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# VIRTUE, SIZE, AND LIBERTY

*Republican Citizenship at the American Founding*

## Introduction

The purpose of this article<sup>\*</sup> is to examine conceptions and arguments about citizenship as they became formulated in the constitutional debate surrounding the Philadelphia Convention. This context, I shall argue, was an important setting of republican thought – a category in need of clarification. The paper traces the several manners that republican concerns with the conditions of liberty were reformulated, challenged, and eventually (all but) defeated in the context of the possibility – or spectre – of a commercial, federal, and above all *large* republic. These republican traces are hopefully interesting in themselves. The structure and flavour of my representation of the movement of concerns in early American constitutional discourse also suggests to observers of present day and coming European Union debate that in more ways than we may think – particularly in small Nordic countries – ‘we have been there before’.<sup>1</sup>

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The American scene was different from previous contexts of republican discourse in several ways. First, free-holding and absence of feudal structures had created a social levelling unseen in the Old World. Americans considered themselves fundamentally equal as oppressed subjects of the British crown. The War of Independence bred a revolutionary ideology, based on doctrines of natural rights and just resistance against tyranny, which were enshrined in state constitutions, created in 1776-77 under the umbrella of the Confederation. In terms of civil and political rights (and ignoring the status of slaves, Indians, and women) America's was the first *democratic* republicanism. Whatever mechanisms of representation, second chambers, and divisions of powers were called for, these political forms became seen as so many instruments of a government by and for the whole, *sovereign* people – even though opinions about the wisdom and capacity for virtue of this people differed (Wood, 1992, pp. 91-98).

American citizenship reflected colonial experience. Liberty above all was the personal, self-sufficient *independence* of the individual, particularly against the tyranny of unjust taxation, aristocratic privilege, and arbitrary, unaccountable rule.<sup>2</sup> With immigrants fleeing from religious oppression in Europe, it was also freedom of religion and toleration. Both these proto-'liberal' aspects (Skinner, 1998) were conceptualised to require *limited* government, consisting of the mutually *delegated* functions and powers essential to secure liberty – although which functions, how delegated, and to what level was not agreed upon. In both ways, American discourse eventually became distinctly *national*, but concerned with its own role as herald of good tidings for the world.

A third aspect was *size*. The vast territory and colonial division into heterogeneous and even unconnected states revived the ancient debate about smallness and homogeneity as a condition of republican liberty. American discourse came to centre on the possibility of a national, *federal* consolidation, and whether, or to what extent, forms of identification and virtue could be expected at this level. Also, as a new problem of size, which was typical of a democratic political culture, the discourse of republican liberty was connected to the difficulty of adequate representation of diverse legitimate interests. Possibly the greatest theme of the American debate became the ten-

sion between local liberty on the one hand and the dimensions of liberty which required federal consolidation on the other.

Such generalities aside, clearly more than one set of roots of American citizenship may be traced. In the limited period primarily covered in this paper – immediately before, during, and right after the Federal Convention – a new vocabulary of natural rights, commerce, consent, and democratic sovereignty was mixed with an older one of balanced interests, civic virtue, and patriotism – but it was so in several distinct ways. Anti-Federalist opponents to the new constitution were not an entirely homogenous group. And amongst Federalist defenders were democratic radicals like Paine and Jefferson as well as the more conservative Madison. In inventing a new, sceptical-realist ‘economy of virtue’, the latter’s work engaged and reformulated the republican tradition, but it also made amendments and required new assumptions which became part of the beginning of its eclipse. Other figures like Hamilton and Adams, only mentioned in passing in what follows, in each their way consciously departed from this tradition.

I use the category of *citizenship* in the title and have three conventional aspects in mind. The first concerns legal and material content of the *status* of citizenship. This is about the specific *ius* or set of rights, liberties and entitlements, and legal duties equally enjoyed and mutually guaranteed by citizens. It is also about the normative and political derivation of this status. The second aspect concerns *identification*, that is the conceptualisation of modes and mechanisms of belonging and allegiance to a political community, including its specific substance in a given political culture, and related to this the identitarian definition and delineation of membership and exclusion. The third aspect concerns conceptions (with possible legal consequences) of the *good citizen*, i.e. dispositions and character traits, role models, and activities that are valued.

To discuss American citizenship in a historical perspective entails taking a stand on its ‘republican’ or ‘liberal’ or indeed some other (hybrid) nature. The title indicates a preference for the first perspective. To anticipate what this means, in relation to the numerous ideological influences, which so obviously converged in America, some preliminary remarks are required. These are found in section 2. Section 3 deals with how the, essentially negative liberty and rights-

centred, status of citizenship or republican *libertas* was derived in three versions of the formats of the self-government – rights nexus. Sections 4-7 consider the second and third aspects of citizenship in terms of those identifications, virtues, and activities that were considered *necessary* as well as realistically forthcoming, to protect this status – but also more broadly the institutional and constitutional mechanisms of the new republic required to sustain these dispositions and identifications in turn. Answers to these instrumental questions differed. Each new argument forwarded by Federalists and challenging ‘old’ republican assumptions, met with obstinate Anti-Federalist rejoinders. Such arguments first concerned the relation between territorial size, the possibility of representing legitimate diversities of interest, and the generation of allegiance (section 4). Secondly, they were about the need for and the proper content of civic virtue (section 5). Thirdly, they dealt with the requirements of national consolidation and the nature of the relation between power and liberty – giving rise to disputes over Madison’s arguments on divided sovereignty, political pluralism, and complex government (section 6). A final theme was that of a Bill of Rights (section 7).

The following sketch of the roots of American citizenship is primarily concerned with the elite discourse of participators to, or commentators on, ‘the Miracle in Philadelphia’. Little is said of what happened later on in American history. Nor does the proposed approach deal with the relations of power and interest underpinning various positions. While friendly towards conceptual history methodology the focus is on theoretically interesting diversities ‘for us’.<sup>3</sup> I deliberately play down details of the *history* of the debate. After all, the ‘founding’ was not a single event as much as a sequence of ideological struggles, which started long before the Philadelphia convention and continued into the next century (to some it is not yet over). The article seeks to uncover and differentiate specific *arguments*, which are seen as possible responses to real historical dilemmas, faced in America, concerning how to secure liberty in a large state. At least one way to view American citizenship is in terms of such crystallised experience with, and competing evaluations of the conditions of liberty, including experiences and evaluations that were washed away by historical developments. The American citizenship thus uncovered is largely in the past tense, and section 8 briefly recounts the

decline of American republicanism. In this section the argument becomes somewhat more normative, as I suggest the need to remember, despite their failures and nostalgia, also the doubts and reservations of those who lost in the great debate.

## Interpretations of the American Revolution

The very nature of the values fought for in the American Revolution, which informed the Philadelphia debates, has been contested. Not only is there no agreement that American values were republican. There is also disagreement about what republicanism – and liberalism – means.

The early consensus on the ‘liberal’ founding was classically challenged by J.G.A. Pocock. His American heritage was not the liberalism of individual rights, natural law, or possessive individualism, but the heroically backward-looking attempt to give a fresh start to a truly political way of life in active self-government, in defiance of European corruption. The revolution was “the last great act of the Renaissance ... emerging from a line of thought which staked everything on the renovation of virtue”. Nor was the Anti-Federalist defeat the beginning to the end. The ‘Machiavellian’ moment did come to rest in the myth of the frontier and in Jefferson’s ultimate recognition that even America’s capacity to supply the foundations of virtue was not infinite. But both the science of balancing interests in the tenth *Federalist* and Jefferson’s “preservation of a yeoman commonwealth as the secret of virtue’s maintenance”, to Pocock, was in continuity with the tradition.<sup>4</sup>

This civic humanist history of America has met with much criticism. Just as Pocock’s virtuous citizen had clearly re-emerged in the new republic, it is difficult to ignore the presence and competing concerns of some specimen of early capitalist man with possessivist and meritocratic inclinations (Kramnick 1982, 1990). There were also enlightenment individualists, disposed towards private moral independence (Appleby 1992: 324-27), as well as radical puritans (Kloppenbergh 1987). The debate of course continues on the exact measures and flavours (and meanings) of these incarnations in differ-

ent authors. There is reason to beware of what Pocock eventually conceded to be ‘tunnel history’, i.e. the excessive compartmentalisation of conceptual ‘discourses’ and ‘paradigms’, which, while supposedly incompatible or even incommensurable, quite often overlap. More specifically, a great deal of the debate, scholarly readings of individual authors notwithstanding, exhibits certain cross-purposes regarding the nature of the perceived *conflict* between the ‘old’ and the ‘new’, ‘republican’ and ‘liberal’ languages respectively.

The interpretative thesis which guides the following is a species of that new ‘revisionist revisionism’ which was inaugurated by Quentin Skinner and Maurizio Viroli, and which I believe may be extended from the Italian, French and English scenes which are the main concerns of both scholars, to American political discourse. According to this view,<sup>5</sup> republican discourse was constituted by an argument about participation in self-government – and by the exercise of, and maintenance of dispositions towards, civic virtue more generally – as an instrumental precondition for the enjoyment of ‘a free state’. The latter was one where each citizen was secure from, and unthreatened by external invaders and domestic *signori* alike. Moreover, and importantly, the ‘negative liberty’ by which this free state was characterised was the equal status of citizens under the protection of law and constitution.

Thus on the one hand, it is by now relatively clear that American first principles were primarily about natural, individual rights, private liberty and security, and not about the value in itself of a virtuous life of participation – although it is equally obvious that all commentators had much to say about virtue, by which they meant many things. On the other hand, commentators who focus on the language of natural rights, contract, and state of nature theory should *not* see this, prematurely, as evidence of an early, victorious ‘liberalism’ which basically defeated the language of virtue, possibly relegating it to a minor Anti-Federalist fringe, or giving it non-political, individualist meanings.<sup>6</sup> *Nor*, if they do recognise an *instrumental* language of virtue, should they see this as essentially *transformed* from what was there before, and only now domesticated in the service of liberal values.<sup>7</sup>

What follows then, to say the least, is not the first (nor probably the last) republican ‘reinterpretation’ of American political thought.

Its modest claim to originality is its sustained attempt to consider republicanism as an empirical argument about the conditions of enjoying – by and large – *the same* value of security of citizenship status, about such conditions having much to do with civic activism in a variety of forms, and about securing the proper motivations and directions of such activity. With this searchlight, I believe, it becomes less difficult to see that the American concern with such matters as natural rights, democratic sovereignty, the legitimacy of commerce, and ‘scientific’ investigation of institutional machinery, constituted one more set of discursive circumstances inside which republican arguments could still be stated and restated. It is also possible to appreciate that the variety of challenges to this republican discourse, at a time when it was perhaps less misunderstood than today, to a significant degree consisted of arguments in the same instrumental fashion, only to the effect that these great values could be had (and had to be had) *without* paying the price of virtue and identification that republicans claimed for them.

