refute the nationalistic concepts of Chief Justice Marshall, Justice Joseph Story, and Chancellor James Kent.”²⁸⁹ Published in 1840, Upshur's *A Brief Enquiry into the Nature and Character of the Federal Government* features a refutation of Justice Joseph Story’s

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ James Rutledge Roesch, “Abel P. Upshur.” *The Abbeville Review* (Jun 17, 2015). Accessed March 28, 2018. <https://www.abbevilleinstitute.org/review/abel-p-upshur/>.

²⁸⁹ James Rutledge Roesch, “Abel P. Upshur.”

Commentaries on the Constitution (1833) that significantly differed from Story's understanding of the country's origins. Not meant for public circulation, Upshur's *Federal Government* gained popularity after he joined Tyler's Administration in his capacity as Secretary of the Navy (1841-1843) and Secretary of State (1843-1844). Here his reputation as a bold nullifier shone brilliantly. This publication thoroughly denotes Upshur's strict constructionism and the Antifederalist notion that the nation shared a compact, not with a single, subservient entity, but with a "confederation of individual, sovereign states, each possessing the power to interpose on behalf of its citizens against the federal government and, if necessary, to withdraw from it."²⁹⁰

James Rutledge Roesch, classics scholar from Bucknell University, explains how in the 19th century, a "compact was understood as an agreement of mutual obligations between independent parties. If the Constitution were a compact, then it was a 'confederation;' if not, then it was a 'consolidated government.'"²⁹¹ Roesch exemplifies that "while the Founders understood 'the great principles of civil and political liberty' better than Upshur's generation, Upshur's generation better understood the 'practical operation' of the Constitution."²⁹² It was the second generation's task to bring constitutional theory into reality. Upshur directly clarified how his *Enquiry* did not present new traditions or theories but "endeavored to reestablish" the intentions of the Founders through his publications and to provide a modern commentary that outlined a practical application of the Constitution as he believed was originally intended.²⁹³ Referencing that, when Congress met in convention to draft the Articles of Confederation, the Declaration, and the Constitution, the Founders were amending and correcting an *existing compact*, Upshur

²⁹⁰ Abel Upshur, *Our Federal Government (1840)*. Excerpt. Auburn, Alabama: Mises Institute, 2010. Accessed March 28, 2018. <https://mises.org/library/our-federal-government>.

²⁹¹ Roesch, "Abel P. Upshur."

²⁹² Ibid.

²⁹³ Ibid.

argued that they were not creating a new form of government that displaced this established compact. Because of the implied nature of this compact, Upshur demanded Story to withdraw his reproach of Republican defenses of the states. He additionally desired an explanation as to why the lawyer chose “to attribute to them absurd and revolutionary notions, unworthy alike of their patriotism and their reason.”²⁹⁴ As a supporter of the Nullification movement on grounds of the compact theory of Union, Upshur believed that the Constitution provided a federal construction of nationhood that formed a lasting covenant between the states, “members of a confederation...exerting their several powers” legally granted, assured, and not subject to new conceptions of interpretation.²⁹⁵

Disagreeing with Story's view that the colonies each shared a compounded *one-ness*, Upshur proposed an associational argument, stressing how the colonies were “separate and distinct in their creation; in the forms of their government; in political functions; in political rights, and in political duties.”²⁹⁶ Acting by the “joint expression of their separate wills,” Upshur emphasized that the uniqueness of each colony carried through to their uniqueness as individual states.²⁹⁷ While Story's history merged the colonies into a single national entity following the Declaration of Independence and adoption of the Constitution, Upshur rejected the idea of America as one consolidated nation fashioned in the image that Story and other nationalists painted the early republic to be.²⁹⁸

Although gracious in his assessment of Story's character, Upshur disdained his approach to constitutional interpretation, suggesting that the lawyer, out of ignorance or by “forced

²⁹⁴ Upshur, *A Brief Enquiry into the True Nature and Character of Our Federal Government (1840)*. Philadelphia, Pennsylvania: J. Campbell and Cornell University, 1863, 91.

²⁹⁵ Upshur, *Enquiry*, 81.

²⁹⁶ *Ibid.*, 27.

²⁹⁷ *Ibid.*, 56.

²⁹⁸ *Ibid.*, 23-35.

constructions and strange misapprehensions of history,” had conformed the Constitution into his “own *beau ideal* of a perfect government [and intended to] arm it with strong powers and surround it with imposing splendors.”²⁹⁹ Evoking arguments posed by Antifederalists regarding the need for a carefully limited territorial scope, Upshur suggested that a nation of homogenous interests was not in danger of majority rule; however, in a “country so extensive as the United States, with great differences of character, interests, and pursuits, and with these differences, too, marked by geographical lines, a fair opportunity is afforded for the exercise of an oppressive tyranny.”³⁰⁰ Philosophically, historian Donald Livingston casts the intellectual dissent between Story and Upshur as a case that extended beyond differences in constitutional interpretation, but one caught in the spiraling rivalry waged by a centralized Leviathan entity poised to absorb the “decentralized and consensual” republic.³⁰¹

The popularity of Story’s *Commentaries* contributed to the nationalistic justification for centralized authority and appealed long after his death to politicians who would come to rely on his cultivated myth of America as one conglomerate of people unified by a national government before the formation of the Constitution. Abraham Lincoln would adopt this view instead of Upshur’s insistence of America as a continuation of individual colonies cooperating in an association of states.³⁰² Upshur warned that it is “vain to hope that the federative principle of our government can be preserved, or that anything can prevent it from running into the absolutism of consolidation, if we suffer the rights of the states to be filched away, and their dignity and

²⁹⁹ Ibid, 151.

³⁰⁰ Ibid, 153.

³⁰¹ Roesch, “Abel P. Upshur.” See also Livingston’s comparison of the “Hobbesian unitary state” versus the “Aristotelian polycentric order” which he allegorically represents through the ancient Greco-Roman city-states and to Christendom as a whole

³⁰² Ibid.

influence be lost, through our carelessness or neglect.”³⁰³ As the contending views of constitutional constructionism intensified in tandem with increasing State entry into the Union, violence accompanied territorial acquisition and contributed to the philosophical interim of thirty years before sectional disagreement came to a head. “What Upshur and Story could not settle with ink, Davis and Lincoln would settle with blood.”³⁰⁴

John Randolph of Roanoke

Born into one of the First Families of Virginia, John Randolph of Roanoke harbored a deep affiliation for land and lineage. Hailing from scenic Southside Virginia, Randolph shared strong family ties with influential Virginians, among them Peyton Randolph, St. George Tucker, and Thomas Jefferson.³⁰⁵ His natural predisposition toward the landed gentry further solidified Randolph's attachment to the concept of yeomanry as a holistic arrangement. In intense contrast to Madison's latent “spreading thought of a common nation, a common citizenship, a mutual dependence,” Randolph reiterated the vital importance of maintaining provincial circles of influence centered around the unique and distinct interests of individual communities.³⁰⁶ Alongside Old Republicans like Nathaniel Macon and John Taylor, Randolph desired a return to the principles of the “revolution of 1800” and dedicated his life in upholding conservative statues.³⁰⁷

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ Richard Channing Moore Page, “Randolph Family” in *Genealogy of the Page Family in Virginia*. New York, New York: Press of the Publishers Printing Co., 2nd ed., 1893, 249–272.

³⁰⁶ Irving Brant, *James Madison: The Nationalist, 1780-1787*. The Bobbs-Merrill Company, 1948, 2:418.

³⁰⁷ Richard E. Ellis, *Aggressive Nationalism: McCulloch v. Maryland and the Foundation of Federal Authority in the Young Republic*. Oxford: Oxford University Press, 2007, 70.

At the prime age of twenty-six, young Randolph was elected to Congress, served numerous terms in the House of Representatives from 1799 through 1833, and presided as chairman of the Committee on Ways and Means through the Seventh to Ninth Congresses. Known for his eccentric temperament, Randolph grandly made his presence known through his colorful, gallant, and seemingly contradictory nature. An abolition-minded Virginian plantation owner fond of feudal Anglo traditions, Randolph functioned as an elitist conservative interested in pastoralism and as an isolationist opposed to pacifism while simultaneously detesting what he termed as a creeping nationalism. The Virginian's genteel upbringing, aristocratic demeanor, consistency of principle, and common mortality reveal a softer side to Randolph. The life-long bachelor was "born the scion of rich tobacco planters in 1773. A genetic aberration — Klinefelter's syndrome — left him beardless and deprived him of the pleasures and horrors of puberty."³⁰⁸ Furthermore, Randolph's dual inclination towards southern chivalry and use of violence, in the form of duels and impromptu stairwell thrashings to maintain his honor, is emblematic of the high-pitched politician's dealings with professional colleagues and his tenacity in waging political fights. However, his own physical health and deteriorating mental state contributed to the madness of his character and inability to attain significant change during his time in the Senate, despite his remarkable consistency. Seen by many an opponent as irrational, hot-headed, and volatile, Randolph's written and spoken outbursts did nothing to suggest the contrary. However, his private correspondence with select friends, such as Francis Scott Key, reveal a deeply affectionate, artistic, and sensitive side to the man's bombastic public persona. Suffering from tuberculosis, opium addiction, and an unfulfilled physical maturation,

³⁰⁸ Timothy Stanley, "Who Was John Randolph? John Randolph of Roanoke." LSU Press; *The American Conservative* (October 11, 2012). Accessed March 28, 2018. <http://www.theamericanconservative.com/articles/who-was-john-randolph/>.

any deformity or apparent lack exhibited in Randolph is overshadowed by the vibrancy of his personality and steadfast commitment to a limited republic. His resolve to preserve the virtues first espoused by Virginian men of caliber, what he deemed as best suited to shape the community, were in turn, to his understanding, the same virtues that would lead the nation towards prosperity.

From reading Voltaire, Diderot, Rousseau, Hume, Byron, Shakespeare, Milton, Burke, and other classical authors, the inspiration for Randolph's wit and repartee on the congressional floor is evident. The voracious reader would often reference ancient and modern publications and rattle off Latin phrases just as comfortably in personal letters as he did during public speeches.³⁰⁹ Following after Patrick Henry's debating style, Randolph described his close ideological predecessor as a "Shakespeare and Garrick combined," who "spake as never man spake."³¹⁰ Trailing closely after the man whom he called "the greatest orator that ever lived," Randolph shared with his close friend, Francis Scott Key, how the "first time that I ever dreamed of speaking in public, was on the eve of my election in March, 1799, when I opposed myself (fearful odds!) to Patrick Henry."³¹¹ Reflecting on his abilities and oratorical style in comparison to the great Virginian speaker, Randolph defined his rhetoric as "spontaneous, flowing, like my matter, from the impulse of the moment; and when I do not feel strongly, I cannot speak to any purpose. These fits are independent of my volition."³¹² Randolph's style followed the pattern of a "statesman-rhetorician rather than the dialectician. He did not rely upon drawn-out logic for his

³⁰⁹ Hugh A. Garland, *The Life of John Randolph of Roanoke*. Vol II. New York, New York: D. Appleton & Company, 1851, 9-10, 34.

³¹⁰ Robert Douthat Meade, *Patrick Henry: Practical Revolutionary*. Philadelphia, Pennsylvania: J.B. Lippincott Company, vol. II, 1969, 241.

³¹¹ Meade, *Patrick Henry: Practical Revolutionary*, 241; Garland, "Randolph to Francis Scott Key Richmond, February 17, 1814," in *The Life of John Randolph*, 31.

³¹² Garland, "Randolph to Francis Scott Key Richmond, February 17, 1814," 31.

persuasiveness, but rather upon ‘the world’s body’ made real and impressive through concrete depiction,” illustration, and historical observation.³¹³ His impulsive, instinctive, and poetic argumentation often "started where most reasoners end," confidently arriving at conclusions before conveying the rationale from whence his verdict derived.³¹⁴ Likewise, Henry too was known for speaking from impulse rather than organized rhetorical methods and trained models of speech. Nevertheless, Randolph held himself apart. For instance, he answered to criticism in the *Federal Republican* that suggested that he had “neglected, or thrown away, or buried [his] talent.”³¹⁵ To this, he consented partial accuracy of the claim due to his remote existence during his absence from Congress after not winning re-election in 1812, but he refused to be ranked “amongst the herd of imitators” stating unabashedly how he “could not descend to imitate any human being.”³¹⁶ Clearly, Randolph’s admiration for Henry ran deep, however, he professed no intention to model himself after another politician nor wished to be viewed as a replica. True to this sentiment, Randolph’s strident positions and personal oddities branded himself as a memorable character unlike any other.

Related to the Lees of Virginia, John Randolph “belonged to one of the oldest, most numerous, and wealthy families in Virginia.”³¹⁷ Cherishing hereditary value, Randolph’s interpretation of an ordered society was “purely English” in its conception as he idealized the feudal idea of a lord tending to his estate and caring for those who labored, contributed, and mutually benefitted from the “associations of pride and affection” which “constituted his *beau*

³¹³ Richard M. Weaver, “Two Types of American Individualism: The Separate Ways of John Randolph and Henry Thoreau.” *Modern Age: A Quarterly Review*, 1963: 8. Accessed March 25, 2018. <http://www.unz.com/print/ModernAge-1963q2-00119/>.

³¹⁴ *Ibid*, 9.

³¹⁵ Garland, 31.

³¹⁶ *Ibid*, 31-32.

³¹⁷ *Ibid*, 36.

ideal of the perfect gentleman.”³¹⁸ Modeling after the English example that had found a hearth in the Old Dominion, Randolph intended to “preserve, in his own name and family, some specimen that might be worthy of a comparison with those noble men of the olden time.”³¹⁹ While never marrying to continue this tradition, Randolph mentored young men of promise, such as Thomas Bland Dudley and John Randolph Clay, and assisted in their education and public careers.³²⁰ Through this peerage, Randolph demonstrated in his own life the value of private associations that could provide a transmission of knowledge, skill, a sense of community, and occupational benefit, as well as joy and friendship.

In this vein, Richard M. Weaver’s “Two Types of American Individualism” reflects this English aristocratic tradition throughout America’s southern heritage.³²¹ Randolph, despite his aristocratic tendencies, opposed imperialism, government welfare, and instead, offered principally consistent solutions against a top-down bureaucracy through the benefit of mutual associations.³²² One of the greatest contrarians, if not the greatest in Congressional history, Randolph opposed aggrandizement of the national government in any capacity.³²³ Richard Weaver defines Randolph’s individualism as harkening from an Aristotelian “social bond” - individual liberty existing in harmony of the greater social context.³²⁴ In 1814, over the possibility of the first real movement of secession beginning in New England, Randolph is noted for having discussed the importance of the compact between the states and the national government as a compromising arrangement in which “if any of the parties to the compact are

³¹⁸ Ibid, 36-37.

