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Unraveling Anti-Federalist Ideology Through a Conceptual Framework of Natural
Rights

by

Jacob D. Solt
December 2011

A thesis submitted to the Department of Education and Human Development of the
State University of New York College at Brockport in partial
Fulfillment of the requirements for the degree of
Master of Science in Education

Unraveling Anti-Federalist Ideology Through a Conceptual Framework of Natural Rights

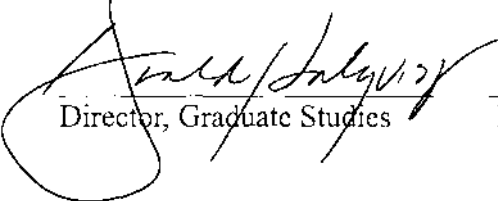
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TABLE OF CONTENTS

Title Page	1
Signature Page	2
Table of Contents	3
Part I: “Historical Perspectives of the Anti-Federalists”	4
Part II: “Reconciling Contradictions”	39
Part III: “Reflections on Researching the Anti-Federalists”	72
Part IV: “Reflections on Research Dissemination”	95
Table I: Tabled Historiography	115
Appendix	117

Historical Perspectives of the Anti-Federalists

The Anti-Federalists have received an interesting treatment from historians; sometimes condemned, sometimes acclaimed, sometimes trivialized, and other times ignored. They were the ostensive losers of the debate for ratification of the new constitution and as many other defeated groups have often experienced, the victors cast and directed the history of their successful campaign. Those who had identified themselves as “Federalist,” designated their own opposition as “Anti-Federalist”. The significance of this nomenclature, for the developed sense of historical irony, is that the Anti-Federalists, on the whole, supported a federal system of government, a system in which sovereign states form a confederation for defense and commerce; a federal system of States-United in the stead of a United States. It would have been closer to their true ideological positions if the Federalists were to have been known as “Nationalists”, while the Anti-Federalists were to have been known as “Federalists”.

As Herbert Storing (1981) would point out, even the use of the Anti-Federalist designation used by historians betray a certain premises.¹ The nominal construction of “anti-federalist” would suggest a descriptive term, which would be inaccurate based upon the Anti-Federalists position in support of federalism. The construction of “anti-Federalist” would denote an undue dependence upon the “Federalist” term; it would cast the Anti-Federalists as the mere antithesis of the “Federalists”. The construction used here and adopted and standardized by Storing, is a full capitalization of “Anti-Federalist” denoting a proper name but not necessarily a

¹ Herbert J. Storing, *What the Anti-Federalists were For* (Chicago: University of Chicago Press, 1981), 79.

descriptive one; just as a man named Abraham (Hebrew: “Father of a Multitude”), may in fact be childless.

In a society’s evaluation of its environmental change, often the slow progress of change can lead many residents to believe that the environment has always been what it is now because few are old enough to detect the significant accumulation of subtle changes over a long course of time. Jared Diamond describes this condition as “landscape amnesia” or “creeping normalcy”.² The same condition can afflict our view of the past when surveying past historical landscapes. In that spirit, consider as a hypothetical, in this contemporary time, a special political convention were called by our Congress to revise the Constitution specifically to update its language for modern times and to help fix the current economic troubles of the country through adaptive powers to regulate commerce. Consider further that instead of an update of the language and a change to some Federal power to regulate commerce and contrary to the Congressional commission of the convention, that the convention had proposed a fundamentally different form of government from our present one, one that claims its laws superior to all prior laws and one that might abolish all state and local governments and consolidate these into one unitary government with no structural guarantee of individual rights. Furthermore, the convention proposed that the new unified Constitution would be ratified if accepted by two thirds of the state conventions and it would replace all national law prior to its creation. If this scenario appears at all problematic, you may then begin to sympathize with the Anti-Federalists.

² Jared Diamond, *Collapse: How Societies Choose to Fail or Succeed*. (New York: Penguin Group, 2006), 425.