## The Formats of Liberty and Self-Government

There was, as noted, little difference of opinion on first principles at the founding.<sup>8</sup> In the words of Storing, disagreements between Federalists and Anti-Federalists, and inside these camps, “were not the deep cleavages of contending regimes”, but

the much less sharp and clear-cut differences within the family, as it were, of men agreed that the purpose of government is the regulation and thereby the protection of individual rights and that the best instrument for this purpose is some form of limited, republican government.<sup>9</sup>

No one seriously questioned that the shift from rights of nature to tangible, secure, and elaborate rights in society was predicated on popular self-government, a nexus, which somehow had to remain. All the difference lay in the *somehow*, and there was profound disagreement on empirical conditions and formats of common liberty.

All recognised the existence of political crisis in the new country. Law and order left much to be desired as British colonial justice had

not yet been adequately replaced. The states of the confederacy acted like small, jealous sovereignties, levying taxes on each other's exports and transits, printing their own money, maintaining separate navies, conducting independent diplomacy towards European states, and arguing over territorial boundaries. The confederate body, the *Continental Congress*, was weak, a legislature only, with no powers to regulate commerce, execute its decisions, or apply legal sanction on recalcitrant states.

But there was no consensus on the significance of these matters. Some saw the beginning of the destruction of the new American nation, which would establish a continent of quarrelling, warring states, only to perpetuate European mistakes. After all, only a common enemy had united the culturally and institutionally widely diverging states. Madison, Adams and more conservative opinion feared the mobilisation of the common man might lead to licentious mob rule. Others merely recognised the child diseases of a young country that had to get co-ordinated about specific common interests. What had been gained in the Revolution should not be jeopardised. These fragile gains, here, were interpreted to mean that the natural framework of individual liberty was *direct or relatively unmediated* popular government in small states – the existing units of the confederacy. All Anti-Federalists, while agreeing with the need for some consolidation and enforcement of order, feared central accumulation of power. Also Jefferson, while supporting the constitution, disagreed with Madison who thought the federal government had been granted insufficient powers.<sup>10</sup> However, some Anti-Federalists eventually supported ratification, on the condition of future amendments that included a Bill of Rights.<sup>11</sup> These, by and large, were the positions emerging in that famous group of diverse individuals, which Madison and Hamilton managed to get together in the summer of 1787. The debate continued and reached a wider public, in newspaper exchanges and 'letters', which were read across the nation and designed to influence opinion in the ratifying states.<sup>12</sup>

There were two main outcomes of the constitutional settlement. One was the triumph of the centre over the periphery, i.e., federal sovereignty *vis-à-vis* the states. The other was the beginning of a 'complex' form of government, based on checks and balances, more remote representation, and a strong executive – as compared to more

direct majoritarianism through the legislature. Correspondingly, the two main clusters of questions of the debate concerned the role of 'the people' and its capacity for virtue versus the need for authority and institutions; and, secondly, the relation and division of sovereignty between localities and a consolidated national level. These disagreements may be ordered along several dimensions of argument, which are reconstructed in the following sections.

Before proceeding to the discussion of how the liberty of the people was to be *secured*, let us look at how the same opposing views of the role of the people were manifested in arguments about the determination of the *proper content* of this liberty. The almost universal appeal to 'Mr. Locke' did of course contain important differences, for instance regarding the question of toleration and the sanctity of unlimited property rights.<sup>13</sup> I leave these differences aside here and look at the understanding of rights as such, and on their connection with self-government as constitutional legislation. Once civic humanist readings are abandoned, the demonstration of contract and state of nature theory in most writers is not an insuperable challenge to a republican interpretation of the founding. This language of justification was fitted to a republican frame of political self-government, which stressed that men, born free and equal, must live in society, thus opening a certain scope for human interpretation and invention. Some general features characterised this political framing of rights.

Firstly, a strong emphasis was placed on political rights and the pooled exercise of each man's executive law of nature as the collective self-defence of a people against power. The rights of 'the people' were then often, at times conceptually, regarded as another way of expressing the rights of individuals.<sup>14</sup>

Secondly, American debates remind us that the languages of libertarian self-ownership or radical moral self-direction were late products rather than the original point of eighteenth century natural rights discourse (Haakonssen 1990, 1991). The rights declared by the Americans were still seen as instrumental towards an intentionally Christian life of duty towards one's fellows. While life, liberty and freedom of consciousness were a first precondition for such a life, it was equally self-evident that certain material means for the pursuit of happiness might be required. Rights were *both* timeless expres-

sions of the equal dignity and divine purpose of man, *and* the established political currency of temporally and territorially bound legal requirements towards these ends. In their later sense, they derived from the good sense and concrete collective needs expressed by the people that were to be regulated by them.

Thirdly, and closely related, the act of *consent*, in the early American tradition, came to have a more active flavour than in Locke. It was more than a matter of electing, tacitly accepting, or rightfully resisting an entrusted governor. Consent implied a constructive relationship whereby the people in its entirety, however mediated, helped shape the form of the political community, and with it their own liberty, binding themselves in a mutual covenant for the future. ‘Rights’ expressed the people’s rational view of the common good. But conceptualisations of how to gain access to the people at its best varied, marking points of divergence in debates over the proper modes and levels of self-government. Three main positions – of the Anti-Federalists, of Jefferson, and of Madison – stand out.

### *Anti-Federalist Localism*

Anti-Federalists tended to assume that the self-government – rights nexus required a small republic. The specific point here was the danger of centralised legislation being unable to reflect the peculiar situation of each state. Thus, to *Agrippa*, the “object of every just government is to render the people happy, by securing their persons and possessions from wrong”. However, for this purpose

there should be local laws and institutions; for a people inhabiting various climates will unavoidably have local habits and different modes of life, and these must be consulted ... The idle and dissolute inhabitants of the south, require a different regimen from the sober and active people of the north [Agrippa was from Massachusetts]. Hence ... the necessity of local governments, who may enact, repeal, or alter regulations as the circumstances ... require (...) It becomes still more needful when the local manners are formed, and usages sanctified by the practices of a century and a half. In such a case, to attempt to reduce all to one standard is absurd in itself, and cannot be done but upon the principle of power.

Not only climate and manners, but also “unequal distribution of property, the toleration of slavery, the ignorance and poverty of the lower classes”, even (lack of) “religion and good morals”, served to distinguish ‘Southern’ and ‘Northern’ conditions.<sup>15</sup>

Some of the Anti-Federalist ‘spirit of locality’ (as Madison called it) was mere prejudice. But much of *Agrippa*’s argument concerned complexity in the economic infrastructures of the states and the potential arbitrariness of federal laws in such areas as taxation, property and contract relations, the regulation of commerce and customs, and the administration of courts. Secondly, a Montesquieu-inspired point was made about geographical ‘fits’ between the climate, *moers*, institutions, and laws, best conducive to liberty. *Agrippa* feared that the good republican forms of Massachusetts (equality, virtue based on religion and education, industry etc.) would be destroyed by alien laws, aimed at the administration of lesser (Southern) souls. This fear, finally, took *Agrippa* down a nativist path, reserving a state right to regulate immigration “to keep their blood pure ... from the foreign mixtures”. While Anti-Federalists did concern themselves with legitimate variations of ways of life, which needed protection, their case for self-government was not proto-communitarian. When speaking of religion, ethnic homogeneity, and customs, these matters were almost invariably parts of the standard instrumental concerns about preconditions of virtue and proper laws, as in Montesquieu and Rousseau.<sup>16</sup>

### ‘The Earth Belongs to the Living’

Jefferson linked the American idea of self-evident natural rights with a strong case for periodic constitutional debates and resettlement. The earth, according to Jefferson, was given by God to each living generation for the good use of all individuals, seeking their happiness and performing their duties to others, in freedom and security. Thus, famously, Jefferson in the Declaration of Independence used the term *pursuit of happiness* rather than *property* to denote the historicity of particular legal forms of the right of individuals to have a share of the Earth on which to labour, or some equivalent means of subsistence, such laws being “municipal only, not moral; flowing

from the will of the society, which have found it convenient". The principle that the earth belongs to the living was "of very extensive application and consequences". This linked to Jefferson's more general claim that each living generation possessed a right to choose and revise its constitutions and laws in their entirety. Thus, "by the law of nature, one generation is to another as one independent nation to another", and

no society can make a perpetual constitution, or even a perpetual law. The earth belongs always to the living generation. They may manage it then, and what proceeds from it, as they please, during their usufruct.<sup>17</sup>

### *Madisonian Constitutional Deliberation*

Unlike Jefferson, who viewed American events from the distance (also philosophically), as ambassador to revolutionary France, Madison was in the midst of a very real struggle to reach a working concord on a new political order. He was in no mood to contemplate periodic constitutional revisions. Without denying Jefferson's point 'in theory', he argued that such revisions would be politically dangerous and in several ways impractical. He also denied intrinsic connections between natural law arguments and particular modes of self-government. Thus, he noted that Jefferson's ideas seemed to require unanimity, ignored generational overlap, and indeed implied constitutional resettlements with each new member of the community. More in keeping with older republican themes constitutional government to Madison was after all only a "compact founded on conveniency".<sup>18</sup>

Behind these points lurked a more fundamental difference. Jefferson's beliefs in universal progress and popular enlightenment led him to think that discernment of the common good by *the people* – including as large and diverse a people as that of the United States – was a fairly straightforward matter. In *The Federalist Papers* we see why Madison did not share these views. The manner in which he conceptualised what he and other founders were doing amounts to a theory of constitutional deliberation. Madison's chief concern was with the design of institutions and mechanisms of government. He agreed with Jefferson that it was impossible to found for all posterity and stressed the "transcendent and precious" right of the people to

install, change, or alter their government.<sup>19</sup> But his appeal to ‘We the People’ took a quite different, more contingent and pragmatic form. The constitutional settlement reflected, firstly, the novelty of the Philadelphia endeavour, the fallibility of mortal legislators, and the corresponding difficulty of foreseeing all (unintended) consequences of new institutions. Secondly, it had to accommodate the complexity and obscurity of the science of politics, the bluntness of the language used for it, and the corresponding difficulty of communicating ideas about it.

Thirdly and most importantly, this task of foundation had to take into account many points of view, each advancing different conceptions of the common good of the new union. Here, Madison presumed both capacity and willingness to impartiality in enlightened rulers and ordinary people alike. Hence appeals to the sound judgement of the people adjudicating the new constitution (“the impartial world, ... the friends of mankind, ... every virtuous citizen”), and the recognition that “the convention ... enjoyed, in a very singular degree, an exemption from the pestilential influence of party animosities”. Yet “[a]s long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed”. Thus, even in the best of political worlds – as opposed to the armchair philosophy of “theoretic politicians” – there would be irreducible political pluralism (which Madison seemed to welcome).<sup>20</sup>

Moreover, fourthly, as his was not the best political world, and thus the capacity for impartiality and reason was scarce, fragile, and only likely to appear in sufficient quantities under certain circumstances, any constitution would still reflect the prudential need for additional compromises between groups representing those several types of ‘faction’, of religious or other conviction (‘passion’) and various forms of economic interest, famously analysed in *Federalist* no. 10.