³¹⁹ Ibid.

³²⁰ Ibid.

³²¹ Richard M. Weaver, “Two Types of American Individualism: The Separate Ways of John Randolph and Henry Thoreau.” *Modern Age: A Quarterly Review*, 1963.

³²² Weaver, “Two Types of American Individualism,” 2-3.

³²³ Ibid, 3.

³²⁴ Ibid, 4.

dissatisfied with their share of influence, it is an affair of amicable discussion but no cause for dissolving the confederacy.”³²⁵ He did not believe separation and removal from the associations of states should be considered as a solution except as a final alternative after other forms of resistance, legal petitioning, and what Weaver calls, ‘sectional solidarity,’ has been exhausted.³²⁶ Weaver's labeling of Randolph as a “conservative individualist” ardently solidifies through his dedication to maintaining a dispersal of power to ensure local autonomy as well as the continuation of the social compact.³²⁷

Considered by some as “crotchety and vindictive, yet rhetorically and intellectually brilliant,” Randolph's alliance with those who adhered to the Compact Theory of the Union and with those who were similarly dissatisfied with Jefferson and Madison’s drift from their earlier limited interpretation of federally endowed powers upon assuming the presidency led to Randolph’s leadership of the “Tertium Quids” whose members advocated a “third way” of political solutions.³²⁸ Preservation of Southern culture, custom, and ingrained republican ideals, caused Randolph to come into conflict with the expansionist embodiment of Jeffersonian Republicanism. Randolph and other leaders, such as John Taylor, Thomas McKean, and Nathaniel Macon of the inter-party coalition between Federalists and moderate Democratic Republicans, shared anti-expansionistic and traditional views of aristocratic conservatism. Coined derogatorily in 1806 as “Tertium Quids” by radical Jeffersonian Republican William Duane, the "Society of Constitutional Republicans," like the Antifederalists themselves, suffered

³²⁵ Ibid, 5.

³²⁶ Ibid, 6.

³²⁷ Ibid, 7.

³²⁸ Stuart Liebiger, “Madison's Ascension and Jeffersonian Factionalism” in *A Companion to James Madison and James Monroe*. John Wiley & Sons, 2012. Online.

from being mislabeled and their positions misinterpreted.³²⁹ Breaking with Jefferson and Madison resulted in a gathering of "Old Republicans" determined to reject new measures that may disrupt national peace or induce a distortion of the Constitution from strict constructionism.

Unlike his admiration for traditional republican societies based on European models, Randolph believed that the American republic should remain unattached and unfettered to the whims of Europe. As the Quasi-war with France and the apparent War of 1812 with Great Britain were soon to commence, Randolph saw no reason to initiate bloodshed over commercial interests or why the States should jointly be "legislated into war" by the fungus "of an unfair trade."³³⁰ Railing in Congress in an 1806 speech against Non-Importation, Randolph outlined developing regional divides based on creeping nationalism and economic manipulation, defiantly articulating that "this great agricultural nation" should not be governed alone by the interests of "Salem and Boston, New York and Philadelphia, and Baltimore and Norfolk and Charleston."³³¹ He furthermore questioned why America should wish to dismantle British hegemony of the seas by casting her lot in with France only for their ally to then become the "tyrant of the ocean."³³² Randolph certainly did not see the transatlantic "carrying" trade, the violation of the American flag at sea, or the annexation of Canada for dominance in the fur trade as promulgated by Northern states worthy enough causes to jeopardize long-lasting domestic peace.³³³ Additionally, Randolph stated that the Constitution only provided means for defensive warfare based on the common defense. Citing that offensive war fell outside constitutional jurisdiction, he declared

³²⁹ Kim T. Phillips, "William Duane, Philadelphia's Democratic Republicans, and the Origins of Modern Politics." *Pennsylvania Magazine of History and Biography* (1977): 365-387.

³³⁰ Ted Widmer, ed., "John Randolph: Speech in Congress Against Non-Importation. Washington, D.C., March 5, 1806," in *American Speeches: Political Oratory from the Revolution to the Civil War*. New York: Literary Classics of the United States, Inc., 2006, 62.

³³¹ Widmer, "John Randolph: Speech Against Non-Importation, 1806," 63.

³³² *Ibid*, 63.

³³³ *Ibid*, 60-61.

that “as in 1798 I was opposed to this species of warfare, because I believed it would raze the Constitution to its very foundation—so, in 1806, I am opposed to it, and on the same grounds.”³³⁴ Randolph asserted that the violation of American sovereignty should be addressed only if Britain were to violate land territory, not their implied maritime rights. Given the inferior state of America’s navy and his opposition to naval warfare in general, Randolph famously quipped “why take to water, where you can neither fight nor swim.”³³⁵ He thought it unwise to engage in an offensive, international, naval war that he did not view as constitutional nor one capable of attaining victory.³³⁶ He believed that Americans would be forced to “resign their liberties” to a Congress of “energy men” or to a president who would assume too much power in a state of crisis while claiming that the centralization of authority in wartime was instrumental for the public’s welfare with no indication of returning it to the people once peace returned.³³⁷ However, his passionate pleas to preserve civil liberties, states’ rights, foreign relations, and the Constitution by refusing to participate in a foreign war were cast aside as unpatriotic as he was silenced and sent away from Washington.

After the conclusion of the War of 1812, Randolph was urged to return to Congress by many who had, “in the hour of excitement and party blindness, been induced to abandon” the Principles of ’98 and one of the few statesmen willing to defend them.³³⁸ His bold repudiation of nationalistic cries for war had cost him his seat as a representative in 1812. Randolph had initially refused before being re-elected despite his reservations. He owed his return to politics to the sentiments of friends and to “He who knows what is best for me [and] has appointed for my

³³⁴ Ibid.

³³⁵ Ibid, 63.

³³⁶ Ibid.

³³⁷ Ibid, 64.

³³⁸ Garland, “Randolph to Francis Scott Key Richmond, February 17, 1814,” in *The Life of John Randolph*, 40.

portion in this life. May it have the effect of drawing me close unto Him, without whose gracious mercy I feel that I am a lost, undone creature.”³³⁹ While shaken by the seclusion experienced following his expulsion from politics, the apprehension Randolph perceived in his abilities to usefully serve the public and unite with his now distant fellow Democratic-Republicans were largely unwarranted. Though he did not enjoy unanimous support from his own faction and increasingly distanced himself from the politics of Jefferson and Madison, the lone outsider managed to strike down numerous forms of legislation that he viewed as unconstitutional. Moreover, he provided many a heated disruption to the plans of Jeffersonian and Federalist-leaning senators alike under the Second Party System. Randolph willingly posed as a lone Cato who would become a distant voice in the chaotic throng of 19th century politics soon to be dominated by the Great Triumvirate of Henry Clay, John C. Calhoun, and Daniel Webster, who would come to reflect incompatible visions of regional interest as the 1850s came to a close.

Prior to the passing of the second generation, their debates and lengthy written accounts provide insightful contributions that help to explain issues of centralism, localism, and constitutionality based on the documents produced at the nation’s founding. Leading the alternative faction of Jeffersonians, Randolph referred heartily back to the Constitution, the Virginian and Kentucky Resolutions, and *Report of 1800* as a basis for the Principles of '98 to defended decentralized localism. In a speech to the Virginia Constitutional Convention in 1829-1830, Randolph spoke against egalitarian expanses to the electorate as displayed under Jackson's administration, which Randolph saw as hostile to the traditional proceedings of government and designs which were not in the best interest of the poor. Designating majority rule as Congress bound to “King Numbers,” Randolph opposed the growing public mentality that believed that

³³⁹ Ibid.

“all things must be done for them by the government.”³⁴⁰ The necessity for Randolph to address issues of majority rule and invasive federalism in the early 1830s shows the early decline of conservative influence to the creeping nationalism he feared.

Kim T. Phillip’s article comparing the Democratic-Republican and Quid schism explores the lines of division which split the once strong republican alliance of the 1800s. Despite their differences, Jeffersonian politics maintained its traditional 18th century formation and arguably should be viewed less as a modern, voter-based operation than as a transitional period still relying on politicians who “held to the Whiggish ideal of consensual harmony.”³⁴¹ Comparative to the transitional nature of the 1790s when the Antifederalists embraced the new federal system, in defeat, the Federalists could also “bring themselves to cooperate with the Quids because they found them less socially offensive than the Democrats.”³⁴² Fastened to their constitutional mooring, the Tertium Quids strove against the more populist Democratic-Republican fashion as their “basis for mutuality became rather strained once the common enemy was gone.”³⁴³ As the Quids urged restraint and inclusivity towards their defeated Federalist opponents, the Democrat faction became increasingly more partisan and harbored no intention of ending the factional divide. Contrarily, the Quids were “hesitant to do anything that might perpetuate the two-party system.”³⁴⁴ In Philadelphian Quid Alexander James Dallas’s view, “each general election will involve the hazard of civil war” if partisan divisions were to continue.³⁴⁵ Another item of contention arose through bureaucratic appointments. The Quids took to heart Antifederalist

³⁴⁰ Charles W. Dunn and J. David Woodard, *The Conservative Tradition in America*. Lanham, Maryland: Rowman & Littlefield, 2003, 90-91.

³⁴¹ Kim T. Phillips, “William Duane, Philadelphia’s Democratic Republicans, and the Origins of Modern Politics.” *Pennsylvania Magazine of History and Biography* (1977): 365.

³⁴² Phillips, 369.

³⁴³ Ibid, 370.

³⁴⁴ Ibid, 371.

³⁴⁵ Ibid.

cautioning against the corrupting nature of politically advantageous positions and desired administrative roles to be acquired through merit. In the speech he made at the Virginia Constitutional Convention of 1829-1830, Randolph cited the dire division growing between representatives and their constituents through appointments and social programs, saying that several politicians had “amassed opulent fortunes: as administrators.”³⁴⁶ The Society of Constitutional Republicans looked upon politics not so much as a career than as a “civic duty, if sometimes an unpleasant one. To them, the Democrats appeared to be turning it into a profession.”³⁴⁷ Quids further dissolved their ties to Jefferson’s mantle when Democrats attempted to make the abstract theory of representation more practical and pervasive by offering up further power to majorities instead of operating by the Quid’s preferred form of consensus within the carefully balanced federal structure that had traditionally been led, since the formation of the Constitution, by the “natural aristocracy” comprised of upstanding men of notable hereditary lineage, virtue, and talent.³⁴⁸

Calling John Randolph of Roanoke and John Taylor of Caroline “Virginians both and more Jeffersonian than Jefferson himself,” Daniel McCarthy, editor at *The American Conservative*, responds to historian Adam L. Tate's take on the conservatism of southern intellectuals throughout 1789-1861. McCarthy refers to these traditional agrarian aristocrats as being safeguards to the Principles of '98 through their continual opposition to the further centralization of the government – a clear connection to the statutes of Antifederalists.³⁴⁹

³⁴⁶ Dunn and Woodard, *The Conservative Tradition in America*, 90.

³⁴⁷ Phillips, 372.

³⁴⁸ *Ibid.*, 380.

³⁴⁹ Adam L. Tate, *Liberty and Order in the Slave Society Conservatism and Southern Intellectuals, 1789-1861: Liberty, Tradition, and the Good Society*. Columbia, Missouri: University of Missouri Press, 2005. Online; and Daniel McCarthy, “Liberty and Order in the Slave Society,” *The American Conservative*. (August 1, 2005). Accessed March 25, 2018. <http://www.theamericanconservative.com/articles/liberty-and-order-in-the-slave-society/>.

Although McCarthy's explanation continues to explore the hypocritical contrast of Old Republican calls for individual liberty while defending the social institution of slavery through their insistence on states' rights, McCarthy offers an insight into the seemingly paradoxical nature of their political and economic philosophy by stating that this coalition stood firmly against "tariffs, internal improvements, the Bank of America, and militarism."³⁵⁰ Works by both McCarthy and Tate capture the heart of Old Republican principles as shown through Randolph's devotion to a "love of peace, hatred of offensive war, jealousy of the state governments toward the general government; a dread of standing armies; a loathing of public debts, taxes, and excises; tenderness for the liberty of the citizen; and jealousy of the patronage of the President."³⁵¹ Many of these concerns directly repeat the criticisms Antifederalists brought to the forefront of the Constitutional Convention. Likewise, such premonitions resonant with modern and contemporary conservative movements and political affiliations which also partake in the Antifederalist and Old Republican dogma that limited government and the notions of freedom, property, and moral order are closely entwined. Conservative philosophies have been uniquely developed by thinkers and historians, such as Russell Kirk, whose biography on Randolph and whose principles of conservatism link the politician's moral, philosophical, and communitarian views of how a free society ought to operate voluntarily, as opposed to involuntary collectivism and imposed statism.³⁵² However, Randolph's influence waned alongside his gradual separation with Jefferson and his administration that he believed had forsaken republican virtues by accepting Federalist policies out of convenience and financial gain. What he saw as underhanded, corrupt, and unconstitutional territorial purchases of Florida and the Mississippi

³⁵⁰ McCarthy, "Liberty and Order in the Slave Society."

³⁵¹ Ibid.

³⁵² Russel Kirk, "Clause Seven and Eight" in *Ten Conservative Principles*. The Russell Kirk Center, 2007. Accessed March 27, 2018. <http://www.kirkcenter.org/detail/ten-conservative-principles/>.

from Spain through the Adams–Onís Treaty (1819) as well as finding further scandal within the Yazoo Land Controversy (1794-1814), Randolph severed his once robust attachment to Jefferson and came to blatantly attacking Jeffersonian Republican actions in the house for their extension beyond the borders defined by constitutional limits.

Controversial though he may be, a modern social commentary of Randolph, devoid of the historical context of Virginia in the 1800s, may smear the man with a hazy reputation that far proceeds him. Fiery, impassioned, outspoken, and not shy of casting brunt attacks against person and position, Randolph swayed national politics by the sheer passion resonating from his high-pitched, lilting voice, through the persuasiveness of his unapologetic personality, and through his consistent role as a principled oppositionist and statesman. Though not always best methodologically equipped in a debate, channeling the precursory oratory style of Patrick Henry, Randolph debated with nostalgic exposition and wit, often tipping the balance in his favor. Hollering from his seat in the House of Representatives while surrounded by pet hounds at his feet, Randolph intimidated as much as he inspired. Familiar to some as a swollen egotist popularized to Lost Cause racketeering, in contrast, Randolph ought to be remembered as an astute and insightful political theorist in his own right. Clinging to the mentality first espoused by Antifederal plaintiffs regarding the necessity of a limited federal scope and the assurance of communal and local rights, John Randolph of Roanoke and his fellow Old Republicans determinedly protected the natural sovereignty of nation, state, and community.