Perhaps this hypothetical may be claimed to be more severe than the one that the Anti-Federalists faced but it must have come as quite a shock that those entrusted with revising the Articles of Confederation, the same articles that would have seemed in their eyes to have been the hard-fought for fruits of the American Revolution, were to be hijacked by men intent on a completely new political invention. The pre-Anti-Federalist reaction to such a revelation was that the Philadelphia Convention had over-stepped its bounds, that it went outside of the legal process formed and agreed to in the Articles of Confederation, that the proposed Constitution of the Philadelphia Convention was in fact, illegal. Many Anti-Federalists that were sent by their state delegations to the Convention, either refused to go, or else left after seeing the intended purposes of the Convention surpassed revision of the Articles of Confederation. Patrick Henry, one of the most famous Anti-Federalists was famously quoted as having, “smelt a rat” as his explanation for declining to attend the Philadelphia Convention. Robert Yates and John Lansing, two delegates from the state of New York, left in protest of the proceedings, citing that the convention lacked the authority to adopt, “a system of consolidated government... which tend to deprive the state government of its most essential rights of sovereignty...” and also that such a general government would, “be productive of the destruction of the civil liberties...”³

That so many of an Anti-Federalist disposition objected to the proceedings is not too extraordinary considering some of the content of the proceedings. Such references as this one, attributable to the Federalist, Alexander Hamilton during the

³ Jonathan Elliot, ed., *Debates in the Several State Conventions on the Adoption of the Constitution* (Philadelphia: J.B. Lippincott & Co 1876), 1:480-83.

Philadelphia Convention might have troubled any revolutionary patriot only recently removed from monarchy and aristocracy:

All communities divide themselves into the few and the many. The first are the rich and the well-born; the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the Government. ... Can a democratic assembly who annually resolve in the mass of the people be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy.⁴

If Hamilton's Federalist sentiments for restraints on the "imprudence of democracy", seem as tending toward aristocratic elitism, compare the tenor of Hamilton's statement with judge Thomas Tredwell's Anti-Federalist reservations written for the New York ratification convention:

In this Constitution, sir, we have departed widely from the principles and political faith of '76, when the spirit of liberty ran high, and danger put a curb on ambition. Here we find no security for the rights of individuals, no security for the existence of our state governments; here is no bill of rights, no proper restriction of power; our lives, our property, and our consciences, are left wholly at the mercy of the legislature, and the powers of the judiciary may be extended to any degree short of almighty. Sir, in this Constitution we have not only neglected, — we have done worse, — we have openly violated, our faith, — that is, our public faith.⁵

It is an interesting hypothetical to suppose how the Philadelphia Convention proceedings might have been different had the Anti-Federalists participated from the start but as will be seen, the Anti-Federalist reservations would not completely be in vain.

⁴ Howard Zinn. *A People's History of the United States: 1492-Present* (New York Harper Perennial Modern Classics 2005), 96. A full excerpt found in Appendix I: J. Elliot, ed., *Debates in the Several State Conventions on the Adoption of the Federal Constitution* (Philadelphia: J.B. Lippincott & Co 1876), 1:Yates' Minutes, paragraph 3205.

⁵ Elliot, ed., *Debates in the Several State Conventions*, 2: 401.

Yet heretofore, the Anti-Federalists would not have been identified (self-identified or otherwise) as such until after the Philadelphia Convention had completed its work and put forth its proposed Constitution for state ratification. It is in the debate within the several states, in various of public print forms that the Federalist and Anti-Federalist dialog that is most familiar, begins to unfold and it is within this sphere of the individual state ratification conventions that the Anti-Federalists begin to air their objections to the proposed Constitution. The Philadelphia Convention proceedings themselves were kept secret and guarded, so much so that the transcripts and records of the proceedings were not released to the public until 1819, and Madison's notes of the proceedings not published until 1840.⁶

Historical interpretation of the role and character of the Anti-Federalists after the ratification of the Constitution until after the Civil War would be largely silent.^{7*} This response probably should not seem too surprising, for the issue could have easily lost the weight of its importance in the minds of its contemporaries. For commentators between the time of ratification until after the Civil War, the debate

⁶ Vasan Kesavan and Michael Stokes Paulsen. "The Interpretive Force of the Constitution's Secret Drafting History," *Georgetown Law Journal*, (August 2003): 1. "A system of consolidation, has been formed with the most profound secrecy and without the least authority: And has been suddenly and without any previous notice transmitted by the federal convention for ratification - Congress not disposed to give any opinion on the plan, have transmitted it to the legislatures - The legislatures have followed the example and sent it to the people. The people of this state, unassisted by Congress or their legislature, have not had time to investigate the subject, have referred to the newspapers for information, have been divided by contending writers, and under such circumstances have elected members for the state convention -and these members are to consider whether they will accept the plan of the federal convention, with all its imperfections, and bind the people by a system of government, of the nature and principles of which they have not at present a clearer idea than they have of the Copernican system." -The Massachusetts Centinel, January 2, 1788.