Altogether, this mixture of ‘reasonable pluralism’ and prudential acceptance of second best solutions added up to – or so I argue – three important prescriptions, all of them very much in continuity with a republican view of the possibilities of politics. One was a call for political moderation, or the acknowledgement of human fallibility, readiness to “compromise” and the need to “sacrifice theoretical propriety to the force of extraneous circumstances” when necessary. It required avoiding one’s “predisposition to censure” and necessi-

tated the acceptance of a degree of horse trading,<sup>21</sup> rather than insistence on unanimity on every single point. Above all it was facilitated by upgrading considerations of the common interest in having a union at all and, accordingly, by recognising “the necessity of sacrificing private opinions and partial interests to the public good”.<sup>22</sup>

Secondly, Madison’s version of the appeal to ‘we the people’ exhibited a dialectic of the few and the many. Here the task of foundation had to be initiated by the few “since it is impossible for the people spontaneously and universally to move in concert towards their object”. Yet, the quality of their proposals could only be assured through the appreciation of being entrusted with a world-historical task of service to the people, “by whose confidence they had been so peculiarly distinguished”, and above all from the anticipation of pending popular judgement:

[T]he convention ... were deeply and unanimously impressed with the crisis, which had led their country ... to make so singular and solemn an experiment ... It could not be unknown to them that the hopes and expectations of the great body of citizens ... were turned with the keenest anxiety to the event of their deliberations. (...) They must have borne in mind that as the plan to be framed and proposed was to be submitted to *the people themselves*, the disappropriation of this supreme authority would destroy it forever.<sup>23</sup>

Finally, as in view of “the natural diversity of human opinions on all new and complicated subjects, it is impossible to consider the degree of concord which ultimately prevailed as less than a miracle”,<sup>24</sup> Madison’s ideas of constitutional deliberation reflected a second dialectic of revolutionary foundation and temporal duration. While deriving political legitimacy from the people *in toto*, he stressed the fragile and transient nature of those popular mobilisations, which might “stifle ... the ordinary diversity of opinions on great national questions”. For this reason it was necessary to economise with the people’s capacity to self-education. Clearly, “a constitutional road to the decision of the people ought to be marked out and kept open, for certain great and extraordinary occasions”. By this he had in mind “the great principle of self-preservation; ... the transcendent law of nature and of nature’s God”, according to which “the safety and hap-

piness of society are the objects at which all political institutions aim". These great "objects", however, were only rarely on the political agenda.<sup>25</sup> In resisting constant changes, Madison not only made familiar conservative points of the popular "veneration which time bestows on everything". He also made republican points about the contingency and fragility of new political orders. Any constitution would be flawed. Indeed, marshalling support even for a tolerable second best was close to a miracle, and *this* fact bestowed a distinct value and legitimacy on a *durable* constitution.<sup>26</sup>

## The Small Republic and the Problem of Allegiance

The most important argument against federal consolidation – the master argument of all the others – appealed to the classical republican "opinion of the greatest writers" that the natural framework of liberty was a small, relatively homogeneous republic, where citizens were close to their rulers, in terms of manners, interests, and geography.<sup>27</sup> One aspect of the argument, a counterpart to the localist conception of self-government, was that no federal government could cater to the "various local concerns and interests" of all the states. Many factors militated against republics in large territories. Chief among them were the remoteness of the capital and the lack of knowledge, responsibility, and concern of politicians who did not have their origin among the people they nominally represented. Anti-federalists also stressed the impracticality of having one government taking care of all the affairs of a large country, the difficulty of effecting speedy dispensation of justice at the margins of the territory, and the need or propensity of such a government to sacrifice local wishes at the alter of efficiency and uniformity.<sup>28</sup>

One Federalist response to these fears was to criticise the parochialism, even blatant egoism of what Hamilton called "a spirit of interested scrutiny, without ... knowledge of national circumstances". Madison thought 'state concerns' were most often the opinions and interests of tyrannical majorities which a federal government ought to restrain rather than empower. Both noted that the advertised ho-

mogeneity of even smaller states was vastly exaggerated. Yet, the more important Federalist argument was that the federal state would only deal with what *had* to be regulated at this level. This was the beginning an American ‘subsidiarity’ discussion.<sup>29</sup>

But the small republic argument also contained versions of republican instrumentalism: Only in small republics was it possible to generate the *voluntary allegiance* that a state required. Federalists and Anti-Federalists agreed that allegiance essentially required good government, i.e., the experience that one’s rights and liberty were furthered.<sup>30</sup> At one level, the dispute concerned whether such benefits were actually forthcoming, the latter group focusing on intruding laws, which could only be “executed on the principles of fear and force”. At another level, to which more principled discourse would appeal, it concerned the motivational psychology of citizens’ allegiance. Here, Madison contended the possibility of a rational (in *Federalist* no. 51 even a quasi-Hobbesian) understanding in the great body of the people of the need for federal government. Such an understanding had to be strengthened by *habituation* in public opinion, an argument echoing David Hume. Madison believed confederate shortcomings had contributed to this, although this did not prevent him from occasional exhortations on the spectre of the Union dissolving and about the need for “every man who loves liberty ... to have it [the spectre] ever before his eyes that he may cherish a due attachment to the Union of America”.<sup>31</sup>

Anti-Federalist scepticism about allegiance in large states occasionally used the language of Scottish moral sense psychology. This was the ‘small circle of affection’ argument according to which *sympathy* required proximity. But to associate this with acceptance of Hutchesonian notions of natural benevolence and moral identification (in contrast to conservative Humean voices in Hamilton) at the very least is not the whole story.<sup>32</sup> It overlooks the very chastened tone of conditions of *rational* trust: The theme of natural affections being weakened “in proportion to the distance or diffusiveness of the object” was assimilated and subordinated to a recognisably republican frame of thought. Thus, in Cato it was linked, first, to the argument about diversity, e.g. the impossibility of trusting idle Southern slave owners. Secondly, in noting that sacrifice and allegiance of individual citizens be linked to a general *interest*, it was concerned

with *knowledge* and *perception* as a condition of trust. Such “interests of the public” were more “easily perceived, better understood, and more within the reach of each citizen” in a small republic. In particular, under such circumstances one could be sure that one’s contributions were not abused. Moreover, the size, distance, and homogeneity arguments were employed as a warning that “the vast extent of the territory, and the complication of interests, the science of government will become intricate and perplexed, and too mysterious to understand, and observe”.<sup>33</sup>

In the case of Brutus, whose discussion is tied to the issue of representation and political trust, the difficulty of a large republic was that, representatives being too distant, they “cannot, as they now do, mix with the people, and explain to them the motives which induced the adoption of any measure, point out its utility, and remove objections”. The result would be that “they will be considered ambitious and designing. . . as a body distinct from them, and having separate interests to pursue”. Indeed “their laws [will be] opposed, evaded, or reluctantly obeyed”.<sup>34</sup>

The contrast to Hamilton and in this connection Madison did not regard this rational core. First, it was about the latter’s emphasising a new level and focus of loyalty, as

the more the operations of the national authority are intermingled in the ordinary exercise of government, the more citizens are accustomed to meet with it ... the greater the probability that it will conciliate the respect and attachment of the community.

Secondly, it concerned the Federalist reliance on, again Humean, ideas of a “habitual sense of obligation”, which was aided by the increasing “familiarity and comprehensiveness” of a national government which progressively extended its authority.<sup>35</sup> Anti-Federalists in stead emphasised distrust and the lack of obvious benefits. Moreover, they made the republican point that allegiance required a *direct reminding* of how one’s own interest was partaking in that of the whole. Some conservative Anti-Federalists like Brutus would stress sufficient closeness of citizens to those individuals whose patriotic works *did* further the common interest, and to those political institutions which embodied it – i.e. at state level. In more radical Anti-

Federalists, the point became an independent argument for local political participation as a device of education to patriotic allegiance – as also connected to acquirement of virtuous dispositions more generally. *The Maryland Farmer* called for public education in “the principles of free government, illustrated by the history of mankind” and proposed direct participatory schemes including assemblages of freeholders and the detainment of jury trial. With such measures, “in a very few years, the people instead of abusing, would wade in their knees in blood, to defend their governments” – *state* governments, that was.

Anti-Federalist argument that rational allegiance could not be forthcoming, because federal government could not cater for liberty in its local particularity, was vulnerable in two respects. First, it could be claimed that the larger view afforded by being a citizen in a national union would cause the more parochial and illiberal demands of local liberty to evaporate. Secondly, a consolidated republic might earn the same, or better allegiance if over time the people would see that it secured their liberties more effectively, i.e. catered for concerns – the securities and benefits that *only* a union could produce – that states failed to deliver. If these points, made by *Publius* and others, were vindicated, *The Federal Farmer* would stand defeated, with his admission of being “in favor of any general system which shall promise these advantages [protection of property and a steady execution of the laws]”.<sup>36</sup>

But Anti-Federalist rejoinders were still possible. Thus, when Federalists claimed allegiance to be a mixture of interest and habituation, Anti-Federalists represented the less optimistic position that rational allegiance required to be awakened and sustained by certain political *mechanisms*, namely such that could only be had at state levels.<sup>37</sup> This point was not lost on Jefferson. First, he strongly believed that patriotic allegiance had to be revitalised from time to time. Hence his Machiavellian call for a degree of unruly, patriotic fervour, *even if* the price free countries had to pay for this was acceptance of occasional unrest or rebellion.<sup>38</sup> Secondly, while Jefferson had little sympathy with the parochial side to the Anti-Federal case, let alone with its distrust of the capacity of ordinary people to discern the matters of national politics, he agreed with the idea that local participation might be a way to remember the value of one’s liberty. His

ward arguments – to be formulated much later in his life – may be read in this light. It added a point that Anti-Federalists missed, i.e. that participation was a way to *transcend* the comfortably selective loyalties to family, friends, and locality.<sup>39</sup>

## The Meanings of Civic Virtue

As was the case with the mechanisms for generating patriotic identification, different causal accounts may also be found as regards civic dispositions more generally. Indeed, the very meaning of the desirable activities making up civic virtue had begun to shift in the American debate. However, as understandings of the signification, the required extent, and the means of generating virtue changed, *virtue* became one more battleground for the challenge of republican discourse.