Lyceum

Antebellum southern conservatives were not the only intellectual descendants of the Antifederalist tradition, nor the only ones to support forms of liberty rooted in personal

associations. Even Abraham Lincoln, early in life, advocated similar forms of liberty. Lincoln's glorification of the Founders through his "Lyceum Address" is an example of an early attempt to form the public's reception of the Constitutional convention.³⁵³ Though not overt, the speech serves as just as powerful a re-affirmation of the Antifederalist legacy as that of the Federalists, as Lincoln's discussion reveals that the United States' memory throughout the 1800s-1830s was vivid and strongly recalled the efforts of their forbearers. It was not the people but the 19th and 20th century scholars who appear to have forgotten them.

Addressing young scholars at Springfield's Lyceum in 1838, Lincoln discussed the perpetuation of American politics and how territory, harmony, and religious and civil liberties have been protected like none other due to America's federal construction. Lincoln cast America's youth as the "legal inheritors of these fundamental blessings [that are] a legacy bequeathed us, by a once hardy, brave, and patriotic, but now lamented and departed race of ancestors."³⁵⁴ By generations forgetting the nation's past, Lincoln insightfully predicted that the collapse of the federal system would initiate from within due to an "increasing disregard for law," overextended decisions of the courts, and from mobs who will take it upon themselves to perform as "executive ministers of justice" – all of which was cautioned by Antifederalists and Old Republicans who feared majority rule and how distant politicians governing over extended territories would be unable to administer justice.³⁵⁵

³⁵³ Abraham Lincoln, "Address before the Young Men's Lyceum of Springfield, Illinois." *Sangamo Journal* (February 3, 1838). Reprinted from Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, 8 vols. (New Brunswick, N.J.: Rutgers University Press, 1953), 1:108–115; "Lyceum." *Merriam-Webster*. Online. Accessed March 30, 2018.

Defined as "an *association* providing public lectures, concerts, and entertainments," public discourse served as a vital form of communication across academic and political rifts

³⁵⁴ *Ibid.*

³⁵⁵ *Ibid.*

Foreshadowed by Antifederalist insight and Old Republican insistence, Lincoln's analysis of the sectional divides festering between the North and the South decades prior to the official commencement of secession defined this behavior as not inherently a “creature of climate confined to the slaveholding, or the non-slaveholding States” but as a deep-rooted sickness afflicting the whole nation.³⁵⁶ Lincoln correlated the horrors of vigilante justice, unrestrained crowd activity, and disorderly violations of law and order to a continual disregard for the government that would in time, tear down the fortifications shielding individual and property rights. He claimed that the “spirit of lawlessness” will perpetually call for the “total annihilation” of the Constitution and the government system until its eventual destruction.³⁵⁷ Lincoln urged those attached to the Constitution to stand firmly against conceding their power to gatherings of citizens whose aim is to “overturn that fair fabric, which for the last half century, has been the fondest hope, of the lovers of freedom, throughout the world.”³⁵⁸ Lincoln cites that the generation that established the grand experiment of republicanism - the “capability of people to govern themselves” - has started to crumble away as the framers of the Constitution have passed on, leaving their posterity to determine whether their attempts led to failure or victory.³⁵⁹ The Founders’ names will be “revered, sung, and toased through all time” if successful, or will “sink and be forgotten” should their experiment be in vain.³⁶⁰ Lincoln’s speech suggests that he believed that the Founders succeeded, but challenges future generations to maintain the “edifice that has been erected” so that “an Alexander, a Caesar, or a Napoleon” may never rise up and lord over the American people.³⁶¹ Lincoln calls upon Americans to “swear by the blood of the

³⁵⁶ Ibid.

³⁵⁷ Ibid.

³⁵⁸ Ibid.

³⁵⁹ Ibid.

³⁶⁰ Ibid.

³⁶¹ Ibid.

Revolution” never to violate the laws of the nation or the Constitution, as to do so would be to “trample on the blood of his father, to tear the character of his own, and his children's liberty.”³⁶² His statement reflects the republican reverence allotted to tradition and lineage. However, the Illinois statesman and future president noted that the circumstances of the Revolution that united the people together “*must fade, is fading, has faded,*” and that although they may not fully be forgotten, the course of history will continue to wear away the memory of the Founders the further time passes from the generation that made up the living heritage of 1776.³⁶³ Melancholy as this observance is, Lincoln expressed hope that they “will be read of, and recounted.”³⁶⁴ They must be, he instructs, in order to support the “pillars of the temple of liberty” that the Founders provided.³⁶⁵

As though quoting Antifederalists extolling the necessity of public morality, Lincoln too claimed that Americans must exhibit virtue, intelligence, and “reverence for the constitution and laws” if the republic is to last.³⁶⁶ Lincoln’s speech reads as an ill omen, proceeding far beyond the podium from whence he addressed the sons of the Founding generation, beyond the national rift of the 1860s, and pierces the core of the modern 21st century fraught by corruption, racial and political tension, and communal discord. Overtly, the “Lyceum Address” mirrors the circumstances of the years before the Civil War while also paralleling the state of chaos and disorder of modern national politics similarly divided by factionalism and social unrest. As in the days before the nation’s unity was at stake, following Lincoln’s advice on how to perpetuate the

³⁶² Ibid.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ Ibid.

³⁶⁶ Ibid.

republican belief in self-rule, based on the sacrifices and examples of those who have gone to rest, may yet deter the unraveling of America's framework.

Despite these parallels to Antifederalist and republican views of decentralization, Lincolnian republicanism stands in contrast to the localism espoused by the Antifederal conception of federalism. The concerns of Antifederalists, their republican successors, and their political commentary increasingly became considered spitefully opposed to the federal schema. Later associated after Reconstruction merely as states' rights pundits of Antebellum social class interests lacking practical solutions for the diverse inhabitants and sectionalized regions of the nation, many publications of Antifederalists and Old Republicans have been buried along with the discussion over the sovereignty of states' rights. However, those belonging to the Antifederalist legacy, due to their great love of federal republicanism and belief that the dispersal of power can and will protect individual liberty even when state and nation war against one another, elicits a cursory re-examination of their idealized form of a decentralized political order where maintained cultural and traditional identities flourish inside a constellation of inherited associations.

Chapter IV – Antifederal Associationism in Global Context: European Republicanism

As republican influence shifted across the Atlantic following the success of America's experiment, Europeans who had participated in the revolution that had won America her independence endeavored to institute comparable revivals at home. Contemporaries of Antifederalists and the second generation following in their wake would intensely transcribe their intellectual musings on the state of international affairs while also comparing notes on how to set republican political theories in motion. Like the Old Republicans inheriting the Antifederalist mantle, European republicans operating concurrently in the era shared their yoke, though separated by distance, culture, and national destinies. Circulating evermore to the proper scope of authority and role of the individual in defending against tyranny, Antifederalist rhetoric flowed richly in the correspondence between the second generation and their European counterparts. Republicans, such as Jefferson and his lifelong friends, the French Marquis de Lafayette and Polish revolutionary, Thaddeus Kosciuszko, all had participated in the American Revolution and from their experience and insights into the benefits of a free, voluntary society, sought to dissolve the absolutism of war-torn, monarchical Europe and replace disorder with the stability afforded by constitutionalized federalism. Together, the trio's shared interpretation of liberty, associationalism, and natural rights would mature not only in their private letters back and forth throughout the 1790s-1830s but would solidify the Antifederal heritage in the rippling affects their actions, words, and reputations would carry into the future to come.

The connection of the Antifederal tradition to an international context runs parallel to the development of classical liberal ideology in Europe and America during the era of revolution throughout the early 19th century. The ability for persons to form associations is paramount to the abstract and natural rights of individuals as individuals. Genuine ties to Antifederalists and their

stances exist not only in the republican figures discussed, but through their friendships, cordial letters, and social commentary, as well as in the oratory, documents, and political institutions these men crafted on personal, local, and national levels. The avenue taken by American Founders first relied on European precedent. The Antifederalists admired the representative systems of Europe but synchronously used the transgressions of these countries and their monarchs to caution America's republic from willfully replicating dissatisfactory and incongruent decisions when formulating policy. As their forefathers had done, the second generation of Republicans so too looked abroad to Europe to find further credibility and viable models for how their ideas could be made functional.

For instance, John Randolph of Roanoke found America's structure as being essentially Anglophile. He saw the wellspring of the United States' inspiration as belonging to the representative traditions and limitations instituted by Great Britain's bicameral legislative system, Whig political philosophy, and constitutional documents, such as the Magna Carta (1215) and the English Bill of Rights (1689), which made the crown subservient to elected representatives held accountable by the people. In his 1806 speech avowing not to enter foreign wars except in self-defense, Randolph adamantly professed an unwillingness to prop France up as the successor to England's dominion or see to her ruin.³⁶⁷ He desired a restoration of British-American relations and saw that differences over "depreciated foreign war and navies, standing armies, loans and taxes" could be and had been "accommodated without war" after the Revolution by the Founders before hostilities were renewed, owed primarily to Northern states placing commercial interests above domestic and international peace.³⁶⁸ Furthermore,

³⁶⁷ Ted Widmer, ed., "John Randolph: Speech in Congress Against Non-Importation. Washington, D.C., March 5, 1806," In *American Speeches: Political Oratory from the Revolution to the Civil War*. New York, New York: Literary Classics of the United States, Inc., 2006, 63-82.

³⁶⁸ *Ibid*, 73.

Randolph's view of society centered on the "humanism and civilized discourse" found in the British tradition.³⁶⁹ Randolph deeply admired Edmund Burke, English Whig parliamentary member, and the writers of the Augustan Age of English letters who "influenced his ideas of community and culture."³⁷⁰ In his commentary, speeches, and political solutions, Randolph referenced British legal patterns and rationale in how American statesmen should debate and oversee constitutional processes.

The Antifederal tradition formed distinct connections between a broadly understood social philosophy within the European tradition. International and geographic boundaries were surpassed as never before in the 19th century as key political figures, such as Burke, played significant roles in intellectual address and diplomatic policy before, during, and after the American Revolution. Like Antifederalists Patrick Henry and John Tyler Snr., Burke managed to witness shortly before his death the effects an independently sovereign republic would reflect onto her former master and inspiration: Europe. And like the second generation, comprising both Jeffersonians and Old Republicans, the lives of Jefferson, Madison, and Randolph operated alongside the aims of European republicans: the Marquis de Lafayette, Thaddeus Kosciuszko, Frédéric Bastiat, and Benjamin Constant chief among them. Committed republicans in their own right, each upheld the budding constitutional framework and ideology of their respective nation's republic and reformative aims.

Though the American experience seems notable in its apprehension of encroaching nationalism, according to historian Saul Cornell, this phenomenon is "unlike comparable

³⁶⁹ Adam L. Tate, *Liberty and Order in the Slave Society Conservatism and Southern Intellectuals, 1789-1861: Liberty, Tradition, and the Good Society*. Columbia, Missouri: University of Missouri Press, 2005.

³⁷⁰ Daniel McCarthy, "Liberty and Order in the Slave Society," *The American Conservative*. (August 1, 2005). Accessed March 25, 2018. <http://www.theamericanconservative.com/articles/liberty-and-order-in-the-slave-society/>.

traditions in European thought” when comparing the localism of left and right wing American political development to the trajectory of Europe toward socialism.³⁷¹ He suggests that American political “radicalism at both ends of the spectrum, therefore, shows a remarkable affinity for an Anti-Federalist conception of politics” due to an inclination for political change in America to come from local and voluntary methods of activism and public engagement.³⁷² Correct in his assessment, Cornell however dismisses the strong undercurrent of local republicanism that existed in Europe prior to America’s revolution and through which American conceptions of republicanism were founded upon. European parliamentary and constitutional precedents stretching from Greco-Roman customs, the medieval republican traditions of Great Britain, France, and Poland, as well as the rise of the 18th century’s ‘republic of letters’, each provided a basis for Americans to validate their independence. Similar to how the Enlightenment philosophes introduced a free exchange of publications, ideas, and social compact theories, American political theorists spurred on a challenge to the hierarchical model of the Old World.³⁷³ More specifically, American republicanism sparked a European reclamation of rights through associative, local, and representative means. Though the European form of republicanism would become eclipsed by the chaotic toppling of regimes, ambitious militaristic ventures, and statist intervention from the 1790s onward, European republicans would persist in applying the inherited Antifederal tradition through their attachment to constitutional rights, limited federalism, the right to publish and congregate in defense of civil liberties, and belief in the people’s ability to associate to achieve the common good.

³⁷¹ Saul Cornell, *The Other Founders: Anti-Federalists and the Dissenting Tradition in America, 1788–1828*. Chapel Hill: University of North Carolina Press, 1999, 305.

³⁷² Ibid.

³⁷³ Dena Goodman, “Governing the Republic of Letters: The Politics of Culture in the French Enlightenment.” *History of European Ideas*, 13. 3 (1991): 183–199.

Thoroughly, the application of republicanism would be tested with varying degrees of success and failure throughout the 1790s through to the 20th century. While some experiences immediately resulted in a dismantling of autocratic rule and institutionalized class divisions, most republican experiments, notably that of France and Poland, were latent in their development and ultimate victory. Despite internal turmoil, external meddling, and civic strife, the valiant insistence of assured representation for the individual and community would assist republican-minded politicians, authors, and revolutionaries to oppose grand national forms of power. Their firmly held beliefs in the equality and dignity of every human soul encouraged their efforts onward regardless of the coalitions mounted against their efforts, regardless of how republicans, particularly Lafayette and Kosciuszko, were politically, socially, and internationally abandoned in their quests, and regardless of the stinging humiliation endured by many once exalted faces of their revolutionary movements who came to suffer the loss of property, health, waning popularity, and lulled recognition by the time of their deaths. Although not appreciated nearly enough for their civil, ideological, and political contributions, 19th century European republicans ought to be re-evaluated as co-heirs with Antifederalists, Jeffersonians, and Old Republicans in their collective struggle to secure legal protections regarding the sacred dignity and liberty of all people for all generations.

The Marquis de Lafayette: “Disciple of the American School”

Sailing aboard the *Victoire* in 1777, the nineteen-year-old Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette, humbly volunteered his services to the Continental Army which would initiate a life-long devotion to the cause of liberty. The major-general fulfilled his loyalty to America, sacrificing his wealth, youth, and blood to the republic whose

“interests will always be dearer to me than my own.”³⁷⁴ After the victory at Yorktown, the celebrated war hero and diplomat determined to apply the republican sentiments he had absorbed from his beloved American brethren to his nation of France.