⁷ Cecilia Kenyon, "Men of Little Faith: The Anti-Federalists on the Nature of Representative Government," *The William and Mary Quarterly*, Third Series, 12, no. 1 (Jan 1955): 5. See also James Hutson, "The Creation of the Constitution: Scholarship at a Standstill" *Reviews in American History*, 12, no. 4 (Dec., 1984), 463. *For a Reference Summary of Anti-Federalist Historiography see Table I.

may have seemed to be a closed issue, much as one no longer has need to shout “fire!” after all have been evacuated and fire-teams arrived. Nearly all parties were in accord that the Articles of Confederation could not be sustained in its original form and after the new Constitution had been successfully ratified and adopted, not much gain could be expected with further agitation. The initial objectors had eventually assimilated into the new system as the previous Anti-Federalists had accepted the new national Constitution and would eventually align themselves with Jefferson’s Democratic-Republican party.

Alternative to an explanatory theory for the silence of the Anti-Federalist comment in historical representation based on an amicable resolution of the issue, there is also the possibility that the Anti-Federalist complainants having been seemingly defeated by Hamilton, Madison and Jay under the pseudonym of “Publius” in the Federalist papers, may have so apparently won the day that their contemporary critics were considered inconsequential.⁸ From this perspective, the Anti-Federalists were mere naysayers and supporters of the antiquated and impractical Articles of Confederation. For this era then, the perspective might be easily taken that the issue had been settled in the ratification and the test of whether the new system would be successful would have then begun.

The period between ratification of the Constitution and the post-Civil War era was not completely silent however. Charles Beard in his *Economic Interpretation of the Constitution* projected that his own hypothesis, which will be detailed later, is reflected in some of the post-ratification Federalist historians such as Richard

⁸ Kenyon, “Men of Little Faith”: 5. “Perhaps because theirs was the losing side, the political thought of the Anti-Federalists has received much less attention than that of the Founding Fathers.”

Hildreth (1807 – 1865) and David Ramsay (1749–1815).⁹ David Ramsay (1787) would give this assertion as to Anti-Federalist motives in his speech during the South Carolina’s ratification convention:

...be on your guard against the misrepresentations of men who are involved in debt; such may wish to see the constitution rejected, ...[the Constitution] will doubtless bear hard on debtors who wish to defraud their creditors, but it will be of real service to the honest part of the community. Examine well the characters & circumstances of men who are averse to the new constitution. Perhaps you will find that the above recited clause is the real ground of the opposition of some of them, though they may artfully cover it with a splendid profession of zeal for state privileges and general liberty.¹⁰

John Marshall, to be later known as the famed Supreme Court Chief Justice in such cases as *McCulloch v. Maryland* (1819), a noted Federalist and associate of Hamilton, made similar statement identifying the Federalists as largely representing mercantile-creditor interests and the Anti-Federalists as representing agrarian-debtor interests.¹¹ As Marshall understood the problems that gave rise to the necessity to call for the amendments to the Articles of Confederation, which ultimately led to the Philadelphia Convention:

... two great parties were formed in every state which were distinctly marked and which pursued distinct objects with systematic arrangement. The one struggled with unabated zeal for the exact observance of public and private engagements. By those belonging to it, the faith of a nation or of a private man was deemed a sacred pledge, the violation of which was equally forbidden by the principles of moral justice and of sound policy. The distresses of individuals were, they thought, to be alleviated only by industry and frugality, not by a relaxation of the laws or by a sacrifice of the rights of

⁹ James H. Hutson, “Country, Court and Constitution,” *The William and Mary Quarterly*, 14, no. 3 (1981): 339.

¹⁰ David Ramsay, “*Civis*: An Address to the Freemen of South Carolina on the Subject of the Federal Constitution”: *Friends of the Constitution: Writings of the “Other” Federalists, 1787-1788*, edited by Colleen A. Sheehan and Gary L. McDowell (Indianapolis: Liberty Fund, 1998).