At the most general level, as many commentators have noted, several of the virtues advocated by American writers may be interpreted as in various ways ‘liberal’ and Christian, i.e. moral dispositions that belonged to private, rather than to public life. The content and influence of different virtue languages crystallising in the American Enlightenment is a complicated matter. Though each came to denote autonomous justifications of worthy activities outside of politics, the ambiguity and open-ended nature of each discourse also facilitated their adaptation, as conceptual bottles into which different wine could be poured, to republican concerns – including the fear of corruption and the notion that citizens’ character traits was a fragile matter in requirement of artifice and reinforcement.

### *The Virtues of Capitalist Enterprise*

Hamilton, his praise of capitalism unmixed, appealed in *Federalist* no. 12 to the appreciation by “enlightened statesmen” of the benefits of commerce:

By multiplying the means of gratification, by promoting the introduction of the precious metals ... it serves to vivify and invigorate all the channels of industry ... The assiduous merchant, the laborious

husbandman, the active mechanic, and the industrious manufacturer – all orders of men look forward with eager expectation and growing alacrity to this pleasing reward of their toils.<sup>40</sup>

But this Humean celebration of the effects on *character* of commerce was not the more prevalent view. The generally favourable view of enterprise and frugality prevailed in a moral atmosphere, which was unfriendly towards economic egoism. Like Jefferson's, Franklin's ideas of a good life involved economic self-sufficiency and enough comfort to afford the pursuit of higher (religious) callings, but by no means luxury.<sup>41</sup> However, the virtues of capitalist enterprise were advocated for different and sometimes conflicting reasons:

One, associated with Franklin's *Autobiography*, centred on the ideal of the "restless ... 'self-made' man ... who prudently discerns the link between his rise and the promotion of useful 'projects' which benefit his neighbours and attract their esteem, affection, and assistance". Here, the pathos of the great individual statesman was transferred to the realm of economics and (scientific) innovation, and attached to the objects of general (national) prosperity and welfare, rather than to those of political liberty and security.<sup>42</sup> But the virtue of frugality could also have a more political flavour. Thus, in Jefferson as in many Anti-Federalists, it was a recurring concern to restrict the unnecessary consumption and "excessive importations of foreign merchandise and luxuries", in order to avoid economic *dependency* and to consolidate the economic health of the new nation. For the people this virtue meant restricting consumption to domestic produce. For politicians it meant resisting the protraction of public debts.<sup>43</sup>

Still, almost all participants to the American debate, including most Anti-Federalists, accepted the usefulness of commerce. Jefferson, Madison, and Adams worked as presidents to promote it.<sup>44</sup> But in terms of debates on commercial civil society conducted in Europe, the founders were more ambiguous than Montesquieu, let alone Hume.<sup>45</sup> While commerce was seen as a prime *fruit* of liberty and good government, few other than Hamilton were as ready to adopt Montesquieu's argument as *Agrippa*, who saw in commerce "the great bond of union among citizens". Many Anti-Federalists voiced traditional concerns that "the progress of a commercial society begets luxury, the parent of inequality, the foe to virtue, and the enemy to

restraint”, and that when “people become more luxurious, they become more incapacitated of governing themselves”. Jefferson never missed an occasion to state a wish, admittedly based “on principles of theory alone”, impracticable, and against the will of the people, that the states should “practice neither commerce nor navigation”. He claimed that “[c]ultivators of the earth are the most valuable citizens ... the most vigorous, the most independent, the most virtuous ... tied to their country, and wedded to its liberty and interests, by the most lasting bands”.<sup>46</sup>

Both Madison and Jefferson certainly disliked Hamilton’s vision of an industrialised society with a highly developed division of labour. This, the latter alleged, would rid society of its burden of idle labour and in the process cause “each individual to find his proper element, and ... call into activity the whole vigor of his nature [so that] the community is benefitted by the services of its respective members.” It would both promote “the wealth of a nation” and “cherish and stimulate the activity of the human mind” (rather than the mindlessly specialised pseudo-citizens feared by Jefferson – and Adam Smith). Jefferson and Madison were positively abhorred by Hamilton’s schemes for national banking with its floating ‘paper money’ credit, and the possible accumulation of enormous financial power at the centre of the nation.<sup>47</sup>

The virtues of the capitalist entrepreneur and their derivatives did not retain their civic flavour. They could also facilitate the sanctioning of egoism and acquisitiveness by that appeal to inalienable property rights, unrestrained by duty and purpose, except the duty not to trespass on the holdings of others, which Madison did *not* intend in his defence of property. Acquisitiveness and egoism were not, of course, eventually ‘virtues’ but necessary and beneficial vices, legitimate at least in the economic sphere, and gaining much respectability in later eras where this sphere was to take up ever more room in the space of human pursuits.

### *Religious Virtue*

The impact of religion on early American political culture exhibited large denominational and geographical differences. Southern Baptist evangelicalism and radical Puritan millenarianism in the North

in different ways produced very demanding conceptions of social and political life where virtue concerned the duty to resist earthly depravities in rulers and citizens alike. Some intellectuals, like Jefferson and Paine, were influenced by the sceptical (French) Enlightenment and had deist or moderate Anglican leanings. Even so, their views were also influenced by Puritan values.<sup>48</sup> Apart from these differences, the conceptual content of the religious language(s) of virtue was again ambiguous.<sup>49</sup>

As already noted, many Anti-Federalists advocated Christian virtues for instrumental political purposes – although it was also the case that freedom to (diverse) religious practice was a main *point* of self-government. (Few perceived any conflict between favouring religious liberty as protected by a Bill of Rights, and on the other hand requiring religious tests for politicians entering office, lest “Jews, Turks, and Heathen” be elected.<sup>50</sup>) Jefferson also, like much later Tocqueville and like him despite his private doubts, argued, in *Notes on Virginia*, that “the liberties of a nation” could not “be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God”. Unlike Madison, who distrusted the strength of religious motivation, feared fanaticism, and only hoped it could be balanced against other ‘factions’, Jefferson believed in a beneficial religious pluralism. With it religious spirit – Unitarianism rather than doctrinaire sectarianism – was compatible with, and eventually conducive to a spirit of tolerance and reflection.<sup>51</sup> However, he was in accord with other Federalists in opposing Anti-Federalist calls for “some superiour mode of *education*” and other state measures of “publick protection of religion”, such as religious tests, in order to secure the quality of both “the patriotic civilian and [the] ruler”.<sup>52</sup>

In some of these writings, as in the state political cultures from which they emanated, Christian virtue was more like the ‘enthusiasm’ that Madison feared. Here, it took the form of a politicised religious martialism that had already been seen in Puritan England. In some states a fusion appeared between Christian moral fervour and republicanism. Self-governing communities were possessed of a holy cause, which was both the practice and development of virtue and the political conditions of being free to do this. The practice of the *jeremiads*, calling for the renewal of faith and old covenants, and the

impact of the ‘Great Awakening’ around the middle of the eighteenth century could relatively smoothly fit the republican theme of a return to beginnings.<sup>53</sup>

This radical political meaning of religion did not last long, however, and its impact, by the time of the convention, may be exaggerated.<sup>54</sup> From the Calvinist perspective of Adams, religion conceptualised the fallen nature of (American) men, their susceptibility to blindness and pride, rather than their elevated stature and mission in the New World. Corruption was conceptualised as *sinfulness*, and what was called for was also strong government machinery to save individuals from their own depravities, and possibly aiding their moral progress.<sup>55</sup> In the consolidated republic, generally speaking, the political impulse of religion became less than radical. It stressed the respect for secular authority, the inherent weakness of human virtue and capacity for independence, even the more or less principled turning away from a political scene, which came to be seen as a tribune of (necessary) vice. And much of the less demanding language of Christian moral virtue, favoured by Jefferson, eventually dissolved into a language of private propriety.<sup>56</sup>

### *Virtue as Autonomy*

Joyce Appleby has noted how virtue became the capacity, not to participate in government, but to live a private and associational life, free from political authority, yet partaking – through commerce, science, religion, but also social life in general – in the progress benefiting all. The common denominator of such *enlightened* virtue was the autonomous use of one’s reason. In this liberal creed, Appleby summarises, nature had “endowed human beings with the capacity to think for themselves and act in their behalf”. Emphasis was placed on freedom of choice in “religion, marriage, intellectual pursuits and electoral politics”. Appleby adds an important dimension to American virtue language. Still, she probably under-emphasises the degree to which early Enlightenment individualism, through Locke and Scottish moral philosophy taught at the new American universities, combined self-direction with voluntary performance of objective moral duty, control of passions and desires, and the need for deliberate work on one’s moral character.<sup>57</sup>

As also in Locke, the three types of virtue often went together and overlapped. Reflective self-restraint was tied to hard work and frugality. And both these virtues were easily combined with religious duty. But as acquisitiveness was capable of losing its connection to beneficial, community-directed enterprise, liberal self-direction had no *necessary* connection with Christian morality. Still, conventional understandings of the 'liberal' eighteenth century, also in this autonomy aspect, are at least one-sided. Also this class of character traits could be given representations of differing political consequence, some of them with a republican flavour.

In Jefferson, autonomy was furthered by general education, for which he, like Madison, was a life-long champion, and which he thought provided "character on the mind", a capacity to reflect independently on every matter of science, nature, or religion ("Fix reason firmly in her seat, and call to her tribunal every fact, every opinion. Question even the existence of a God"). But contemplation was not favoured for its own sake. Knowledge and independence of thought was a way to deliberately effect one's own moral development, and most of all a prerequisite for a life of useful, practical pursuits, contributing directly to the good of the community. Through education, he sermonised a nephew, it is possible to be "good, be learned, and be industrious", and hence make him "precious to your country, dear to your friends, happy within yourself".<sup>58</sup> These values often assumed distinctly civic guise. To Madison, "a well-instructed people alone can be permanently a free people". Schools and universities would "enlighten ... the opinions [and] ... expand ... the patriotism" of those resorting to them. "[J]ealousy and prejudice would be diminished" and learning would "throw that light over the public mind which is the best security against crafty and dangerous encroachments on the public liberty". Jefferson considered "by far the most important bill ... that for the diffusion of knowledge among the people", the only "sure foundation ... for the preservation of freedom and happiness".<sup>59</sup>

Jefferson's conception of the citizen was a fusion of Enlightenment ideals of reflective individualism and earlier languages of political self-government. Where traditional ideas stressed collective and spontaneous identifications with the common good and resistance to corruption, we now see two things. First, while classical vir-

tue tended to focus on will, determination, and habituation through practice, Jefferson's stress on autonomy and individual exercise of reason added to this the necessity of qualification, specific abilities, and education to virtue, although still as something which had to be willed and mastered by the individual. It was a virtue that could be learned *and* unlearned. Republican citizenship in this respect became more demanding. Secondly, Jefferson's thought marks an early high point in a distinctly political conception of liberal autonomy.<sup>60</sup> Here, on the one hand, political self-government was not *only* conceptualised as the necessary format of liberty to rid America of tyranny. Self-government – *limited* self-government – was *also* seen as the way in which a morally mature people could create the requisite space to practice private and community based autonomy, reflecting upon and choosing their (true) religion, and ordering their own (properly benevolent) economic dealings. On the other hand, self-government was itself a vehicle for a collective form of autonomy. Here, the joint exercise of natural political rights was an outlet for the human capacity to confirm the collective aspects of self-imposed restrictions. This aspect was all the more important in a universe where God had retreated, leaving the earth in large degree 'to the living'.<sup>61</sup>

We may note here that to the extent self-government was ever a moral value in itself, the origins of such ideas were relatively late additions. Old republican vocabulary certainly contained approval of the dignity of self-governing peoples. But it was an early liberal and Protestant invention to associate civic character with a moral premium on reflective self-legislation. This fusion of autonomy and self-government did not last. Relieved of the original concern for private salvation and objective social duty, 'autonomy' fed into a modern culture of pluralism in America, which came to place separate value on private *choice* to pursue a diversity of religious, intellectual, or economic projects. Also, where classically private property served to make people independent enough to be good citizens, capitalist ideology came to invest economic activity as such with the dignity of independence, now understood as (market) self-sufficiency. Eventually, this 'autonomy' could become detached from both social and political duty, not least because of the difficulty of sustaining a moralised idea of political autonomy in an era of remote and professionalised representative democracy.