Describing the French aristocrat’s accolades to James Madison, Thomas Jefferson praised his military education, political connections, charisma, inborn genius, and how the social standing of the ‘Hero of Two Worlds’ was rising accordingly to his “appetite for popularity and fame.”³⁷⁵ As a member of the Assembly of Notables convening in 1787, Lafayette provided an enthusiastic voice sympathetic to the plight of the classes below his station. Many of the reforms Lafayette advocated were recommended to King Louis XVI; the most outstanding being the “creation of provincial assemblies, the humane revision of the penal code, and the restoration of civil rights to the Protestants” that won him rousing popularity as a delegate forwarding the betterment of the long-suffering Third Estate.³⁷⁶ In effect, Lafayette insisted that the problems affecting the Third Estate derived in part due to the precarious legal and political status induced by their mutual association. Throughout his life, Lafayette defended natural rights, worked to ease the oppression of religious and racial minorities, advocated for increased education and modernized state institutions, and championed the “principles of the American era,” and the “Decalogue of the free man.”³⁷⁷

Correspondence between Lafayette and Jefferson began as early as 1781, with a first letter expressing the young general's gratitude to serve the State of Virginia, his ardent zeal, and highest respects to then Governor Jefferson; forming a camaraderie which would last a

³⁷⁴ Brand Whitlock, *La Fayette, Vol. I*. New York: D. Appleton and Company, 1929, 48.

³⁷⁵ *Ibid*, 299.

³⁷⁶ *Ibid*, 310.

³⁷⁷ *Ibid*, 325.

lifetime.³⁷⁸ Though separated by circumstance and assigned positions, their friendship and democratic-republican inclinations deepened. While writing in 1784 to Jefferson stationed in France, who, having recently succeeded Benjamin Franklin as American Minister at Versailles, Lafayette shared Jefferson's views on the Constitutional Ratifying debates. Commenting on the proceedings, he prayed "God grant such a fœderative system may be fairly followed by all the states as will insure their eternal union, and of course their interior happiness, commercial wealth and national consequence!"³⁷⁹ Desiring that such a system and listing of civil rights could be incorporated in France while keeping the monarchy intact, Lafayette would later coordinate with Jefferson while the Virginian conducted foreign policy as Secretary of State. Together they used the American Declaration of Independence to inspire the structure of Lafayette's *Declaration of the Rights of Man and Citizen* (1789), believing the document would reconfirm America's republican experiment and serve as an adaptable model for other nations to follow.³⁸⁰ Despite the uncertainty of the coming decades, Lafayette predicted beyond his hopes that the constitutional efforts of the 1790s would be enough to have broken "the fetters, destroyed prejudices, and laid a good ground to be sowed by our successors, and cultivated by posterity."³⁸¹

However, Lafayette's influence crumbled during the French Revolution as Jacobin factions came to power and deemed the leader of the National Guard a royalist in his defense and protection of the monarchy. His bold speech against radical members of the Assembly in 1792

³⁷⁸ Julian P. Boyd, ed. "To Thomas Jefferson from Lafayette, 21 February 1781," in *The Papers of Thomas Jefferson, Vol. 4*. Princeton, Princeton University Press, 1951, 676. *Founders Online*, National Archives. Accessed April 12, 2018. <http://founders.archives.gov/documents/Jefferson/01-04-02-0864>.

³⁷⁹ Julian P. Boyd, ed. "To Thomas Jefferson from Lafayette, 11 October 1784" in *The Papers of Thomas Jefferson, Vol 7*. Princeton, Princeton University Press, 1953, 438-39.

³⁸⁰ "French Revolution" *Thomas Jefferson Encyclopedia*. Charlottesville, Virginia: Thomas Jefferson Foundation Inc. Accessed April 13, 2018. <https://www.monticello.org/site/research-and-collections/french-revolution>.

³⁸¹ Julian P. Boyd, ed. "To Thomas Jefferson from Lafayette, 7 June 1791" in *The Papers of Thomas Jefferson, Vol 20*. Princeton, Princeton University Press, 1982, 539-41.

did not receive the response he desired and the following attack on the Tuileries and warrant for his arrest a few short months later caused him to begin preparations to flee to America. At the mercy of uncontrollable and radically mobilized crowds, “when aspiring king-makers (or, rather, king-restorers) such as Lafayette in 1792 or Dumouriez in 1793 found themselves at odds with the regime in Paris, it was they who found themselves having to flee in exile.”³⁸² Caught by Austrian soldiers while crossing the border, he was detained as a prisoner of war at Olmütz. Freed in 1797 by General Napoleon Bonaparte as one of the conditions to the negotiations arranged through the Treaty of Campo Formio, Lafayette’s five-year sentence ended yet he was left without a country – forbidden to return to France yet unable to find sanctuary in America.³⁸³ Franco-American relations soured due to the economic instability and bankruptcy accrued by Louis XVI for aiding the United States during the American Revolution. The scenario took a drastic turn from the principles of 1789 as violence overtook the French Revolution. The embarrassing XYZ Affair (1797-1798), raiding by French privateers during the Quasi-War with France (1798-1800), and the chaos of the Napoleonic era further combined to estrange America from their first ally.

Lafayette’s reputation was not spared from this association. Washington, Hamilton, Jefferson, and other friends encouraged him to remain in France after his release from prison for the time being instead of visiting amidst tense public perception of the French that could damage the marquis’ standing further. After Bonaparte’s coup, Lafayette discreetly returned to France and agreed to live under house-arrest spent quietly on his family estate at La Grange. Not allowed to engage in politics and kept under close surveillance, he still hosted American tourists,

³⁸² T.C. Blanning, *The French Revolutionary Wars, 1787-1802*. New York, New York: St. Martin’s Press, 1996, 181.

³⁸³ George Morgan, *The True Lafayette*. Philadelphia, Pennsylvania: J.B. Lippincott Company, 1919, 403.

authors, and notable dignitaries while endeavoring to restore his civil liberties and to reenter public life. Though Bonaparte returned his citizenship in 1800 and bestowed upon the revolutionary advantageous political opportunities before and after his famed reign of a Hundred Days, Lafayette declined all favors, honors, and accommodations from an unelected ruler.³⁸⁴ Lafayette voted against Napoleon's Consulate for life, declined joining the Legion of Honor, and routinely reminded the First Consul that he could not support him until "public liberty has been sufficiently guaranteed" – a vitality perhaps learned from his Antifederal contacts when they too were determined to shield the government from potential tyranny.³⁸⁵ However, Lafayette would slowly return to politics after the Seventh Coalition's 1815 victory. France returned from a pendulum of Jacobin and Bonapartist extremes to a model that featured a constitutional monarchy through the Charter of 1814. Republican institutions ushered in during the Bourbon Restoration lasted until a surge of unrest in the 1830s.

For now, the proposed constitutional reforms of the 1790s, their lapse through the Terror, and resurgence after the age of Bonaparte mended Lafayette's standing and that of France. Visiting all American states in 1824 on a much-celebrated tour, Lafayette greeted adoring crowds, attended balls, visited prominent battlegrounds, honored the tombs of his deceased friends, and dined once again with James Madison, then Andrew Jackson, and a smattering of his American colleagues who still lived.³⁸⁶ His reunion with Jefferson at Monticello after thirty-five years of separation was one of the most memorable, presumably reminiscent of their time together, of their time apart, and of the republican vision they shared for the future of their

³⁸⁴ John Quincy Adams, *Eulogy on Lafayette*. New York: Craighead & Allen, 1835, 22-23.

³⁸⁵ Morgan, 406.

³⁸⁶ John Quincy Adams, *Eulogy on Lafayette*, 24-25.

republics.³⁸⁷ While his retirement was more subdued, Lafayette continued to assist his party by developing organizations, writing and presenting speeches, rallying in support of foreign attempts at republics, and gave appearances to support constitutional and representative directives that aligned with his political outlook. Near the end of his life, he spent his days compiling a record describing his unwavering commitment to republican principles from the age of the American Revolution to the troubling uprisings stirring once again in 1830s France. Fondly reflecting on the classical liberal ideals evoked during his philosophical awakening in the 1780s, Lafayette declared that it was “in the name of the United States, in the bosom of their national congress, that each of my European acts had been worthy of a disciple of the American school.”³⁸⁸

From the Third Republic onward, “Republican institutions in France incorporated compromise after compromise that lessened the revolutionary momentum against republicanism itself.”³⁸⁹ Wary of widespread radicalism reappearing, the shattered republican ideals of the early 1790s were partially restored under the guidance of conservative leaders elected to the National Assembly now that France operated on a larger and more inclusive federal level that had learned dire lessons from Jacobin fanaticism and censored Bonapartism. Conservative leaders alongside Lafayette insisted on the importance of political participation and representation conducted in a rational order.³⁹⁰ This new political culture appealed to those of diverse persuasions ready for a

³⁸⁷ Brand Whitlock, *La Fayette, Vol. II*. New York, New York: D. Appleton and Company, 1929, 240-262.

³⁸⁸ *Ibid*, 380.

³⁸⁹ Peggy Anne Phillips, *Republican France: Divided Loyalties*. Westport, Connecticut: Greenwood Press, 1993, 6.

³⁹⁰ See also K. Steven Vincent’s *Benjamin Constant and the Birth of French Liberalism*. New York, New York: Palgrave MacMillan, 2011.

For a deeper analysis of post-Napoleon French Liberalism, Benjamin Constant is an example of French republican theory as applied to this era. Additionally, his works and political ideas serve as a European connection to Antifederalist associational republicanism

return to stability. A new appreciation of the republican tradition was absorbed within the renovating political culture of France that would carry distinct ramifications far into the 19th and 20th centuries. This long-term result is “overlooked in the modernization interpretations, from Tocqueville to Skocpol, because they focus instead on state power” rather than at the generation of Frenchmen following the Revolution who “held out an ancient ideal of political participation and dignity in a new guise of democratic elections, broad-based responsibility, and organized political activity.”³⁹¹ Figures such as Frédéric Bastiat and Benjamin Constant arose to fill the ranks forming what would become known as the French Liberal School, proponents of laissez-faire capitalism and decentralization, and opponents to collectivist agendas and policies which restricted individual rights.³⁹²

Although the Marquis’s backing of Louis XVIII later proved disappointing, as the restored Bourbon agreed to conduct a constitutional monarchy that abided by the Charter, which provided a legislature, limited property suffrage, and promised to steer a middle course between the Revolution and the Ultras, supporters of the king’s brother, Philippe-Charles, Count of Artois, who wanted to restore absolutism, yet Louis XVIII was not able to fulfill this contract.³⁹³ In 1819 Lafayette sided with the *ventes*, became a head of the Paris Committee, and “worked with these associations” to oppose the “congregation” of ultra-royalists in an attempt to prevent the re-establishment of aristocratic conditions.³⁹⁴ As the arrangement unraveled after the 1820 assassination of Artois’ son and heir to the throne, the regime veered sharply against the liberals

³⁹¹ Lynn Hunt, *Politics, Culture, and Class in the French Revolution*. Berkley, California: University of California Press, 1984, 211-12.

³⁹² See also Frédéric Bastiat, *The Law*. Irvington, New York: The Foundation for Economic Education, Inc., 1853. Accessed May 21, 2018. bastiat.org/en/the_law.html.

³⁹³ See Jeremy D. Popkin, *A History of Modern France*, 4th Ed. New York, New York: Routledge, Taylor & Francis Group, 2016., 87-94.

³⁹⁴ Morgan, *The True Lafayette*, 416-419.

and Artois continued the course upon becoming King Charles X in 1824; a policy direction which left Lafayette floundering as the political landscape shifted contrarily from his initial reasons for supporting the monarch and his successors.³⁹⁵ The Ordinances of Charles X defied the Charter, suspended the freedom of press, annulled the election of Deputies, and altered the election process.³⁹⁶ Left without a king in 1830 upon Charles X's abdication after the July Revolution, the nation was on the verge of slipping back into turmoil before electing Louis Philippe I, Duke of Orleans, as monarch, with Lafayette's help, in order to defuse radical opposition.³⁹⁷ Lafayette compromised with the self-proclaimed republican principles of Louis Philippe I, who confided that he also shared Lafayette's affinity for the "American School" and a partiality "to the Constitution of the United States;" though unlike the American republic, both men believed France was still in need of a monarchy to guide the populace.³⁹⁸ Initially popular, the "Citizen King" was considered a friend to the bourgeoisie for restoring the tricolor national flag, accepting national sovereignty, lifting the Restoration's repression of the press, and for pursuing conservative policies.³⁹⁹ Louis Philippe I's policies saw developments but he was forced to abdicate in 1848 due to popular dissatisfaction, social unrest, and economic crises which emerged in the late 1840s. Critical to understanding his support, Lafayette was foremost concerned with the traditional, associational liberties of Frenchmen as understood in the 1780s-1790s rather than the development of radical or populist interpretations of individual or social rights emerging in the 1830s and 1840s. Though criticized for not fighting the "Bourbons as hard as he fought Bonaparte," Lafayette was understandably "so occupied with getting rid of one evil

³⁹⁵ See also G. De Bertier De Sauvigny's "The Bourbon Restoration: One Century of French Historiography." *French Historical Studies* 12, no. 1 (1981): 41-67.

³⁹⁶ John Quincy Adams, *Eulogy on Lafayette*, 25-26.

³⁹⁷ Popkin, 94.

³⁹⁸ Adams, *Eulogy*, 27.

³⁹⁹ Popkin, 95.

that he did not have time to fight off another.”⁴⁰⁰ Perhaps he came to see that an obsession with abstract individual liberties and collectivist equality proved too fanatical and detrimental to France’s republican experimentation than did his dedication to constitutional monarchy.

Regardless of waning popularity, in *Eulogy*, John Quincy Adams recalled Lafayette’s role through the National Assembly, the French Revolution, and as a Deputy in the Legislative Assembly, lauding how he remained a “supporter of liberal principles and of constitutional freedom” all his life.⁴⁰¹ Having lost influence with Louis Philippe I and the French public, Lafayette still operated as a “model deputy – rarely absent, always attentive. He was a member of many associations and was much sought after by those who needed the weight of his name in carrying through some scheme for the public benefit.”⁴⁰² Despite the incongruity and uncertainty of national politics, Lafayette “alone is seen to preserve his fidelity to the King, to the Constitution, and to his country.”⁴⁰³ However, it is in Adams’s immortalization of the marquis’s importance, not only to America and France, but “in Spain, in Portugal, in Italy, and above all, in Poland,” that he receives the highest praise; having faithfully served the cause of liberty “to the last hour of his life,” Lafayette ever remained “a never-failing friend and patron” whom the “trump of the Archangel will announce” as one of the “pure and disinterested benefactors of mankind.”⁴⁰⁴ Altogether, despite setbacks of the prompt application of liberty, many advancements were accomplished during the 1810s-1820s that mirrored the strides of Jeffersonian Republicans through the efforts of Lafayette and his republican associates.