¹¹ The truth or falsity of these claims aside, it should be noted that the assignment of a person or persons as “debtor” might well invoke in the minds of many of the period, of the infamous Shay’s Rebellion, which would have weighed heavy in the minds of many of the period as demonstrating the weaknesses of the Articles of Confederation and questioned the potential longevity of the Confederation.

others. They were consequently the uniform friends of a regular administration of justice, and of a vigorous course of taxation which would enable the state to comply with its engagements. By a natural association of ideas, they were also, with very few exceptions, in favour of enlarging the powers of the federal government.¹²

The first party to which Marshall refers, represents the position of the Federalists, of which along with Hamilton and Madison, Marshall concurred. The Federalists then, in Marshall's view, represented in some degree, creditor interests, and were proponents of strong, central government that would administer justice, and tax accordingly to pay off the national debt. Marshall continues his prior statement with the Anti-Federalists or the second party:

The other party marked out for themselves a more indulgent course. Viewing with extreme tenderness the case of the debtor, their efforts were unceasingly directed to his relief. To exact a faithful compliance with contracts was, in their opinion, a harsh measure which the people would not bear. They were uniformly in favour of relaxing the administration of justice, of affording facilities for the payment of debts, or of suspending their collection, and of remitting taxes. The same course of opinion led them to resist every attempt to transfer from their own hands into those of congress powers which by others were deemed essential to the preservation of the union. In many of these states, the party last mentioned constituted a decided majority of the people, and in all of them it was very powerful. The emission of paper money, the delay of legal proceedings, and the suspension of the collection of taxes were the fruits of their rule wherever they were completely predominant.¹³

Marshall, far from an advocate of democracy, acknowledges or at least opinions, that the majority of the people would have sided with the Anti-Federalist position and that behind the ideological debate of ratification, what was at stake, according to Marshall, was the tensions of depreciation of currency and rising inflation between the creditors and the indebted.¹⁴ Marshall's interpretation of the

¹² John Marshall, *Life of Washington*, vol. II (1850 ed.), 99.

¹³ *Ibid.*, 99.

¹⁴ Cecelia Kenyon also indicates that, "A very large proportion of the people in 1787-1788 were Anti-Federalists,..." Cecelia Kenyon, "Men of Little Faith": 5. "Had a vote been taken on the adoption

Federalist and Anti-Federalist debate as formed more by pragmatic economic interests and not the *prima facie* ideological commitments expressed in those debates.¹⁵

The thinking of historians after the Civil War begins to take on a new character. The nation having survived the fiery crucible, a new and revived patriotism arose and is well represented in Lincoln's Gettysburg Address:

...our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. ... It is rather for us to be here dedicated to the great task remaining before us ... that we here highly resolve that these dead shall not have died in vain -- that this nation, under God, shall have a new birth of freedom -- and that government of the people, by the people, for the people, shall not perish from the earth.¹⁶

Lincoln's historical perspective would become no aberration. W.E. Gladstone said that the Constitution was, "the most wonderful work ever struck off at a given time by the brain and purpose of man."¹⁷ In accordance with Gladstone, George Bancroft (1882, the "father of American history") waxed not as eloquently as Lincoln but as sincerely of the Constitutional drafting:

...the [the people] had prepared a Constitution which, in the union of freedom with strength and order, excelled every one known before. . . . In the happy

of the Constitution as soon as the convention assembled, there can be no question but that it would have been overwhelmingly against the proposed plan." -Harding, *The Federal Constitution in Massachusetts*, p. 67.

¹⁵ Consider Chief Justice Marshall's nationalist stance in the majority opinion of *McCulloch v. Maryland*: "The government proceeds directly from the people; is 'ordained and established' in the name of the people and is declared to be ordained 'in order to form a more perfect union, to establish justice, insure domestic tranquillity, and secure the blessings of liberty' to themselves and their posterity. The assent of the States, in their sovereign capacity, is implied in calling a convention, and thus submitting that instrument to the people. But the people were at perfect liberty to accept or reject it; and their act was final. . . . The government of the union, then (whatever may be the influence of this fact on the case) is emphatically and truly a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit. ... It is the government of all; its powers are delegated by all; it represents all, and acts for all." *McCulloch v. Maryland*, 17 U.S. 4 Wheat. 316 (1819).

¹⁶ Roy P. Basler (ed.), *Collected Works of Abraham Lincoln*, American Historical Review, (1953).

¹⁷ W. E. Gladstone, "Kin Beyond the Sea" *North American Review*, CXXVII (1878): 185.

morning of their existence as one of the powers of the world, they had chosen justice for their guide; and while they proceeded on their way with a well-founded confidence and joy, all the friends of mankind invoked success on their endeavour as the only hope for renovating the life of the civilised world.¹⁸