## *Vocabularies of Civic Virtue*

Many languages of virtue came together at the time of the American Founding. Although each came to have (uncivic) conceptual lives of its own, this was not originally the case. Generally speaking, although ‘virtue’ had its meanings and legitimate arenas multiplied, it is a mistake to claim that the Americans dismissed the language of *civic* virtue. First, the new languages could be employed in a more or less civic manner. The good father or son, the devote Christian who cared for his own faith and that of others and helped the needy, the responsible and enterprising businessman could all be represented as essential for society’s well-being. As ‘private’ and ‘social’ conceptions of worthy citizenship they could, and were, assimilated to the republican rhetoric of corruption (sinfulness, wastefulness, immaturity). But they could also be linked to more political conceptions of virtue, giving it new connotations, and adding new beneficial character traits to ideas of the active and vigilant citizen and the wise ruler.

Quite apart from these new languages, it is hard to ignore the continuing existence of ideals of individual dispositions that were related to the preservation of common liberty in a direct sense, *vis-à-vis* authoritative political levels. They stressed activity, involvement, identification, and judgement in traditional republican ways – although the flavour of such *political* civic virtue was slightly transformed. A variety of positions may be discerned.

Jefferson and Thomas Paine were the most optimistic in the sense that their conceptions of citizenship required and expected much political participation, exercised in constitutional deliberations with relatively short intervals, possibly in a demanding system of ward democracy (Jefferson), and certainly in the vigilant scrutiny of elected leaders. Jefferson hoped to maximise the “direct action” of citizens, to find a way to tap “the voice of the whole people” as “expressed, discussed, and decided by the common reason of the society”. This would “keep alive their attention” lest that their governors “all become wolves”. He and Paine had classical ideas of patriotic willingness to sacrifice in wars and revolutions, both accepting occasional Machiavellian *tumulti*. Here, democratic Anti-Federalists joined them, although the latter feared the incompatibility of civic virtue with the new world.<sup>62</sup>

Madison proposed to *economise* with virtue. We already noted his friendly disagreement with Jefferson's ideas on the people's capacity to constantly renew the virtue and good judgement, exhibited in the debate on the constitution. But it is inaccurate to see Madison's inter-constitutional periods as void of civic virtue, or as characterised entirely by the transformation of virtue from a civic disposition into a systemic property.<sup>63</sup> Not only was institutional organisation of government positively aimed at recruiting the most virtuous leaders. Madison was also unwilling, unlike Hamilton and Hume, to rely on a self-moving constitutional machinery completely without virtuous citizens. Madisonian pluralism and checks and balances were main components in the eclipse of republicanism, but their originator was more cautious. He did believe that the "manly spirit" which was peculiar to America was somehow part of the "health of the soul", and those habits of independence, which were produced by republican political forms.<sup>64</sup> Madison claimed, in a dialogue with an "Anti-republican" that "the people ought to be enlightened, to be awakened, to be united, that after establishing a government they should watch over it, as well as obey it". Most clearly, speaking to the Virginia ratifying convention, he announced that,

I go on this great republican principle, that the people will have 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. No theoretical checks – no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea.<sup>65</sup>

To be sure, the flavour of valued political dispositions had changed somewhat from earlier republican days, although I believe that the contrast between 'the ancients' and 'the moderns' says as much about the Enlightenment authors employing it as about real historical contrasts. Machiavelli and the early English republicans were neither so adverse to moderation and fond of blind martial 'enthusiasm', nor so hostile towards private virtues as the tradition from Montesquieu and Hume to Constant has claimed. However, in as far as someone like Jefferson accepted the terms of these contrasts, and the disputes over the nature of 'civil' society they reflected, it is possible to see him mak-

ing an important conceptual move: Thus in his distinctly political conception of civil society, political moderation began to be transformed into an active and democratic *civic* virtue of a new kind, to which the general public might aspire. Moderation and restraint were associated with popular participation in politics, in two related ways. One was as a possible predicate of the good citizen, through education and experience with free government. Another concerned the outcome of reasoned debate and *polite* restraint in the exchange of opinions. Jefferson, here, made a distinction between the ‘participation’ of the unruly mobs of the European cities and that of more civilised American citizens.<sup>66</sup> He thus introduced a very modern association of civic virtue with a type of political reflection and debate, which required education, impartiality, and tolerance. But by thus raising the demands on the citizen, he also further paved the way for conservative voices that remained unconvinced of such popular capacities.

## The Madisonian Science of Government and its Critics

I do not think Madison went quite so far in the Humean direction as the title of this section suggests. But he criticised what he saw as an unrealistic *degree of* reliance on popular participation and judgement. He sought to demonstrate the feasibility of a new scheme of government, which required *less* virtue to function, in part because of its superior ability to channel such virtue institutionally. But as the ‘Great Debate’ started to shift towards a national framework, also among the critics of the constitution, Madison’s various proposals for what he saw as a new ‘republicanism’ met a set of principled rejoinders. Although largely ineffectual, these came to define the terms of a remaining distrust of the new political order.

### *Consolidated Union*

The main difficulty of all the *small republic* arguments was that Anti-Federalists often recognised the essence of the very diagnosis used by Federalists to argue that American liberty required a large state. Most

people understood that a national political format was required to address *some* of the needs hammered home in the *Federalist Papers*: for a common defence against external enemies, for the regulation of internal commerce, against state protectionism and military rivalry, for a (modest) degree of central taxation and spending on infrastructure and administration, and for problems of law and order between and inside the states. As most Anti-Federalists came to accept the need for ‘consolidation’, the discussion shifted to questions of ‘how much’ and ‘how’. The new point of departure of the Anti-Federalist critique (shared by Jefferson), was the danger of tyranny, epitomised in the ‘necessary and proper’ clause of the constitution, and elaborated in institutional detail in virtually every Anti-Federalist tract.<sup>67</sup>

Yet, this critique of power was ambiguous. On the one hand, Anti-Federalists would grant that *some* consolidation was necessary as the original system was “*defective and wanted amendment*”.<sup>68</sup> On the other hand, while accepting that “rulers are invested with powers” in order to “protect the rights and promote the happiness of the people”, they were unwilling to grant much power at all to the national level. At the same time, Anti-Federalists power realism did not extend to the state level, where they believed power was checked by tighter popular accountability.<sup>69</sup> Madison essentially gave three responses to the problem of power and national consolidation. All were premised, first on the assumption that ‘energy’ was needed for a government, federal or central, to do good in the first place, and that the difficulty of generating *enough* power was as big as restraining it. On the other hand, once power was consolidated, unless proper measures were taken, wherever there was “an interest and power to do wrong, wrong will be generally done”.<sup>70</sup>

### *Divided Sovereignty, Subsidiarity*

Madison’s first response, about jurisdictional *levels*, was directed towards Anti-Federalist fears that power would be *gradually* augmented at the national centre and drift away from the states, indeed that divided sovereignty was inherently unstable, so that “the two concurrent powers cannot exist long together; the one will destroy the other”.<sup>71</sup> But complete refusal to divide sovereignty was obviously impossible, once it was granted that consolidation required granting

*some* measure of overriding power to the centre. Madison responded with what would be a doctrine of ‘subsidiarity’, had the term been available to him. Thus, the jurisdiction of the union

is limited to certain enumerated objects, which concern all the members of the republic, but which are not to be attained by the separate provisions of any. The subordinate governments, which can extend their care to all those other objects which can be separately provided for, will retain their due authority and activity.<sup>72</sup>

Most Anti-Federalists could not but accept this *principle*. The ensuing debate came to centre on accusations of artful designs to provide for future centralisation of power, on attacks on many specific powers as unnecessary and dangerous, and on the need for states to retain the ability to keep house alone.<sup>73</sup> In 1787, Madison had little patience with such fears, which he attributed to an Anti-Federalist fetish of the “dignities and attributes of sovereignty”. But later in his life, in the great struggle waged by Jefferson and himself against Hamilton’s plans for national consolidation in the fields of taxation, finance, banking, and foreign policy, Madison was to learn that Anti-Federalist reservations had not been entirely unfounded.<sup>74</sup>

### *Enlarging the ‘Sphere’*

A second part of Madison’s response *reversed* Anti-Federalist assumptions about power: Individual rights, he claimed, were more likely jeopardised at the state level, and much better protected in a consolidated representative government. Tyranny came from majority rule *as such*, not just from sinister combinations of big states into national majorities. Here, Madison challenged the view of Jefferson and democratic Anti-Federalists that majorities of active citizens were the best safe guard of individual liberty. In particular, the rights of minorities might be violated because of the envy, greed, or religious intolerance of unjust majorities. Anti-Federalists, Madison thought, relied on a flawed equation of small size with homogeneity of “possessions, ... opinions, and ... passions”.<sup>75</sup> Madison responded with his own theory of political pluralism, which effectively contained two moves.

One was the famous argument to “extend the sphere” of government:

Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other.<sup>76</sup>

With this idea, Madison initiated a radical transformation of the Enlightenment discourse on civil society. Whereas in Ferguson, Smith, Jefferson, and many Anti-Federalists, battles were fought over whether one or the other (political, social, or economic) human activity was more *civilising*, Madison’s civil society was no longer primarily conceptualised as “a teacher, as a moulder of character”, but rather as “a regulator of conduct”, taking man as he was.<sup>77</sup>

Madison’s second move was to challenge the mainstream views of *representation*, endlessly reiterated in Anti-Federalist tracts: Representation was second best, to be used where direct democracy was impracticable, it should enable the full diversity and relative strength of opinions to be *mirrored*, elections should be frequent, there ought to be many representatives, these must be strictly accountable to constituencies, and the creation of a class of professional politicians should be avoided.<sup>78</sup> Against this ‘mirror’ view, Madison argued that representation was a positive opportunity, rather than a necessary evil. Under the right circumstances, representation could serve to

refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations ... [T]he public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves.