⁴⁰⁰ Morgan, *The True Lafayette*, 416.

⁴⁰¹ Adams, *Eulogy*, 27.

⁴⁰² Morgan, 468-469.

⁴⁰³ Adams, 20.

⁴⁰⁴ *Ibid*, 27-28.

Thaddeus Kosciuszko: “Purest Son of Liberty”

Similar to Lafayette in many ways, aristocratic Andrzej Tadeusz Bonawentura Kościuszko passionately fought for peasants, Native Americans, women, the enslaved, the illiterate, and other disadvantaged members of society. The Polish- Lithuanian nobleman and military engineer trained at the royal academies of Warsaw and Paris then arrived in America in 1776 as a volunteer. He gained a recommendation from Benjamin Franklin and a position as a colonel in the Continental Army before becoming the Chief Engineer of the Southern Theater. Many Poles, dissatisfied and disappointed with the dissolution of their homeland in 1772, saw similar republican motifs in the colonies and came to fight alongside Americans in their struggle. Casimir Pulaski, the famed Polish military commander who became the “father of the American cavalry,” like Kosciuszko, provided substantial support for the American cause, without whose devotion and heroic acts, the Revolution may have turned out quite differently. The foreigner’s skills in fortifying Fort Ticonderoga, West Point, Saratoga, and even the ill-fated siege on Ninety-Six, in tandem with his ability to elude the British Army, engineer the successful Crossing of the Dan, and the finesse of his architectural designs and military fortifications, proved the engineer’s competency and vitality to the Northern and Southern campaigns. Reputably entering the Order of Cincinnati and observing the benefits of republicanism firsthand, the glory achieved through the War for Independence beckoned the Polish hero to deliver his native state from the protectorate of foreign powers.

Poland’s history is fraught with dissolution and external infringement of their national sovereignty. In the *Annual Register for 1772* published in July 1773 during the American Revolution, English Parliamentary Member Burke condemned the First Partition of Poland. Burke saw it as “the first very great breach in the modern political system of Europe” and believed it would upset the balance of power on the continent, unlike Prussia’s Frederick the

Great, who lead the initiative on the basis that dissolving the Polish-Lithuanian Commonwealth would tranquilize further division.⁴⁰⁵ Frederick would later come alongside Empress Catherine II the Great of Russia in betraying its alliance with Poland during the Polish-Russian War of 1792. This would lead to the Second Partition and a growing resistance movement of reformers inspired by the American and French Revolutions who desired a return to their long-established constitutional framework.⁴⁰⁶ Dismayed by King Stanisław August Poniatowski's surrender to Russia's terms of a Second Partition, Kosciuszko resigned his post, citing tearfully despite the king's appeal for him to stay that he could no longer remain in a nation "contrary to my original oath and internal convictions."⁴⁰⁷

Relocating as an émigré in Leipzig, Kosciuszko concocted preparations with other revolutionaries to take back Poland. Resting on the tradition of "Golden Liberty," the conservative nobility of Poland believed in a Commonwealth of Democracy that extended to the medieval republican monarchy established in the 16th century. Due to the bicameral Sejm that emerged in the 1490s that exhibited a strong show of regional and local influence, the added Nihil Novi Act (1505), King Henry's Articles (1573), and the Warsaw Confederation Act of 1573 enabled equality amongst nobles. They participated in free elections and enjoyed the protection of a bill of rights that assured political and religious tolerance by a constitutional monarchy that functioned as a confederal republic.⁴⁰⁸ Decentralized in an age of absolutism, the

⁴⁰⁵ Brendan Simms, *Three Victories and a Defeat. The Rise and Fall of the First British Empire, 1714–1783*. Allen Lane, 2007, 569–71.

⁴⁰⁶ Jerzy Lukowski and W. H. Zawadzki, *A Concise History of Poland*. Cambridge: Cambridge University Press, 2001, 101-103.

⁴⁰⁷ James S. Pula, *Thaddeus Kosciuszko: The Purest Son of Liberty*. New York, New York: Hippocrene Books, Inc., 1999, 220.

⁴⁰⁸ Norman Davies, *God's Playground. A History of Poland, Vol. 1: The Origins to 1795*. Oxford: Oxford University Press, 1982. 201;321; Jerzy Lukowski, *Disorderly Liberty: The Political Culture of the Polish-Lithuanian Commonwealth in the Eighteenth Century*. New York, New York: Continuum US, 2010, 2.

experience of democratic-representation in Poland bore a long-lasting republican tradition that became further solidified in the new constitution established on May 3, 1791. Adopted two months before France's constitution, the Polish Constitution of the 3rd of May became the first codified constitution in Europe and the world's second oldest national constitution following the American example.⁴⁰⁹ The document presided over the elective monarchy system by separating the monarchy's powers through the reinforcement of judicial tribunals and a stronger parliament. Burke praised it as “the noblest benefit received by any nation at any time” and through his *Reflections on the Revolution in France* he “expressed a very flattering and perhaps even too optimistic opinion” of the Polish constitution contrasted with that of France.⁴¹⁰ The difference Burke perceived between the two attempts at republicanism was that in place of Jacobinism, the Polish constitution “contained seeds of continuous improvement, being built on the same principles which make our British constitution so excellent.”⁴¹¹ Furthermore, this document guaranteed freedom of religion, private property, and equal protection under the law for all subjects – radically advanced compared to Russia, the British Empire, and the United States that still entertained serfdom and slavery.⁴¹²

Though many privileges remained limited to the nobility, by the 19th century Poles desired a return to their constitutional foundation and by March of 1794, the Kościuszko Uprising erupted in a show of solidarity between aristocrat and serf alike in their mutual national

⁴⁰⁹ Miltiades Varvounis, "Hugo Kollataj: Polish Enlightenment Shapes the Modern World" in *Made in Poland: The Women and Men Who Changed the World*. Xlibris Corporation, 2016. Online. Accessed April 25, 2018.

⁴¹⁰ W. F. Reddaway, J. H. Penson, R. and Dyboski, O. Halecki, *The Cambridge History of Poland: From Augustus II to Pilsudski (1697-1935)*. Cambridge: Cambridge University Press, 1941, 135.

⁴¹¹ Ibid.

⁴¹² Pula, 216-217.

patriotism. “If one man could redeem the nation it was Kosciuszko.”⁴¹³ Journeying to Paris in January of 1793, he professed the warm sympathy of Poland for the French Revolution, their shared republican ideals, and the willingness of his people to assist them in their struggle. While his proposals were welcomed by French diplomats, within the same year, the “outbreak of war with England and the invasion of France by the Allies, ended all chance of aid to Poland.”⁴¹⁴ Having received only hollow support from France as an emissary, after being appointed Commander-in-Chief and Supreme Commander of the National Armed Forces, Kosciuszko delivered the Act of Insurrection; an “equivalent of the American Declaration of Independence or the French Declaration of the Rights of Man,” rallying all to unite under the slogan of “Liberty, Integrity, Independence.”⁴¹⁵ Following in Washington and Lafayette’s example of Cicero, Kosciuszko functioned as a temporary dictator during the crisis. However, he resolutely swore that he would gladly “throw away my sword in the Diet Chamber, with no personal ambition” and live out the remainder of his days quietly tending to his property.⁴¹⁶ The revolutionizing standard that Kosciuszko raised in the national liberation manifesto delivered in 1794 at Krakow vibrantly rang with Antifederalist purposes. Reminiscent of the language used by American patriots pursuing their independence, Kosciuszko declared “the great and sublime object of our rising is to liberate Poland from foreign troops, to restore the integrity of our frontiers and to secure them, to destroy all foreign and native oppression and usurpation and to establish national liberty with the independence of the republic.”⁴¹⁷ His “Manifesto of Polaniec” abolished serfdom, afforded protection to peasants, and promised economic revisions. Yet full

⁴¹³ Will Durant and Ariel Durant, “VI. Dismemberment: 1792-95” in *Rousseau and Revolution: The Story of Civilization, Volume X*. Simon and Schuster, June 7, 2011. Online. Accessed April 23, 2018.

⁴¹⁴ Ibid.

⁴¹⁵ Pula, 224.

⁴¹⁶ Ibid, 225.

⁴¹⁷ T.C. Blanning, *The French Revolutionary Wars, 1787-1802*, 132.

emancipation could not be implemented immediately due to discontented nobles nor could a mass, mobilizing army of citizen-soldiers be gathered swift enough.⁴¹⁸ Although the Kościuszko Uprising saw initial military successes against the conjoined efforts of Russia and Prussia, the two-front war against the far-outnumbered and unsupplied insurgents capitulated into defeat after the capture of Kosciuszko in the Battle of Maciejowice, the massacre at Warsaw, and final surrender to the partitioning powers on January 1795.⁴¹⁹

While only lasting a year, the uprising concluded in the Third Partition of Poland and Kosciuszko's capture and two-year imprisonment before Catherine II's son, Emperor Paul I, released him in 1797. Returning to recover from his injuries in Philadelphia, Kosciuszko spent his days drawing, drafting correspondence, and observing international policy from his bedroom all the while beseeching "Providence for a stable, free, and good government in Poland, for the independence of our nation, for virtuous, enlightened, and free inhabitants therein."⁴²⁰ His long association with Jefferson deepened his political leaning, siding with the Jeffersonian Republican congregation who shared his support for the French while he distantly regarded the Federalists and the English for their support of Russia during the debacle. Having been conferred French citizenship in 1792, Kosciuszko ventured forth to Paris in 1798 yet again in the vain hopes of restoring Poland.⁴²¹ While there, the acquaintanceship he had with Lafayette during the American Revolution blossomed into a deep friendship as they attempted to institute republican measures despite their dip in political influence and lack of funding.⁴²² Detouring from the

⁴¹⁸ Ibid, 133.

⁴¹⁹ Ibid.

⁴²⁰ Pula, 220.

⁴²¹ Erick Trickey, "The Polish Patriot who Helped Americans Beat the British." *Smithsonian*, March 8, 2017. Accessed March 2, 2018. <https://www.smithsonianmag.com/history/polish-patriot-who-helped-americans-beat-british-180962430/>.

⁴²² Ibid.

subject of politics, Kosciuszko wondered at the process of America's republic and hoped it would last much longer than the attempts of his European confidants. Writing to Jefferson while in Paris in 1812, Kosciuszko advised him to instill republican sentiments through education so that the "greatest defenders of your country and the support of the republican government" will not be overrun by "foreign trade and opulence" or by those predisposed to monarchical forms of government.⁴²³ Echoing the Antifederal emphasis for virtue, education, and the morality of a nation's citizenry, Kosciuszko reminded his American friend he called "my dear Aristid" of the value that classical education and "the greatness of the soul" can produce, if done correctly, possibly "as many Heroes as Greece and wiser than Rome."⁴²⁴

Though desperate for aid, Kosciuszko took the counsel of close associates and well-informed political figures such as Jefferson and Lafayette. Wisely perceiving that the offer of liberation proposed by Napoleon amounted to a ruse, Kosciuszko politely declined the emperor's support and refused to send additional troops to further the emperor's conquests. Despite Lafayette's efforts to mount aid to other republics, he "realized that there would be no intervention in favor of Poles or Italians or others struggling for liberty."⁴²⁵ After the French had gotten their desires and established a functioning republic for themselves, they felt relieved and free to allow "Cossacks to slit the throats of Polish patriots as much as they pleased."⁴²⁶ Mournfully, Kosciuszko accounted the false assurances of Emperor Alexander to Jefferson in 1816, revealing how he was promised a "liberal, independent, constitutional government, even

⁴²³ J. Jefferson Looney, ed. "Tadeusz Kosciuszko to Thomas Jefferson, 1 February 1812," in *The Papers of Thomas Jefferson, Retirement Series, vol. 4, 18 June 1811 to 30 April 1812*. Princeton, Princeton University Press, 2007, 468-470.

⁴²⁴ Ibid, 468-470.

⁴²⁵ Brand Whitlock, *La Fayette, Vol. II*. New York, New York: D. Appleton and Company, 1929, 378.

⁴²⁶ Ibid, 379.

the emancipation of our miserable peasants and making them owners of the lands they occupy. For this alone he would become immortal, but it all vanished in smoke.”⁴²⁷ Secluded in Solothurn, Switzerland, he watched helplessly as the allied powers continued to carve up smaller European states. In 1830, Lafayette considered joining a growing Polish insurgency who had elected him a member of the Polish National Guard yet the infirmity of his age and weak political influence deterred him. Devoid of international aid, Kosciuszko officially retired to Switzerland where the abolitionist reformer continued to strive for the better treatment of all citizens, leaving his will and life’s testimony as a beacon of liberty heralding the national freedom from suppression he could not witness.⁴²⁸

The solidarity of Poland to the Constitution of May 3rd and recent celebration of the 200th anniversary of Kosciuszko’s death honors his attempts to influence humanitarian concerns within his homeland that would not see restoration until after the Second World War. His correspondence with Jefferson, Lafayette, and other Jeffersonian Republicans uniquely binds the Antifederal tradition to that of the republicanism of Europe during the early 19th century. Likewise, Kosciuszko embodies the republican ideals that the Founding Fathers advocated. British-Polish historian Norman Davies propositions Poland as a kindred spirit, "if not a direct ancestor" to America's republic due to the standards the Polish nobility fostered: the "right of resistance, the social contract, the liberty of the individual, the principle of government by consent, and the value of self-reliance," so praised as rugged yeomanry in the American

⁴²⁷ J. Jefferson Looney, ed., “Tadeusz Kosciuszko to Thomas Jefferson, April 1816” in *The Papers of Thomas Jefferson, Retirement Series, Vol. 9, September 1815 to April 1816*. Princeton: Princeton University Press, 2012, 714–716.

⁴²⁸ See Pula, 290-299.
Kosciuszko’s 1798 will intended provisions to free, educate, and care for slaves in Jefferson’s possession yet the document met legal complications and was never executed. Arguably, “had Virginia established schools and named them in Kosciuszko’s memory, Virginia would have remembered him forever.”

conception of individual sufficiency from the state.⁴²⁹ While the constitution and the Kościuszko Uprising briefly existed before the partition of 1795 ended the sovereignty of the Polish state for 123 years, the republican framework that had been instituted would continually be looked to as a source of inspiration and validation for Poles throughout the 19th century. Roger Scruton applauded the resistance of Poland, having been “many times invaded, thrice partitioned and continuously oppressed. Yet it has never accepted the right of foreigners to dictate its law, to suppress its religion or to control its borders. It is a nation conscious of its identity, which has lived on as an idea.”⁴³⁰ Reflection on the development of republicanism in Poland and its deep legacy and connection to America is essential to better understand the motives of Poles like the “purest son of liberty” whose actions and dialogue with those striving to erect republics after the American model in Europe during the 1800s-1830s holds contemporary merit.