The right circumstances were a large republic, where the number of representatives was big enough to ensure against the corrupt “cabals of a few”, yet small enough to “avoid the confusion and intemperance of a multitude”. Also, where each representative had numeri-

cally large constituencies “it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried”, and the people would bestow their electoral favours on “men who possess the most attractive merit and the most diffusive and established characters”.<sup>79</sup>

Madison’s new pluralist conception of civil society did not make him give up virtue altogether. The older language of the moulding of civic character remained in smaller doses. Virtue was needed in a wisely choosing people, in decent representatives, and in the features of the system, as it worked to exclude sinister concerns from the legislative process. But Anti-Federalists had their reservations: From whence would any residual virtue come, in a capitalist, privatised society, particularly if *popular* politics and elections were reduced to the competition of interest groups? And without such popular virtue and its institutional outlets, how to trust the idea of a filtering device, inducing representatives towards the broader view, rather than towards the meanest common denominator of either mass prejudice or secret, corporate lobbying?

### *From Simple to Complex Government*

Anti-Federalists also disliked the institutional organisation of the central government. The general view was that good government, apart from being accountable, had to be simple and transparent. It ought to be easy to detect the location of responsibility for poor legislation and abused power. More specifically, the popular element, i.e., a single, large representative chamber ought to be strong relative to the executive. This was the *simple government*, which was fit for an egalitarian, democratic society of freeholders.<sup>80</sup> Also, with reference to Montesquieu, simplicity and transparency was associated with a clear and ‘rational’ division of legislative, executive, and judicial functions.<sup>81</sup>

Against these criticisms, Madison developed his doctrine of complex government, with overlapping powers and ‘checks and balances’, the core of which is found in *Federalist* no. 51. Although it was to be hoped that virtuous leaders would be elected and controlled, it was still the case that, while “dependence on the people” remained “the

primary control on the government ... experience has taught mankind the necessity of auxiliary precautions". Hence a system,

of supplying, by opposite and rival interests, the defects of better motives [is] ... particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other – that the private interests of every individual may be a sentinel over the public rights<sup>82</sup>

Madison's invention was a landmark in constitutional theory, but also one more nail in the republican coffin. A parallel to Mandeville's economy of egoism and vice, it represented a vision of government as a perpetual motion machine, which needed no (civic) input beyond the ever-present beastliness of men.<sup>83</sup>

Anti-Federalists remained sceptical.<sup>84</sup> But they also suggested a different point. Madison assumed that the particular complexity of the American constitution, as a result of political science, had nothing sacredly republican about it *per se*, apart from its utilitarian superiority. However, while he thought time would "recommend [it]... to ... sincere and considerate friends of republican government", Anti-Federalists suggested that this complicated design would alienate and confuse American citizens, whose allegiance could not be expected to depend on however well-functioning machinery.<sup>85</sup> This concern was also manifest in the discussion over whether or not to have a *Bill of Rights* in the new republic.

## A Bill of Rights and Constitutional Patriotism

A main reason for the adoption of the new constitution was the Federalist promise to add to it that Bill of Rights the need of which was a recurrent Anti-Federalist point. This concession made it difficult to shift the framework of discussion back to the level of states. Standard Anti-Federalist themes included the need for constitutional protection of the personal liberties, including freedom of consciousness and religion and right to trial by jury. Although these were rights of individuals, and while a Bill of Rights was seen to delimit the exact

degree of power that was alienated by individuals by the social compact, it was *also* typically associated with the rights of *peoples* to “reserve all their powers not expressly delegated”.<sup>86</sup> ‘Powers’ could refer to the individual executive right of nature against any government, but also, by assumed implication, to the collective exercise of self-government in states. In the latter sense, a Bill of Rights, while pertaining to individual legal subjects, was regarded as a state tool to resist encroachments on the particular interests and specific (e.g., religious) habits of the parts of the Union. This was the reason for the stress on political rights, adequate representation, security against standing federal armies, liberty of the (local) press, and jury trial.<sup>87</sup>

Madison’s view, again, was to stress the “importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part”. To the extent that Anti-Federalists thought a Bill of Rights was principally needed in a large, federal republic, they falsely assumed individual rights to be safer in the states, because protected by vigilant popular rule.<sup>88</sup> He had a point here, as also in his proposition, during the debate, of an amendment expressly declaring that no *state* should violate a series of rights, particularly the freedom of conscience.<sup>89</sup> Still, it was easy for the more liberal minded Anti-Federalists to concede this point, but then to argue that political danger was increased simply by virtue of the accumulation of legislative power at the centre. They could argue that “the greater the portion of political freedom in a form of government the greater the necessity of a bill of rights”. And they could show the existence of state constitutions where people *had* wished “that such declarations should make a part of their government” and deplore the absence in some states of such clearly stated concerns – while only regarding this as “additional reason” for a federal Bill of Rights.<sup>90</sup>

Madison’s eventual support for a Bill of Rights, so “anxiously desired by others”, but in whose effectiveness he did not much believe, was also a concession to Jefferson. The latter had noted that weak (or insufficiently liberal) guarantees were better than no guarantees. Also, to Jefferson, the unclear and general character of some of the constitutional provisions rendered the ‘reserved rights’ argument dubious. A codified text, despite its lack of potency, was at any rate a helpful reference for the identification of abuses of power, whatever their origin.<sup>91</sup>

In light of the weak arguments produced against a Bill of Rights its champions may have detected bad faith in their opponents. Hamilton's scepticism was no doubt tied to fears that the document could be used by states or individuals to "distract attention from the business of doing the things that have to be done". But as noted by Storing, *this* argument could be met with the rejoinder that this great purpose could only be realised with the patriotic support of the people. And a Bill of Rights might mobilise and maintain such support – while also giving it the right direction, reminding the people what they had fought for, and should fight for still. Madison's version of this view was the modest hope that "political truths declared in that solemn manner ... as they become incorporated with the national sentiment, counteract the impulses of interest and passion". By contrast, to *The Federal Farmer* a Bill of Rights might

establish in the minds of the people truths and principles which they might never otherwise have thought of, or soon forgot. If a nation means its systems, religious or political, shall have duration, it ought to recognize the leading principles of them in the front page of every family book. What is the usefulness of a truth in theory, unless it exists constantly in the minds of the people.

A Bill of Rights could inspire to civic virtue and popular allegiance in a way that the complicated details of the constitution could not. It could remind individuals of the rational content of their patriotism, "be the first lesson of young citizens", "sustain the dignity of their being", inspire "the envy and admiration of all Europe", and promote "considerable emigration". It enabled the republic to return to its sacred beginnings in common acts of deliberate remembrance:

Men ... do not remain free, merely because they are entitled to natural and unalienable rights ... because their ancestors once got together and enumerated them on paper, but because, by repeated negotiations and declarations, all parties are brought to realize them, and ... to believe them to be sacred.<sup>92</sup>

## The Eclipse of American Republicanism

Anti-Federalist projects failed to reconcile contradictory aspirations.  
To Storing

They did not fail to see the opportunity for American nationhood that the Federalists seized so gloriously, but they could not join in grasping it. They doubted; they held back; they urged second thoughts (...) The Anti-Federalists 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.<sup>93</sup>

The Federalist side ‘won’ the debate, in the sense that its authors were willing to seek a political framework reflecting the reality of nationwide commerce, administrative, legislative, and executive centralisation, even America’s rise to the status of a world power. They accepted that civic virtue could not be had in the quantities presupposed by classical authors, and that new means were required to secure liberty in a large state. Anti-Federalist positions, by contrast, were unconstructive, in the sense that few confronted republican preconceptions with the consequences that followed from accepting the inevitability of the Union. Few new syntheses were attempted.

Even so, Anti-Federalist fears were not unfounded. Madison and Jefferson lived to see the early beginnings of nineteenth century corporate capitalism, the rise of a national bank, and other Hamiltonian schemes about which they themselves had voiced so many reservations. As presidents they fought battles against Hamilton’s Federalist Party, which were not only unsuccessful but also backward looking in their assumptions about political economy and the role of the state. Both were forced to revise their ideas on taxation, foreign policy, and public finance.<sup>94</sup> Arguably, it was certain Hamiltonian ideas of administrative modernisation, which facilitated whatever degree of capitalist regulation, economic redistribution, and welfare state integration, which came to exist in America, not Jefferson’s ideas of a freeholder’s democracy.<sup>95</sup> But if Jefferson and Madison were feet-dragging their way into the new century, they also shared a deep scepticism that the desirable spirit of frugality and political moderation was a necessary, or even a likely outcome of *doux commerce*.

If Anti-Federalists were even more unrealistic about the future, it may also be said that they “had *reasons*, and the reasons had weight”. One set of reasons were profound doubts that *any* political architecture, however ingenious its checks and balances, could exist without substantial civic virtue, or, alternatively, could be made to rely on a residual pool of virtue of obscure and postulated origin.<sup>96</sup> Also, while the need for centralisation and enlargement was eventually granted, Anti-Federalists continued to stress what Madison ignored. If Madison’s republican problem was the constitution of liberty through federal union, Anti-Federalists insisted on the *new* threats of an unaccountable, remote elite with new authorities. They stressed, in manners that were not *only* parochial, that many liberties had to be constituted locally, or at the very least that local concerns must be adequately represented. Moreover, beyond calls for a civic face-to-face society whose days were already numbered at state level they insisted that no account had been made of how to generate a political identification, which could combine and transcend local differences and create adequate *national* allegiance – and not merely the habitual fair-weather acquiescence of subjects.

Jefferson remained true to his radical self-government theme, also prominent among Anti-Federalists, i.e. the belief that ‘the earth belongs to the living’. Despite the force of Madison’s theoretical refutation and his sensitivity to pluralism and compromise, the latter’s cautious provisions for constitutional innovation were arguably too conservative. Constitutional revisions were soon necessary, given the new economical, social, and political circumstances of corporate monopoly, civil war, slave emancipation, and economic depression. Yet, such revisions were not facilitated by broad constitutional debates, but through the remote and undemocratic institution of judicial review, subject to the contingent quality of particular supreme justices.<sup>97</sup>

Madison’s temper was not as adverse to classical republicanism as often assumed. That tradition always also had its more conservative voices. If Jefferson’s populism lacked this darker aspect, Madison may have erred in a Humean direction. Unlike Jefferson, he did not contemplate truly democratic solutions to a democratic predicament – i.e. the creation of a participatory culture, its roots possibly in the local associational life, later praised by Tocqueville, but its focus directed towards the Union and a modern state.

Along with increasingly diversified languages about the dispositions required to protect it, corresponding changes of the point and civic context of republican liberty gradually emerged. On both counts, the new vocabularies increasingly pointed in uncivic directions. First, ‘inalienable rights’ were eventually capable of disassociation from moral duty, divine intention, moral sense, and early natural jurisprudence. The next centuries saw the rise of a truly ‘possessive individualist’ ideology, tied to radical ideas of self-ownership, just acquisition, and transfer of property, but not necessarily to any right of the poor to survive. Unlike previously, these doctrines were tailored to a new *laissez faire* society in which ‘self-interest’ lost connotations of concern with moral character, to be linked to arguments against the rationality, or the realistic anticipation, of public-regarding dispositions. This, in turn, was facilitated by a new political economy which viewed naked self-interest as a necessary motivating force, and which saw the common good as a product of unintended consequences, finally rendering virtue completely redundant. To this economic liberalism or libertarianism, the state of nature metaphor represented a vision of the market without a regulator state, rather than a pre-civil state of anarchy without common liberty.<sup>98</sup>

Secondly, the ‘other’ liberal individualism,<sup>99</sup> which derived from Locke’s moral rationalism and the Enlightenment value of autonomy, contained a different potential. In Jefferson, it could be linked, via the appreciation of moral complexity and man’s fallen nature, to a conception of collective self-government, which was both a privilege and a duty. This morally infused populism did not disappear in America. Yet, the idea of basing political morality on the self-imposed obligation of the collective could eventually become married to a rationalist reconstruction of political jurisprudence, an impulse which we now associate with philosophers like Rawls and Dworkin. Moreover, in America’s professionalised political world, the value of individual autonomy soon assumed more private forms. The importance of independence and choice became conceptualised in connection with a variety of cultural, religious, and aesthetic pursuits, i.e., the radical American affirmation of the right to find one’s own peculiar form of happiness. In the nineteenth century, this became an anti-political impulse, in the transcendentalist, principled privatism of Emerson and Thoreau.<sup>100</sup>

Finally, the language of religious virtue, which momentarily fused with Anti-Federalist republicanism, changed also. Its radical potential surfaced in Lincoln, in the rhetoric of nineteenth century labour leaders, and in the civil rights movements of the sixties. More often, it became part of America's (ethnic) pluralism, as a vehicle of segmented group identities, and arguably as a valuable source of social integration and a brake on competitive individualism. Another, now more visible tendency, articulated by the *Moral Majority* takes religious virtue in directions of private morality, intolerance of cultural pluralism, respect for authority, and a political program of school prayer, anti-abortion, and 'moral' political office. In the neo-conservative, Christian revival, the old schism between commercialism and religious virtue, or of how to "follow Jesus with your pockets full", largely disappeared. Protestant Christianity, capable at times of generating social indignation and activism, could also conceptualise one's duty to God and neighbours as a council for leaving these neighbours alone to pursue their necessarily individual temporal salvation, recognising economic rewards as the product of individual desert, and hardship as self-inflicted.<sup>101</sup>

## Notes

- <sup>1</sup> Showing this is the theme of a research project of mine under way. I do not attempt this here.
- <sup>2</sup> Thomas Jefferson quite typically advocated a limited government "which shall restrain [citizens] from injuring one another, which shall leave them free to regulate their pursuits of industry and improvement, and shall not take from the mouth of labour the bread [they have] earned", a condition contrasted to European inequality and wastefulness (Jefferson, Inauguration Address, March 4, 1801, *The Life and Selected Writings of Thomas Jefferson*, p. 323.)
- <sup>3</sup> See footnote above and Mouritsen (2001:35-56). Cf. Skinner (1988).
- <sup>4</sup> Pocock (1975:522,533,548). Key references on the early consensus on the liberalism of the founding are Hartz (1955) and, for a radical interpretation, Beard (1913). Before Pocock, liberal interpretations were challenged by Bailyn (1967) and Wood (1969). The literature on American republicanism is immense, useful summaries being Shalhope (1976, 1982), Onuf (1989), and Rodgers (1992). For more general

discussion, see Ackerman (1991:cpt. 1,2,7-9), Ball (1988:47-79,169-70), and Book III of Rahe (1992). Many of the themes of the present article are also discussed in Ball & Pocock (1990).

- <sup>5</sup> See in particular Skinner (1990, 1992, 1998) and Viroli (1988, 1992). In my PhD dissertation (Mouritsen 2001) I try to develop these insights: A) I seek to broaden 'the tradition' through a series of didactic readings of authors which Skinner and Viroli did not cover (i.e. the Americans and Tocqueville), also drawing on recent scholarship to revise the view of the Greek tradition, including Aristotle. B) I claim that there was hardly ever any pure civic humanism of Pocock's type. C) I develop an analytical framework to appreciate the (four) dimensions of the core argument and the great variety of emphases on what was the 'problem' of liberty in different historical and conceptual contexts. D) I suggest that the fault lines between republicanism and the various aspects of 'liberal' Enlightenment discourses by which it was challenged were less clear-cut than usually believed – also by Quentin Skinner – arguing that it makes sense to see a republican argument *inside* several of these new, flexible vocabularies: of natural jurisprudence, contract and state of nature; of moral sense and psychologies of sympathy; of beneficial commerce and conceptions of 'civil' society; of institutional architecture; and of progress and perfectibility. These notions, none of which can be developed here, inform the following.
- <sup>6</sup> Appleby (1992); Kramnick (1982; 1990); Dienstag (1996); Diggins (1986).
- <sup>7</sup> One version is to reserve a place for political virtue in early liberalism, or else to speak of a radically different 'liberal' republicanism with a new normative content, whose conception of the content and psychology of virtue was at any rate substantially changed. Here, it is assumed that Montesquieu, Hume, and Constant (and Berlin) were right that the political aspirations of the ancients were of a different order. See Ackerman (1991:27-33); Ball (1988:47-56); Habermas (1994); Sinopoli (1992:3-15,146-55). Some (Pangle 1988:48-72; Rahe 1992:3-54) combine their analysis with receptions of Greek and Renaissance thought which accept Pocock's civic humanist picture.
- <sup>8</sup> Of course, the rhetoric included attribution of sinister motives to opponents. *Publius* often implied that Anti-Federalists secretly wished to break up the union (e.g., Hamilton in *Federalist* no. 1, p. 89), whereas a standard Anti-Federalist move, justified in the case of Hamilton, was to accuse the gentlemen in Philadelphia of partaking in the "search for grandeur, power and splendor", *Patrick Henry* (5.16.2.)
- <sup>9</sup> Storing (1981:5).
- <sup>10</sup> Jefferson to Madison, December 20, 1787, *Republic of Letters*, I (pp. 513-14); Madison to Jefferson, September 6 and October 24, 1787, *Republic of Letters*, I (pp. 491,499-500).

- <sup>11</sup> Storing (1981:67). For instance, see the letter from *A Delegate Who Has Caught Cold* (5.19.13-18).
- <sup>12</sup> For the context and prehistory of the Convention see for instance Kramnick (1987).
- <sup>13</sup> Madison, as often noted, was more insisting on *property* rights than his friend Jefferson, but there still is ample evidence against viewing him as a ‘possessive individualist’. See ‘Note to Speech of the Right of Suffrage’, ca. 1821, *The Complete Madison* (pp. 37, 45) and cf. Koch (1966:27-32). Apart from its “particular application”, Madison used ‘property’ in a broader sense of inviolable personal rights to life, safety, and liberty of opinion (Madison, in *National Gazette*, March 27, 1792, *Papers* (14:266-68)).
- <sup>14</sup> To *The Federal Farmer*, there were “certain unalienable and fundamental rights, which in forming the social compact, ought to be explicitly ascertained and fixed – a free and enlightened people, in forming this compact, will not resign all their rights to those who govern” (Storing, *The Complete Anti-Federalist* (2.8.19-20). As all the Anti-Federalist pamphlets and speeches cited are contained in Storing’s collection, I identify them by his system of reference). Some writers failed to note any possible conflict between individuals’ rights and the people’s collective exercise of its (political) rights, a point famously criticised by James Madison (section 6-7 below). But this populist fallacy did not divide the protagonists as one might expect. Hamilton opposed a bill of rights with the argument that local states ‘already’ possessed such (collective) rights. On the other hand the Anti-Federalist *Agrippa*, who thought a bill of rights was “necessary to defend an individual against the majority in a republic”, made a conventional distinction to the effect that “Civil liberty consists in the consciousness of that security [in their persons and property], and is best guarded by political liberty, which is the share that every citizen has in the government” *Agrippa* (4.6.30; 4.6.73). It is inaccurate to claim that Anti-Federalists by liberty meant “public of political liberty, the right of the people to share in government” – as distinct from liberty in the sense of the “personal or private, the protection of rights against all governmental encroachments” (Ball 1988:55; Wood 1969: 608-9; cp. Sinopoli 1992:134).
- <sup>15</sup> *Agrippa*, (4.6.48).
- <sup>16</sup> *Agrippa*, (4.6.34); cp. also *Cato* (2.6.12,18) and *The Federal Farmer* (2.8.14).
- <sup>17</sup> Jefferson to Madison, October 28, 1785 and September 6, 1789, *Republic of Letters*, I, (pp. 390,632-34).
- <sup>18</sup> Madison to Jefferson, February 4, 1790, *Republic of Letters*, I (pp. 650-53).