Associationalism

Associationalism, an ethos derived from 19th and 20th century political theories, embraces the community over the individual, believing that “freedom can only be pursued effectively if individuals join with their fellows.”⁴³¹ At odds with plural communitarianism, socialism, and expanded statism, associationism provides an alternative to strict bureaucracies and the abuses of big government. Associationalism can be seen as a confederation committed to public service and collective interests which “empower those for whom services are

⁴²⁹ Norman Davies, *God's Playground. A History of Poland, Vol. 1: The Origins to 1795*. Oxford: Oxford University Press, 1982, 282.

⁴³⁰ Roger Scruton, “June 11 Speech, 1963, Poland.” *Roger Scruton*. Accessed May 3, 2018. <https://www.rogerscruton.com/articles/29-sir-rogers-speech-11-june-poland>.

⁴³¹ Paul Q. Hirst, *Associative Democracy: New Forms of Economic and Social Governance*. Cambridge, United Kingdom: Polity Press, 1994, 112.

provided.”⁴³² Citizens are given a voice and a contributing role in the outcome of decisions. Such a system provides an incentive to labor, profit, provide, and engage in the welfare of the nation instead of the state channeling the lethargic dependency or apathy of the public. In conjunction to this, Paul Q. Hirst (1946 - 2003), British sociologist and political theorist, outlines that nation-states are most effective in their distribution of resources on national, regional, and local levels when they increase regional autonomy. Here, regions are enabled to self-manage and promote their own interests, which in turn, benefits the entire region, state, and nation as a whole. Furthermore, Hirst suggests that states are most effectual when modeling as “constitutional architects of decentralization” that maintain a sense of federalism; a verdict in line with the concept of federalism as the Founders understood it.⁴³³ Likewise, associations are comprised of local organizations that self-govern and function as small democracies within a larger political process.⁴³⁴ If given the opportunity, they can maintain liberty by representing public and societal interests on a reciprocal level that shares a “common outlook and a common purpose” while organizing together against exploitations.⁴³⁵ The Philadelphia Ladies Association (1780) is an early American example of how women specifically participated in organized and voluntary collectives during the War for Independence. Through their membership, displays of domestic feminine virtue, fundraising efforts, and “correspondence with different States, [they] had extended the patriotic ardour” and “encouraged other women to participate in the crafting of

⁴³² Hirst, *Associative Democracy*, 6.

⁴³³ *Ibid*, 118.

⁴³⁴ Eldson, K.T., John Reynolds, and Susan Stewart, *Voluntary Organizations: Citizenship, Learning and Change*. Leicester, United Kingdom: National Institute of Adult Continuing Education, 1995, 39.

Associations were coined as “small democracies” by Konrad Elsdon in his 1995 study of British local voluntary organizations.

⁴³⁵ Ministry of Reconstruction, *Report of the Adult Education Committee of the Ministry of Reconstruction* (1919). London, United Kingdom: HMSO, 1956, 158.

voluntary associations.”⁴³⁶ Such political formations were alive and commonplace throughout the republic as associations crossed barriers of class and gender to achieve unity. While subtle and often overlooked, the victory achieved through the American Revolution ultimately “depended upon the degree to which people could engage in the practices of good neighboring” in wake of “factionalism, economic unrest, and political partisanship [which] threatened the viability of this coalition.”⁴³⁷ As Emily Arendt writes, “acts of affiliation, based in local social networks created a sense of commonality...convincing people to fight the war, to sacrifice for the greater good, and to become members of a national community by first being members of the local community.”⁴³⁸ Localism paved the way for America’s nationhood through individual commitment to achieving common goals.

However, the academic theory of associationalism is sparse, on par with the lack of notoriety Antifederalists and republican figures often academically receive. As a professor of Social Theory at Birkbeck, University of London, Hirst first became known as one of the founding proponents of British Althusserianism in the 1970s, deriving hypotheses from the concepts of French Marxist philosopher Louis Althusser, before transitioning to the works of Foucault. His explorations in *Law, Socialism and Democracy* (1986) and *Representative Democracy and its Limits* (1990) eventually transported his discoveries to the Pluralist State concept as espoused by other British pluralist scholars, such as Neville Figgis, G.D.H. Cole, and Harold Laski.⁴³⁹ In *Associative Democracy* (1993) and *From Statism to Pluralism* (1997), Hirst continued to fashion a theory that he called “associative democracy” which critiqued the limits of

⁴³⁶ Emily J. Arendt, “‘Ladies Going about for Money’: Female Voluntary Associations and Civic Consciousness in the American Revolution.” *Journal of the Early Republic* 34, no. 2 (2014): 180.

⁴³⁷ *Ibid*, 184.

⁴³⁸ *Ibid*.

⁴³⁹ Paul Q. Hirst, *Law, Socialism and Democracy*. London: Harper Collins, 1986; *Representative Democracy and its Limits*. Cambridge: Polity, 1990.

representative government while jointly emphasizing the need for institutional frameworks to feature increased political accountability while retaining public funding, regional interests, and self-governing voluntary associations.⁴⁴⁰ Upon reviewing Hirst's *Law, Socialism, and Democracy*, Norman Rosenberg hints how underlying Hirst's view on Marxist jurisprudence lies a “tilt more toward the liberal tradition of legal constitutionalism” and the document even witnesses Hirst’s encouragement for socialists to “heed liberal ideals, especially those of a political democracy grounded upon freedom of discussion, and the rule of law, and of a commitment to ‘effective pluralism.’”⁴⁴¹ Altogether, Hirst’s extensive works and his version of associationalism, while not fully congruent with associational republicanism, nonetheless spearheaded the chartering of a middle way between socialism and neoliberalism which rests upon localized, democratic origins and the non-compulsory partnership of public and private entities. While an exemplar of associationalism scholarship, there is ample room to apply Hirst’s interpretations to the Antifederalists, and more broadly to the 18th Century. Irrefutably, however, further distinctions ought to be made between Hirst’s proposals and to a form of association that more closely aligns with the theoretic structure of republican associationalism as the Founders likely understood it.

The reason for this clear distinction is largely because terminology related to associative voluntarism is often overwhelmingly encroached in socialistic theories focused primarily on the class consciousness of the proletariat. Hostile to capitalism, the local state, and private property, there is an evident discontinuity between collectivist communitarianism in the socialistic, anarchistic, or communist view compared to the voluntary collectivism of republican

⁴⁴⁰ Paul Q. Hirst, *Associative Democracy*. Cambridge: Polity, 1994; *From Statism to Pluralism*. London: UCL Press, 1997.

⁴⁴¹ Norman Rosenberg, Review of “Law, Socialism and Democracy by Paul Q. Hirst.” *Science & Society* 53, no. 1 (1989): 106.

associationalism. For instance, Libertarian Murray Rothbard correctly noted in an unpublished essay that anarchism “arose in the 19th century, and since then the most active and dominant anarchist doctrine has been that of ‘anarchist communism.’ This is an apt term for a doctrine which has also been called ‘collectivist anarchism,’ ‘anarcho-syndicalism,’ and ‘libertarian communism.’”⁴⁴² He termed these related doctrines as “left-wing anarchism” [that] “hates capitalism and private property with perhaps even more fervor than does the socialist or Communist.”⁴⁴³ Georges Sorel, a 20th century French revolutionary syndicalist, commented in *Reflections on Violence* (1908) on how there were various efforts throughout the 19th century to “free socialism from ‘the prestige of the French Revolution,’ and ‘to efface the Robespierrean tradition.’”⁴⁴⁴ Sorel wagered that “the first such attempt had been utopian socialism.”⁴⁴⁵

An emblem of Rothbard’s assessment and Sorel’s observation exists in French socialist Pierre Joseph Proudhon. Following an anarchist bent, Proudhon, writing *System of Economic Contradictions* in 1849, interpreted the social contract as inclusive of a voluntarist and interdependent approach that saw free associations as a means through which the “collective force (*force collective*), ‘collective reason’ (*raison collective*), and ‘collective conscience’ (*conscience collective*)” could channel social harmony “through the intimate, coordinated solidarity of all its members.”⁴⁴⁶ Though initially appealing, as Proudhon “looked forward to voluntarism as the final form of society,” in the end, his associative hopes beheld socialism as

⁴⁴² Murray N. Rothbard, “Are Libertarians ‘Anarchists’?” *Lew Rockwell/Murray Rothbard Archives*, 1950, unpublished. Accessed April 20, 2018. <https://www.lewrockwell.com/1970/01/murray-n-rothbard/are-libertarians-anarchists/>.

⁴⁴³ *Ibid.*

⁴⁴⁴ Jeremy Jennings, *Revolution and the Republic: A History of Political Thought in France Since the Eighteenth Century*. New York, New York: Oxford University Press, 2011, 429.

⁴⁴⁵ *Ibid.*

⁴⁴⁶ Aaron Nolan, “Pierre Joseph Proudhon: Socialist as Social Scientist.” *American Journal of Economics and Sociology*, Vol. 26, no. 3 (1967): 319.

the arbiter of his ideal voluntary arrangement.⁴⁴⁷ Furthermore, Proudhon decidedly clarified his position by outlining that the social contract of which he speaks “has nothing in common with the contract of association by which the contracting party gives up a portion of his liberty, and submits to an annoying obligation in the more or less well-founded hope of a benefit.”⁴⁴⁸

Proudhon repudiated the Antifederalist and republican notion of social obligation as being in harmony with individual liberty. While republican conceptions of liberty self-impose limitations to one’s individual rights to perform one’s civil duty, maintain peace, or to uphold the distinct rights of other members of the republic, Proudhon goes as far as to say that this form of association is antagonistic; that this connection and understanding of mutual reciprocity is non-essential to the well-being of the community and state at large.⁴⁴⁹ Despite this disparity, Proudhon’s premise for voluntary associations shares a unique connection with a few Antifederalist positions, namely concerns for local representation and surprisingly, though brief, a shared appeal for authentic federal republicanism can be seen in his writings after the 1840 revolutions in France. Publishing a *General Idea of the Revolution in the Nineteenth Century* in 1851, Proudhon criticized the French Constituent Assembly for not protecting the right for each locality to “rule, administer, judge, and govern itself; to [be treated] as *Federalists*,” and admonished the government to support “all who speak in favor of liberty and local sovereignty.”⁴⁵⁰ He suggested that the “true spirit of the French Revolution” had been proven to

⁴⁴⁷ Henry Bryan Binns, *A Life of Walt Whitman*. New York, New York: Haskell House Publishers Ltd., 1969, 309.

⁴⁴⁸ Pierre-Joseph Proudhon, “Fourth Study: The Principle of Authority” in *General Idea of the Revolution in the Nineteenth Century (1851)*. New York, New York: Dover Publications, 2004, 1.44-1.48. Accessed May 20, 2018. <http://fair-use.org/p-j-proudhon/general-idea-of-the-revolution/the-principle-of-authority>.

⁴⁴⁹ Ibid, 1.44-1.48.

⁴⁵⁰ Pierre-Joseph Proudhon, “Seventh Study: Absorption of Government by the Economic Organism” in *General Idea of the Revolution in the Nineteenth Century (1851)*. New York, New York:

be false and that instead of coming closer toward reaching the ideals of 1789, that France had returned to despotism.⁴⁵¹ Many of his allegations in this passage are admirable and as formerly stated, share a basis with the insights and apprehensions of Antifederalists towards the consolidation of power; yet Proudhon sought a radically different political solution than what Antifederalists and their republican successors pursued.

Indeed, Proudhon's conception of federalism stood at odds with the conservative Antifederalist tradition. While vying for similar sounding propositions, Proudhon conceived society as made up of small units that "associated in communes" or as a "company of workers" which would form into a federation operated by a limited central authority that ensured free property, trade, and labor.⁴⁵² However, this system of pluralistic socialism would be determined largely by economic centralization and collective consent rather than through legal channels, capitalistic values, or through the reliance of associational republicanism on the foundation of mutual reciprocity functioning through an interdependent individual collaboration not constrained purely to the bonds of labor.⁴⁵³ Though known to have equated communism to "oppression and slavery," Proudhon's perception of free associations is limited to the realm of productivity and the equivalence of exchange in goods and services.⁴⁵⁴ The utopian and anarchistic vision of Proudhon, while abstract, ineffectual, and quickly swallowed up by the

Dover Publications, 2004, 4.37. Accessed May 20, 2018. <http://fair-use.org/p-j-proudhon/general-idea-of-the-revolution/absorption-of-government-by-the-economic-organism#s1>.

⁴⁵¹ Ibid, 4.37.

⁴⁵² Pierre-Joseph Proudhon, "Sixth Study: Organization of Economic Forces" in *General Idea of the Revolution in the Nineteenth Century (1851)*. New York, New York: Dover Publications, 2004: 3.3-3.8. Accessed June 2018. <http://fair-use.org/p-j-proudhon/general-idea-of-the-revolution/organization-of-economic-forces#s3p6>.; See also Monalisa M. "Pierre-Joseph Proudhon: Bio, Life and Political Ideas." *Political Science*. Accessed June 2018. www.politicalsciencenotes.com/political-thinkers/pierre-joseph-proudhon-bio-life-and-political-ideas/1201.

⁴⁵³ Proudhon, "Seventh Study," 1.59.

⁴⁵⁴ Proudhon, "Sixth Study," 3.6, 3.11.

appeal of Utopian scholars, notably Charles Fourier, Robert Owen, and Saint-Simon, yet exists as an alternative to Marxian influence.⁴⁵⁵ Despite how fundamental Proudhon's ideas of voluntary collectivism have slipped under the mantel of mutualist socialism and collective-anarchism, his conceptualization of a society midway between communism and capitalism has been praised, notably by 19th century individualist anarchist Benjamin R. Tucker who called Proudhon a “superior theorist” than Marx and “the real champion of freedom.”⁴⁵⁶ Tucker, the main proponent of “unterrified Jeffersonianism” and being a Mutualist himself, stated that “Marx would nationalize the productive and distributive forces; Proudhon would individualize and associate them.”⁴⁵⁷ Although credited as a forerunner of economic decentralization in addition to libertarian and anarchistic political theory, Proudhon’s socioeconomic restructuring stagnated as an unrealistic fantasy. His ideas were impractical to implement in part due to Proudhon’s opposition of large-scale industrialization, unrestrained capitalism, the banking system, and invasive administrative intervention. While Proudhon’s version of social mutualism remains separate and dichotomous to associational republicanism, which values private property ownership, free trade, and the willing acceptance of societal obligations that temper individual liberty to the well-being of the community, both models agree that the social order should be based on the principle of associative voluntarism despite arriving at vastly different conclusions.