- <sup>19</sup> *Federalist* no. 40 (p. 264). Also no. 43 (p. 285) and no. 51 (pp. 321-22). See Rosen (1996).
- <sup>20</sup> *Federalist* no. 37 (p. 244-7), no. 10 (p. 123) and no. 40 (p. 265)
- <sup>21</sup> Rosen (1996:564).
- <sup>22</sup> *Federalist* no. 37 (pp. 242-47).
- <sup>23</sup> *Federalist* no. 40 (p. 264).
- <sup>24</sup> Madison to Jefferson, October 24, 1787, *Republic of Letters*, III (p. 496).
- <sup>25</sup> *Federalist* no. 38 (p. 248); no. 43 (p. 285); no. 49 (pp. 313-14).
- <sup>26</sup> *Federalist* no. 49 (p. 313).
- <sup>27</sup> *Centinel* (2.7.17). On the origin of the small republic argument, see Draper (1982:35).
- <sup>28</sup> *Centinel* (2.7.19). Cp. *Cato* (2.6.13-21); *The Federal Farmer* (2.8.14); *Brutus* (2.9.14-20).
- <sup>29</sup> *Federalist* no. 15 (Hamilton); Madison to Jefferson, October 24, 1787, *Republic of Letters*, I (p. 500).
- <sup>30</sup> *Federal Farmer* (2.8.18); cp. *Brutus* (2.9.18) and *Cato* (2.6.16-17); *Federalist* no. 62 (p. 368).
- <sup>31</sup> *Federal Farmer* (2.8.18); *Federalist* no. 49 (p. 314); no. 41 (p. 369); cp. no. 46 (p. 298).
- <sup>32</sup> Sinopoli (1992:136-55).
- <sup>33</sup> *Cato* (2.6.13-14).
- <sup>34</sup> *Brutus* (2.9.49).
- <sup>35</sup> *Federalist* no. 17 (Hamilton) (pp. 157-58); *Federalist* no. 27 (Hamilton) (pp. 201-3).
- <sup>36</sup> *A Federal Farmer* (2.8.24).
- <sup>37</sup> They also advanced a second argument about rational allegiance, centring on the need for a Bill of Rights as an identity device, to which we return below.
- <sup>38</sup> Jefferson to William Short, January 3, 1793, *Papers* (25:14-17).
- <sup>39</sup> Jefferson to John Tyler, May 26, 1810; Jefferson to Joseph C. Cabell, February 2, 1816; Jefferson to Samuel Kercheval, July 12, 1816, *Life and Writings* (pp. 610-11, 660-62, 676).
- <sup>40</sup> *Federalist* no. 12 (p. 134) (Hamilton).
- <sup>41</sup> Franklin, *Autobiography*; Jefferson to Samuel Kercheval, July 12, 1816, *Life and Writings* (p. 673). Madison deplored the “despotism” of a situation where “*twenty thousand* persons are to get or go without their bread, as a wanton youth may fancy to wear his shoes with or without straps, or to fasten his straps with strings or with buckles.” Madison, in the *National Gazette*, March 20, 1792, *Papers* (14:258, italics in original).
- <sup>42</sup> Pangle (1988:97).
- <sup>43</sup> *Centinel* (2.7.103), cp. *Candidus* (4.9.18) and *A Plebeian* (6.11.22-23); Jefferson to Archibald Stuart, January 25, 1786, *Papers* (9:219-20); Pangle (1988:93-94).

- <sup>44</sup> Kloppenberg (1987:26); Storing (1981:45).
- <sup>45</sup> Hume advanced the distinctly anti-republican argument that commerce would not only render civic virtue redundant but also cure the modern world of the disease of *too much* (overzealous, fanatic) civic virtue (Hume, 'On Commerce', *Political Essays*).
- <sup>46</sup> Agrippa (4.6.6); *Cato* (2.6.34); *Charles Turner* (4.18.1); Jefferson to John Jay, August 13, 1785; Jefferson to Hogendrop, October 13, 1785, *Papers* (8:426,633); cp. also *Notes on Virginia*, query 19, *Life and Writings* (pp. 280-81). Jefferson was uncomfortably aware that rural virtue, in America as in ancient republics, went along with a slave economy. His notion that America should pursue its virtue alone, exporting its corruption as it were ("let our workshops remain in Europe"), is difficult to take entirely seriously, *Notes on Virginia*, query 18 and 19, *Life and Writings* (pp. 277-81).
- <sup>47</sup> Hamilton, *Report on Manufactures*, in *On Public Credit, Commerce, and Finance* (pp. 195-96); Hamilton, Speech to the New York Ratifying Convention, June 21, 1788, *Papers*, 5 (pp. 42-43). For Hamilton's acceptance of erosion of virtue, his approval of Hume's beneficial *luxury*, and for John Adam's Calvinist despair at such prospects, see Diggins (1986:53-55).
- <sup>48</sup> Vetterli & Bryner (1987:59-61).
- <sup>49</sup> On religion at the founding, see Bloch (1990); Pangle (1988:78-88); Vetterli & Bryner (1987:74-77).
- <sup>50</sup> *A Watchman* (4.22.4).
- <sup>51</sup> Madison to Jefferson, October 24, 1787, *Republic of Letters*, I (p. 502); Madison to Mordecai M. Noah, May 15, 1818, *The Complete Madison* (p. 310); Jefferson, *Notes on Virginia*, Query 17 and 18, *Life and Writings* (pp. 272-78).
- <sup>52</sup> *Turner* (4.18.2); *Letter by David* (4.24.6); cp. *Luther Martin* (2.4.108) and *A Friend to the Rights of the People* (4.23.3).
- <sup>53</sup> Vetterli & Bryner (1987:50-54).
- <sup>54</sup> E.g., Vetterli & Bryner (1987:54),
- <sup>55</sup> For Adams' position, see Diggins (1986:74-99); but cp. Lerner (1987: 23ff).
- <sup>56</sup> Kloppenberg (1987).
- <sup>57</sup> Appleby (1992:1).
- <sup>58</sup> Jefferson to P. Carr, August 19, 1785 and August 10, 1787, *Papers* (8:406; 12:15-18).
- <sup>59</sup> Madison, Second annual message, December 5, 1810; Madison to W.T. Barry, August 4, 1822, *The Complete Madison* (pp. 313,316). Jefferson to Mr. Wythe, August 13, 1786 *Papers* (10:244). For Adams' similar position see Lerner (1987:165).

- <sup>60</sup>Haakonssen (1991). Kloppenberg (1987:22) shows how ‘interest’, ‘utility’, and ‘happiness’, as used by Jefferson and contrary to the flattened nineteenth century vocabulary of utilitarianism, assumed everybody’s interest in becoming a good, reflective, and responsible person. See Jefferson to Peter Carr, August 19, 1785, *Papers* (8:405-408) and to Thomas Law, June 13, 1814, *Life and Writings* (pp. 637-40).
- <sup>61</sup>Jefferson to Peter Carr, *Papers* (12:17).
- <sup>62</sup>Jefferson to John Taylor, May 28, 1816; Jefferson to Samuel Kercheval, July 12, 1816, *Life and Writings* (pp. 670,676); see also Jefferson to Edward Carrington, January 16, 1787, *Papers* (11:48-49).
- <sup>63</sup>See Ackerman (1991:165-99) and Ball (1988:72), and note the discussion below.
- <sup>64</sup>Madison in the *National Gazette*, March 5, 1792, *Papers* (14:245).
- <sup>65</sup>Speech to the Virginia Convention, June 20, 1788; Madison, in *National Gazette*, December 20, 1792, *Papers* (11:163, 14:426).
- <sup>66</sup>E.g., Jefferson to Thomas Jefferson Randolph, November 24, 1808, *Life and Writings* (pp. 591-92,676,711); Jefferson to Samuel Kercheval, July 12, 1816; Jefferson to Monsieur A. Cray, October 31, 1823, *Life and Writings* (pp. 591-92,676,711); Jefferson to Adams, October 28, 1813, *The Adams-Jefferson Letters*, II (pp. 387-92).
- <sup>67</sup>Paradigmatically in *Brutus* (2.9.9). See also Mason’s representative summary of perceived dangers of all the new branches of government (2.2.2-9).
- <sup>68</sup>Luther Martin (2.4.44); cp. *Brutus* (2.9.23, 2.9.65) and *The Federal Farmer* (2.8.75).
- <sup>69</sup>*Brutus* (2.3.9, 2.9.102).
- <sup>70</sup>Madison to Jefferson, October 17, 1788, *Republic of Letters*, I (p. 565); *Federalist* no. 37 (p. 243), see Storing (1981:29) and Hamilton’s argument in *Federalist* no. 23.
- <sup>71</sup>*George Mason* (5.17).
- <sup>72</sup>*Federalist* no. 14 (p.143).
- <sup>73</sup>*Federal Farmer* (2.8.8-10); a [*Pensylvanian*] *Farmer* (3.14.6-21).
- <sup>74</sup>*Federalist* no. 45 (p. 293). On the Hamilton quarrel see Koch (1950:103-14, 127-34).
- <sup>75</sup>*Federalist* no. 10 (p. 126); Madison to Jefferson, October 24, 1787, *Republic of Letters* (p. 501).
- <sup>76</sup>*Federalist* no. 10 (p. 127).
- <sup>77</sup>Storing (1981:47).
- <sup>78</sup>*Cato* (2.6.38); *The Federal Farmer* (2.8.95-98); *Brutus* (2.9.14); *Melancton Smith* (6.12.8-25). See also Kramnick (1987:44f).
- <sup>79</sup>*Federalist* no. 10 (pp. 126-27); no. 55 (p. 336).
- <sup>80</sup>I.e. *Centinel* (2.7.9). In many Anti-Federalists there were also remnants of more classical republican ideas of *mixed government*.

- <sup>81</sup> E.g., *Gerry* (2.1.2); *Brutus* (2.9.203-4).
- <sup>82</sup> *Federalist* no. 51 (pp. 318-20).
- <sup>83</sup> *Federalist* no. 51 (p. 320).
- <sup>84</sup> *Patrick Henry* (5.6.14) spoke of “checks on paper ... inefficient and nugatory”.
- <sup>85</sup> *Federalist* no. 51 (pp. 321-22); Ackerman (1991:181-86).
- <sup>86</sup> *The Federal Farmer* (2.8.196).
- <sup>87</sup> For a central statement, see *The Federal Farmer* (2.8.19-20; 2.8.196-203). Also *Centinel* (2.7.36-44). On the general debate, see Storing (1981:64-70).
- <sup>88</sup> *Federalist* no. 51 (p. 321); cp. Madison to Jefferson, October 17, 1788, *Republic of Letters*, I (p. 564). See Banning (1988:126-30).
- <sup>89</sup> Koch (1966:31); Madison to Jefferson, October 24, 1787; October 17, 178, *Republic of Letters*, I (pp. 501,564).
- <sup>90</sup> *Brutus* (2.9.25); *A Delegate Who Has Caught Cold* (5.9.14). *A Maryland Farmer* (5.1.15).
- <sup>91</sup> Koch (1950:56); Jefferson to Madison, 15 March 1789; Madison to Jefferson, October 17, 1788 (*Republic of Letters*, I (pp. 564-65, 587-88).
- <sup>92</sup> Madison to Jefferson, October 17, 1788, *The Republic of Letters*, III (p.565); *The Federal Farmer* (2.8.197); *A Delegate Who Has Caught Cold* (5.19.16).
- <sup>93</sup> Storing (1981:6).
- <sup>94</sup> Koch (1950:212-59).
- <sup>95</sup> Kapstein (1997).
- <sup>96</sup> Storing (1981:6).
- <sup>97</sup> Lately, this conservative institution has been praised by liberal American theorists who link its deliberations to democratic legitimation processes (Macedo 1990; Ackerman 1991).
- <sup>98</sup> Kloppenberg (1987:19,27-29); Hont & Ignatieff (1983); Bellamy (1992:9-21).
- <sup>99</sup> For the distinction, see Dunn (1993:35-36).
- <sup>100</sup> Thoreau, *Walden* (pp. 212-21); Diggins (1986:192ff); Kateb (1989); Rosenblum (1987).
- <sup>101</sup> Bellah et al. (1985:219-49; 1991:179-92); Diggins (1986:334-36); Marsden (1990:388-89).

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 A [Pennsylvanian] Farmer  
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 Agrippa  
 Brutus  
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