Drawing from the trajectory of “Aristotle and Hegel, rather than Marx, Rousseau, or Nietzsche,” associational republicanism, or communitarianism in the classical liberal comprehension, acknowledges individual liberty while emphasizing the necessity of the

⁴⁵⁵ Proudhon, “Sixth Study,” 2.2.

⁴⁵⁶ Sheldon Richman, “Libertarian Left: Free-market Anti-Capitalism, the Unknown Ideal.” *The American Conservative*, February 3, 2011. Accessed May 7, 2018. www.theamericanconservative.com/articles/libertarian-left/.

⁴⁵⁷ Ibid; See also Benjamin R. Tucker’s *Individual Liberty*, C. L. S., ed. New York, New York: Vanguard Press, 1886.

community – “the recognition that we are a people bound by shared values, meanings, traditions, purposes, and obligations.”⁴⁵⁸ And according to the Hayekian perspective on communitarianism, while socially imposed conceptions of “the common good” can foster “detrimental results, classical liberal communitarianism suggests that the “reconciliation of individuality and community, of creative exploration and social stability, of individual rights and common good, does lie within our grasp.”⁴⁵⁹ Empirical evidence demonstrates a clear relationship between the benefits of associations and individual growth, as they assist in “forging relationships and undertaking tasks, belief in oneself and in one's potential as a human being and an agent, [and the] ability to learn and change” in pursuit of the collective aims of the association.⁴⁶⁰

A more recently famous example of associationism in application appears in the 1985 work of W.S. Toynbee in relation to adult education.⁴⁶¹ Through an assessment of France's long tradition of *la vie associative*, Toynbee found that associations fundamentally distinguished the immense scope of influence associations possess on a local, informal level in addition to the “effect which this can have both on the life of the individual and on the life of a village, town, region, or country.”⁴⁶² Toynbee’s observations and educational settlement facilitates the spirit of associations at its core, through fostering “every helpful form of association, from neighborhood

⁴⁵⁸ Linda C. Raeder, “Liberalism and the Common Good: A Hayekian Perspective on Communitarianism.” *The Independent Review*, v. II, no. 4. Spring 1998: 520.

⁴⁵⁹ *Ibid*, 534.

⁴⁶⁰ Eldson, 47; See also Robert Smith’s “Developing and Animating Enterprising Individuals and Communities: A Case Study from Rural Aberdeenshire, Scotland.” *Journal of Enterprising Communities: People and Places in the Global Economy*, Vol. 6 Issue: 1, (2012): 57-83.

For an example of modern communitarian scholarship or evaluation, consider Robert Smith's 2012 case study conducted in Scotland featuring “bottom up,” community-based entrepreneurship.

⁴⁶¹ M. K. Smith, “Association, La vie Associative and Lifelong Learning.” *The Encyclopedia of Informal Education* (2000). Accessed April 5, 2018. www.infed.org/mobi/association-la-vie-associative-and-lifelong-learning.

⁴⁶² W. S. Toynbee, *Adult Education and the Voluntary Associations in France*. Nottingham, United Kingdom: University of Nottingham Department of Adult Education, 1985, 33.

improvement groups to labor unions, that would strengthen their tendencies toward co-operation and mutual tolerance.”⁴⁶³ Voluntary associations became an increasingly popular topic for social analysis, even forming into a trend in the 1990s. Multiple publications and considerations of voluntarism appeared to discuss issues of civil engagement, taxation, charitable initiatives, other such displays of collaborative involvement, and the effect associations can have on the private and public sector.⁴⁶⁴ These considerations cite how vital the concept of voluntary associations were in the development of “sociology, anthropology, and political theory” for thinkers ranging from “de Tocqueville, Durkheim, Simmel, Tonnies, J.S. Mill to Kornhauser, Almond, and Verba, Geertz, and Putnam” who valued the ability for individuals, despite their differences, to

⁴⁶³ Mina Carson, *Settlement Folk. Social Thought and the American Settlement Movement, 1885 – 1930*. Chicago, Illinois: University of Chicago Press, 1990, 118.

⁴⁶⁴ See also Elliot Fratkin’s “Pastoralism: Governance and Development Issues.” *Annual Review of Anthropology*, 26 (1997): 235–261.

An expanded analysis of contemporary pastoralism, discussions on the “tragedy of the commons,” and decollectivization on a global scale

See also Robert D. Putnam, Robert Leonardi, and Raffaella Y. Nanetti’s *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton, New Jersey: Princeton University Press, 1993. An exploration of associationalism in reference to classical collective action as arranged both horizontally and vertically

See also Robert Wuthnow’s “The Voluntary Sector: Legacy of the Past, Hope for the Future?” in *Between States and Markets: The Voluntary Sector in Comparative Perspective*. Princeton, New Jersey: Princeton University Press, 1991, 3-27.

See also Jan W. van Deth’s *Private Groups and Public Life: Social Participation, Voluntary Associations and Political Involvement in Representative Democracies*. London: Routledge, 1997. Accessed March 28, 2018. <http://www.mzes.uni-mannheim.de/publications/books/privgroup.html>. A collection of empirical studies and data on voluntary and intermediary associations and the function of the democratic process in Central and Eastern Europe nation-states post-1980 and how the subject of communitarianism has revived in Western Europe

See also Kenneth Newton’s “Trust, Social Capital, Civil Society, and Democracy.” *International Political Science Review / Revue Internationale De Science Politique* 22, no. 2 (2001): 201-14. <http://www.jstor.org/stable/1601186>.

A study exploring and critiquing the authentic correlation between voluntary organizations and the level of trust members display toward social and political groups (202).

come together through associations to foster reciprocity, empathy, solidarity, and compromise in civilized society.⁴⁶⁵

Although this mentality entertained popularity in England and France, it never penetrated across the Atlantic in as significant a way. Whereas this is largely the case, Russell Kirk, American political theorist and the harbinger of the 20th century Burkean revival, managed to encapsulate this consideration of conservative communitarianism in many of his writings and through his unique political outlook. Kirk's biographer, Bradley J. Birzer, suggests that Kirk aligned with the societal views of "Aristotle and Moses" as he "believed that man could only live truly and freely in community, and, only through community can one pursue the good, the true, and the beautiful."⁴⁶⁶ In a community format that retains voluntary association and the dignity of the individual, a community can "attenuat[e] our selfish impulses [and give] order and context to our existence."⁴⁶⁷ Agreeing with classical liberals for their defense of "ordered liberty," Kirk connected their "common cause with regular conservatives against the menace of democratic despotism and economic collectivism;" distinguishing associational republican collectivism from correlation with socialism.⁴⁶⁸ While the effort to legitimize conservative communitarianism stagnated, concealed in part by a 21st century socialistic interpretation of the communal and associative structure, cooperation and mutual toleration yet rests at the heart of the Antifederalist position and that of their republican descendants.

⁴⁶⁵ Newton, 206.

⁴⁶⁶ Bradley J. Birzer, "The Eternal Community of Russell Kirk." *The Imaginative Conservative* (2018). Accessed October 25, 2018. <http://www.theimaginativeconservative.org/2018/10/eternal-community-russell-kirk-bradley-birzer.html>.

⁴⁶⁷ Ibid.

⁴⁶⁸ Russell Kirk, "A Dispassionate Assessment of Libertarians." *Lecture #158 on Political Thought*. The Heritage Foundation, May 28, 1988.

Burke

Prominent Whig statesman, author, and political theorist, Irishman Edmund Burke (1730-1797) served as a member of parliament from 1766-1794. Known for his sympathies with the plight of American colonists, Burke shared similar Antifederalist concerns with public morality, virtue, aesthetics, religion, and constitutional limitations. Like famous orators of the era, notably Patrick Henry and John Randolph, Burke's oratorical flair earned him widespread recognition, including noted praise from historian Edward Gibbon who called him a "most eloquent and rational madman."⁴⁶⁹ Arguing in opposition of Jean-Jacques Rousseau, abstract concepts of human nature, and the vices of Jacobinism as he saw it, Burke composed a prolific amount of political and philosophical pamphlets throughout his life, some of the most notable being *Reflections on the Revolution in France* (1790), *Appeal from the New to the Old Whigs* (1791), and *Letter to a Member of the National Assembly* (1791). Burke's writings and contributions detail conservative principles, limits to excessive authority and individualism, and preserve the theorist as a European predecessor and contemporary to the Antifederal movement.

Upon observing the contempt of the nobility who absconded their aristocratic responsibility and contributed to their own destruction during the French Revolution, Burke's *Reflections* provides a sharp critique of how republican ideals were squandered by those "puffed up with personal pride and arrogance [who] generally despise their own order" and who were willing to submit themselves to discontents operating outside of the law.⁴⁷⁰ After an associational

⁴⁶⁹ Piers Brendon and Jonathan Cape, ed. *Private Letters of Edward Gibbon, Vol. II* (1896) in *The Decline and Fall of the British Empire: 1781–1998*. London, United Kingdom: Random House Group Ltd., 2007, 12.

⁴⁷⁰ Edmund Burke, *Reflections on the French Revolution*. Cambridge, Massachusetts: The Harvard Classics, 1909-14, 75. Accessed April 2, 2018. <http://www.bartleby.com/24/3/4.html>.

format contrived much earlier in 1790 that runs contrary to Proudhon's "company of workers" model, Burke used an analogy of a "little platoon" to depict each person's place in society. He considered an understanding of one's station in life as the means through which public affection can first be attainable. Attachment to one's individual role in the social configuration is what Burke considers as a link to nationalism in its best sense as it fosters "love for country and compassion for humanity."⁴⁷¹ He calls those who would "barter" the arrangement "away for their own personal advantage" as traitors who, with their short view of the consequences of rebellion, will produce the destruction of the state and its people.⁴⁷² Scholar Donald Livingston credits Russell Kirk for having "defined the conservative tradition as essentially a critique of ideology in politics, first exemplified in the French Revolution and first exposed and criticized in 1790 by Edmund Burke" in *Reflections*.⁴⁷³ Though centuries apart yet of the same opinion, Burke and Kirk saw a natural and robust political society as one which cherishes "inherited traditions and practices."⁴⁷⁴ They believed the true function of politics was to "preserve these general arrangements and, when necessary, to correct them by recourse to principles already intimated in them."⁴⁷⁵ In their view, political development, in the conservative sense, did not invent an entirely new strata or remove preceding social orders but built upon lasting values. In contrast to the revolution in France, Burke illustrates that revolutions have been conducted by others who held long views aimed at order and law;

⁴⁷¹ Burke, *Reflections*, 75.

⁴⁷² Ibid.

⁴⁷³ Donald W. Livingston, "David Hume and the Conservative Tradition." *Intercollegiate Review* (Fall 2009). Accessed May 12, 2018. <https://home.isi.org/david-hume-and-conservative-tradition>.

⁴⁷⁴ Ibid.

⁴⁷⁵ Ibid.

referencing the validity of the American republican experiment, its conservative aims, and cause for its successes.⁴⁷⁶

In contrast to Enlightenment ideas that suggest that the government was formed on the basis of natural rights, Burke argues that natural rights exist independently from the structure of government. He views government as an arrangement organized to provide for and protect the needs and wants of man, not designed as the final arbiter of how men should live. Vehemently opposed to deism and atheism, Burke adamantly allocated that design to Providence which he trusted to be the ultimate preserver of constitutional liberties and endower of natural rights.⁴⁷⁷ In continuation, Burke goes on to suggest that for a wholesome society to function, individuals must bring their passions into subjugation through a divinely-inspired outside force of the will. In this way, the “restraints on men, as well as their liberties” are among their natural rights that cannot be settled by abstract principles and instead, must be submitted to a higher purpose for the civil benefit and achievement of liberty.⁴⁷⁸

In review of Burke’s *Reflections on the French Revolution*, British historian and philosopher Roger Scruton furthers Burke’s quotation that cast “society as an association of the dead, the living, and the unborn” by proposing that “society is a shared inheritance. There is a line of obligation that connects us to those who gave us what we have.”⁴⁷⁹ He pertinently states that the future hinges upon “an extension of that line.”⁴⁸⁰ What if a nation’s heritage is forgotten? Political calculations, interference, or lobbying will not redeem the course of a nation. In its

⁴⁷⁶ Burke, *Reflections*, 77.

⁴⁷⁷ Ian Harris, “Burke and Religion” in David Dwan and Christopher J. Insole eds., *The Cambridge Companion to Edmund Burke*. Cambridge, Massachusetts: Cambridge University Press, 2012, 103.

⁴⁷⁸ Burke, *Reflections*, 95.

⁴⁷⁹ Roger Scruton, “Starting from Home” in *How to be a Conservative*. Kindle, ed. London, Bloomsbury Continuum, 2014.

⁴⁸⁰ *Ibid.*

place, Scruton recommends a reflection of the past, the achievements of our ancestors, an appreciation of truth and beauty, and suggests that society can be restored by “seeing ourselves as inheriting benefits and passing them on” generation to generation.⁴⁸¹ Describing the Irish political philosopher as a “defender of republican values and traditions and a foe of both autocracy and the radical mob,” Victor Davis Hanson, Senior Fellow at the Hoover Institution and winner of the 2018 Edmund Burke Award, credits that “agrarianism can inculcate a natural conservatism that I think Burke and others saw as an essential check on radicalism and an independence necessary to resist authoritarianism.”⁴⁸² Congruently, Scruton explains how Burke thought that a healthy society directly depends upon “relations of affection and loyalty, and [how] these can be built only from below, through face-to-face interaction.”⁴⁸³ If a society is “organized from above” through a dictatorship or elusive administration, “then accountability rapidly disappears from the political order and society.”⁴⁸⁴ Instead of a purely hierarchical format, Burke's ideal society would be shaped by Christian ethics and “traditions that have grown from our natural need to associate.”⁴⁸⁵

Two Models of Individualism: Destructive Liberty

There exist two forms of individualism that derive from dual conceptions of the social contract. One initiates from the political theories developed by Thomas Hobbes, an English philosopher whose *Leviathan* (1651), written in response to the English Civil War of 1642, defined his views of civil government and human nature. Hobbes accepts that each human is

⁴⁸¹ Ibid.

⁴⁸² “Victor Davis Hanson Wins Edmund Burke Award.” *Hoover Institution*, Stanford University, May 2, 2018. Accessed May 5, 2018. <https://www.hoover.org/news/hanson-wins-edmund-burke-award>.

⁴⁸³ Scruton, “Starting from Home.”

⁴⁸⁴ Ibid.

⁴⁸⁵ Ibid.

endowed with natural liberty, however, for conflict to be avoided, individuals must submit to a sovereign so that order can remain. His view of individualism prescribes that civil society can only be efficient when all individuals give up a portion of one's rights for security; voluntarily becoming a chain within the hierarchy of the monster that is the state.⁴⁸⁶ "For Hobbes," Donald Livingston writes, "the function of political order is to allow an aggregate of individuals to pursue their power and glory limited only by the constraints of civil association."⁴⁸⁷ All that matters remains the size of the administration, wherein no room exists for virtue or human scale as conditional requirements to a functioning republic. In Hobbes' view, "all that is needed is a sovereign office capable of enforcing the rules of civil association. There is no internal limit as to how large a Hobbesian state can be. Indeed, its logic is to expand, if possible, to global scale. Hobbes rightly named it Leviathan."⁴⁸⁸ As the likelihood of corruption increases with the scale of an overextended state, expanded by populace and territory, centralized governments formed after the Hobbesian model masquerade as republics by name alone. Livingston states that a "modern state cannot bear to describe itself in the stark terms theorized by Hobbes, namely, as an artificial corporation with a monopoly on coercion over individuals in a territory;" having exploited the public through fashioning their dependency to the center through economic and political channels of credit, debt, conglomerates, and overpopulated territories devoid of scaled representation.⁴⁸⁹ Livingston argues that the Hobbesian state is "not the natural or only form of political association."⁴⁹⁰ He suggests that the artificial contrivance emerged first from the

⁴⁸⁶ G.C. Gaskin. "Of the Rights of Sovereigns by Institution." *Leviathan*. Oxford University Press, 117.

⁴⁸⁷ Donald W. Livingston, "David Hume and the Republican Tradition of Human Scale." *Anamnesis Journal* (October 26, 2011). Accessed May 2, 2018. <http://anamnesisjournal.com/2011/10/donald-w-livingston/>.

⁴⁸⁸ Ibid.

⁴⁸⁹ Ibid.

⁴⁹⁰ Ibid.

monarchist structure then solidified through the concept of mass democratic processes. Hobbes' model is assumed normal and yet "modern political philosophy has largely ignored the topic of size and human scale that was central to the republican tradition for some two thousand years."⁴⁹¹ In comparison, the Hobbesian state has experienced merely three centuries while the theorizations of "Hume, Montesquieu, and Rousseau have largely been ignored," prompting that the reality of scale should return to political discourse.⁴⁹²

Hobbes' reliance on a figure of authority to ultimately rule detours from John Locke's *Second Treatise of Government* (1689) that views individuals as rational units whose liberty is absolute. Natural rights are prized above all other concerns. However, absolute liberty with no limitation is equally damaging. So are historical interpretations without their historical context. Leo Strauss, a modern conservative political theorist who taught at the University of Chicago during the 1950s developed an interpretation of America's Founding that aligns with a Hobbesian mentality. A form of republicanism that runs contrary to classical political philosophy, neoconservative Straussian assessments replaced the high ideals of reason and virtue with the harsh pragmaticism of rationalized politics.⁴⁹³ Strauss, and those adhering to his view of the individual, believed that natural rights were the only legitimate rights. As this is an abstract concept, only universal abstract rights serve to ground the Straussian political order. In this phantasma of politics, there is no room for history. No room for prescription, virtue, prudence, historic rights, tradition, or custom. Characteristics such as these, displaying the individual operating within the boundaries of social rights and within the scope of history, rests at the core

⁴⁹¹ Ibid.

⁴⁹² Ibid.

⁴⁹³ Ben O'Neil, "The Threat of Virtue: Why Independence and Integrity Threaten the State." *The Independent Review*, October 5, 2009. Accessed May 2, 2018. <http://www.independent.org/students/essay/essay.asp?id=2624>.

of all that the Antifederalists and their successors cherished. Wading through modernity ushered forth by the politicking of Machiavelli, Hobbes, Locke, Rousseau, and Nietzsche which capitulated to moral relativism and nihilism, Straussians hope to find original meaning in historical works.⁴⁹⁴ This alone is not vindictive or academically dishonest. However, vying to preserve the Western political tradition, Strauss's followers fall into a trap of historicism (as properly understood by historians) that relies on a top-down model, believing that the principles of the Founding were a part of a well-crafted, centralized regime. Ideology is as damaging to liberty as the suppression of ideas. Against their best intentions, the Jacobins were ideologues, as are Marxists and liberal progressives; intolerant of dissenting alternatives while viewing their ideology as supreme and enforceable through violence and intimidation, rather than through voluntary persuasion; a difference that inherently separates ideologues from the classical republicans that make up this study. Esteemed American Revolution scholar Gordon Wood's analysis on the scholarship of Strauss astutely warns against "fundamentalist" interpretations that distort historical traditions, context, and those that relinquish historical understanding in lieu of forwarding an agenda. Wood concedes that the Straussians are right that the 18th century marks a transition from "an older classical republican world and a new democratic, individualistic, commercial world" but that they are wrong to see political philosophy separated from social circumstances.⁴⁹⁵ Constitutional principles formed alongside the birth and growth of the Constitution as the Founders uncovered and worked out ideas. They did not set out to dictate a firmly entrenched ideology. Echoing Wood, David Gordon articulates how the "dominant desire of the Framers and ratifiers of the Constitution was to maintain the settled ways of the past rather

⁴⁹⁴ Gordon Wood, *The Fundamentalists and the Constitution*. Charlottesville, Virginia: Virginia Commission on the Bicentennial of the United States Constitution, 1988, 3.

⁴⁹⁵ *Ibid*, 12.

than impose some new philosophical scheme.”⁴⁹⁶ He additionally highlights how M.E. Bradford also disagreed with the “Straussian view that the Framers were enlightenment philosophers who wished to establish a new order based on rationalist principles.”⁴⁹⁷

In the end, “ideas can, and often do, become political philosophy, do transcend the particular intentions of their creators and become part of the public culture, become something larger and grander than their sources.”⁴⁹⁸ The Hobbesian, Lockean, and Straussian theories on human nature and how government should be designed differs from the Antifederal, classical republican, and associational conception of individualism and liberty. Acknowledged by the Antifederalists, the ability of the members of a society to voluntarily partake in self-legislation determines if effective freedom is possible. Equality and an obsession with one’s rights without contribution or appropriate concession can lead to “a numbing mediocrity, to a radical individualism, and to a demand for private rights amounting to a despotism of the individual ‘self’ over the interests of the community, or the common good.”⁴⁹⁹

Two Models of Individualism: Associational Individualism

The Lockean paradigm emerging from abstract Enlightenment ideals is recorded in the observations of French diplomat and historical observer, Alexis de Tocqueville. The classical liberal’s participation in the July Monarchy (1830-48), Second French Republic (1848-51) and travels to America during the 1830s reveal that “the revolution of individualism is the leaven of

⁴⁹⁶ David Gordon, “America’s Many Propositions,” Review of *Original Intentions: On the Making and Ratification of the United States Constitution* by M.E. Bradford. *The Mises Review* 1, No. 2 (Summer 1995).

⁴⁹⁷ Ibid.

⁴⁹⁸ Wood, *The Fundamentalists and the Constitution*, 12.

⁴⁹⁹ Kenneth L. Deutsch and John A. Murley, eds., *Leo Strauss, the Straussians, and the American Regime*. Lanham, Maryland: Rowman & Littlefield Publishers, Inc., 1999, 177.

modernism.”⁵⁰⁰ Tocqueville viewed associations as a vital check against the expanse of government that he saw spoiled by a vicious cycle of citizens giving up their power to the state, thus not holding the government accountable while passively existing and watching as their powers diminish.⁵⁰¹ The historiography of French historian François Furet critiques Marxist interpretations of the French Revolution while exploring the intellectual and conservative origins of Alexis de Tocqueville and the influence of his classical liberal views of the sociopolitical and economic impact of the *Ancien Régime*, the Revolution, and Restoration of the Bourbons in French politics.⁵⁰² Celebrating a “local government that protected individual liberty against encroachment from the central power,” Furet writes how Tocqueville praised democracy as the “foundation and bulwark of liberty” yet, akin to the Antifederalists, he remained wary of its abuse, the detriment of extreme populism, and the woes of abstract theories.⁵⁰³

In similar fashion to Furet, French historian Gilles Lipovetsky in his *L'ère du vide* suggests that Tocqueville “had already shown that the individual...breaks the chains of generations, the past and tradition lose their prestige...the cult of the new and of the present is strictly correlated with the individualistic disqualification of the past.”⁵⁰⁴ In modern scholarship, Christopher Alexander, an urban planner at the University of California, is known to have stated that the “Western industrial society is the first society in human history where man is being forced to live without the intimate contacts of community,” setting a dire predicament for the

⁵⁰⁰ Jean-Philippe Mathy, *Melancholy Politics: Loss, Mourning, and Memory in Late Modern France*. University Park, Pennsylvania: The University of Pennsylvania, 2001, 66.

⁵⁰¹ *Ibid.*

⁵⁰² François Furet, *Interpreting the French Revolution*. Cambridge, NY: Cambridge University Press, 1981, 139-142.

⁵⁰³ *Ibid.*, 139.

⁵⁰⁴ Gilles Lipovetsky, *L'ère du vide: Essais sur l'individualisme Contemporain*. Paris, France: Gallimard, 1983, 104-05.

localism inherent to the American Antifederal tradition.⁵⁰⁵ Echoing Tocqueville's assessment, any sense of shared community, heritage, and mutual cohesion had been worn down by a rejection of associations to an adoption of individualism. Modernism further deteriorated these traditional bonds, much in part due to acceleration in occupational and living relocation as well as the remoteness of neighbors and their sense of conjoined dependency, despite the proximity afforded by suburban or industrial structural designs.

However, associationalism was exceptionally strong during the 1800s and continued to be so well into the 20th century before corporate and centralist state models took over alongside progressive and socialistic interpretations. Indicating that the "morals and intelligence of a democratic people would be in as much danger as its commerce and industry if ever a government wholly usurped the place of private associations," through his observations of American republican life in the 1830s, Tocqueville wrote that the "Americans have used liberty to combat the individualism born of equality," and at the present "they have won."⁵⁰⁶ Through associations intrinsic to American institutional structures, from the nexus of the family, church, and government, Tocqueville witnessed citizens taking responsibility to fill the void otherwise commandeered by the state.

Not to be mistaken as a representative of class or factional divides, associations were defined by Tocqueville as a "collective interest in providing public goods and services in lieu of government;" an ideological terminology that greatly resonates within modern American political sentiment and activism.⁵⁰⁷ It is this sense of fraternity and eagerness common to

⁵⁰⁵ Kirkpatrick Sale, *Human Scale Revisited: A New Look at the Classic Case for a Decentralist Future*. White River Junction, Vermont: Chelsea Green Publishing, 2017, 122.

⁵⁰⁶ Kaufman, "Three Views of Associationalism in 19th-Century America: An Empirical Examination." *American Journal of Sociology* 104, no. 5 (1999): 1299.

⁵⁰⁷ Kaufman, 1303.

everyday life that Tocqueville believed would restrain the disproportionate size of excessive individualism that he saw hampering the growth and freedom in England and France.⁵⁰⁸ Though there is no reason to suppose associations were limited purely to economics, the fiscal realm of politics, or special interest groups, it can be argued that the “motives behind civic participation venture far beyond Tocqueville’s notion of ‘self-interest properly understood’ – for Madison, associations are political factions representing citizens with common financial interests.”⁵⁰⁹ However, Jason Kaufman additionally indicates in *Three Views of Associationalism in 19th Century America* that the Madisonian and Tocquevillian views are not at odds and that “this aspect of associationalism is widely represented in the contemporary literature on social movements and political protest, though the word ‘association’ is almost never used in this context” – an important reality to remember.⁵¹⁰ Kaufman goes on to list how associationalism can ease social tension, citing Madison's argument in “Federalist no. 10” on how “the best way to alleviate the effects of factionalism is to promote more factions, thus countering the potential for any one group to wield excessive power.”⁵¹¹ Akin to decentralization, though the interests of regions and groups have the potential to increase tensions within the community, the function of associations contributes to civil fellowship and a better engaged, more well-educated public on social issues, and contributes to what Madison wrote of associations, applauding how collective groups have the “tendency to break and control the violence of faction” by promoting shared civic principles and aims.⁵¹² Beckoning to modern conservative and libertarian political philosophies, the rationale to decentralize the public sphere coincides with the merits of

⁵⁰⁸ Ibid, 1300.

⁵⁰⁹ Ibid, 8.

⁵¹⁰ Ibid.

⁵¹¹ Ibid, 22.

⁵¹² Ibid, 1302.

decentralizing the federal scope of authority so that, in accordance with the Jeffersonian republican view, there will not be a “common motive to invade the rights of other citizens.”⁵¹³ Whether as political conduits seeking influence and favors from the state, as according to Madison, or functioning as economic motivators, according to Tocqueville, cooperation for mutual interests and benefits, unlike mob-like behavior and anarchy, would encourage neutrality and greater commonality between all involved.⁵¹⁴

Conclusion

Through an examination of the republican political tradition of America throughout the 1790s to the 1830s, the question remains: is this truly a classical liberal tradition, or perhaps something else? Indeed, there is a presence besides the case of the individual against the hierarchy of government. A form of individualism within the context of associationalism is also present in the rhetoric, writings, and arguments put forth by Antifederalists and the second generation of Republicans following in their ideological model. Defending a form of associationalism hailing from a traditional past, the representatives of this conservative tradition prized individual liberty while also realizing the importance of restricting and submitting one’s rights to the legal arrangement and to fellow citizens for the durability of society. There is no conflict or issue between these legacies. There need not be, for classical liberalism and associationalism are not at odds with one another. In many ways, the two ideologies are one in the same: individuals voluntarily cooperating in relation to one another. Furthermore, there is no need for strict labels to be applied as ideas, like people, are complex, merge, and overlap with

⁵¹³ Ibid, 22.

⁵¹⁴ See also Richard M. Weaver, “Two Types of American Individualism: The Separate Ways of John Randolph and Henry Thoreau.” *Modern Age: A Quarterly Review*, 1963.

one another. Yet there is a necessity to redefine the arguments from which the Founders justified their conception of individual worth, a deeper examination of how European Republicans applied Antifederal principles in the construction of their republics, and how associated societies ought to function in order to best and most effectively protect the liberty from whence republics flourish.

By the time of their deaths, most American Jeffersonians, Old Republicans, and their friends in Europe would pass on as the fruit of their labor began to blossom into the ‘orchard of liberty’ that they had envisioned decades prior: a garden of natural rights sheltered by Providence and practical forms of associational government rooted firmly in the hearts and minds of those who would commit to tend the fertile ground of freedom against the despotism of evolving nation-states. Nearly forgotten until the modern era, the republican bulwark of the 1790s-1830s resigned themselves to quiet retirements and historical obscurity, hoping that their lifetime of service had not been in vain while trusting that the vestment of liberty would be donned by those who would seek and follow their guiding spirits.

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