James Hutson (1981) comments that the historians of the post-Civil War era treated the Constitution with a kind of idolatry.¹⁹ In large part, this new political climate heightened the sense that the Constitution had been perhaps divinely ordained and as a result the Anti-Federalists as those who represented its original opposition to it, became historically reviled. Charles Beard would attribute to professor Theodore Clarke Smith (1870-1960) this rather mild view of post-Civil War historians: "Former historians had described the struggle over the formation and adoption of the document [the Constitution] as a contest between sections ending in a victory of straight-thinking national-minded men over narrower and more local opponents."²⁰ A more severe response to the Anti-Federalists can be found in Hermann von Holst's comment on the Anti-Federalists:

All moderation, all reason, seemed to forsake them [the Anti-Federalists]. ... The most fanatical assumed the lead; men for whom no weapon was too blunt or brutal so long as they could use it. Their arguments bordered on the extremest absurdity and their assumptions might have excited the loudest merriment, were it not that the question was one of life or death to the nation.²¹

Hutson identifies this condemnation of the Anti-Federalists as resulting from their association with the advocates of the states' rights of secession due to Anti-Federalist fears of centralized power, and more importantly, claims Hutson, as friends

¹⁸ George Bancroft, *History of the Constitution* (1882 ed.) Vol. II, 367. [See also p. 441]

¹⁹ Hutson, "Country, Court and Constitution": 342.

²⁰ Charles Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Free Press, 1913), vii.

²¹ Hermann von Holst 1876, "The Anti-Federalists, 1781-1789" *Wisconsin Magazine of History*, XLVI (1962-1963), 214.

of paper money, became associated with the Greenbackers.²² The faith in the union or nation having been revived by its survival from civil strife being the cause of or at least rising at the same time with the idolatry of the Constitution and its founding, led to a picture of the Anti-Federalists as true devils, men opposed to a sacred document and a sacred nation for reasons of stupidity, greed and/or duplicity.²³

It was in this climate that Charles Beard wrote his controversial book, *An Economic Interpretation of the Constitution* (1913). Beard claimed to have been impressed by the “philosophy of politics” put forward by James Madison in Federalist 10, the writings John Marshall and the historian Richard Hildreth in their, “mental picture of the Constitution those realistic features of economic conflict, stress, and strain” in which a, “struggle [of] an alignment of economic interests had taken place,” which would be left out of post-Civil War era historians concentration on juristic issues.²⁴ Beard’s economic interpretation was controversial but not unprecedented in his time. Charles E Merriam (1903) had earlier characterized the Constitution as, “Conservative, even reactionary”, while J. Allen Smith (1907) portrayed the Constitution as a conspiracy of the, “wealthy and conservative classes”.²⁵ Beard rejoined that while, “economic elements [as] the chief factors in the development of

²² Hutson, “Country, Court and Constitution”: 341.

²³ Edward P. Smith (1889), quoting Friedrich von Schiller, said referring to the Anti-Federalists, “Against stupidity, the gods themselves fight in vain.” Found in: “Movement Towards a Second Convention,” in Jameson, ed., *Essays in Constitutional History*, 73.

²⁴ Beard, *Economic Interpretation of the Constitution*, vi, vii, viii. “...during the closing years of the nineteenth century this realistic view of the Constitution had been largely submerged in abstract discussions of states' rights and national sovereignty and in formal, logical, and discriminative analyses of judicial opinions. It was admitted, of course, that there had been a bitter conflict over formation and adoption of the Constitution; but the struggle was usually explained, if explained at all, by reference to the fact that some men cherished states' rights and others favoured a strong central government.” - Charles Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Free Press, 1913) vi &vii.

²⁵ Hutson, “Country, Court and Constitution”: 342.

political institutions...[had been]...used in one or two serious works...[it]...has not been applied to the study of American history at large.”²⁶

Beard’s thesis is that among the “chief factors” of the ideology and policies supported by groups like the Federalists and the Anti-Federalists were in whole or in part determined by their economic background. Beard then applying this thesis with support of evidence of economic backgrounds he collects, concludes that the Federalists were conservative counter-revolutionaries who proposed the Constitution to protect moneyed and commercial interests, while the Anti-Federalists responded to the Constitution to thwart the Federalist agenda and uphold landed and agrarian interests. Beard’s analysis is significant for the Anti-Federalists because his is the first significant positive historical comment that the Anti-Federalists had yet received and this brought about an interest in their serious study, whether to dispute or confirm Beard’s thesis.

Beard identified the Federalists as holders of what he called “personalty”, representing, “money, public securities, manufactures, and trade and shipping”.²⁷ Beard’s assertion of the Federalist position would seem to harmonize with what may be inferred from the statements of the Federalists, Marshall and Ramsey already noted; both men would contend that the Anti-Federalist’s secret or hidden motivations were based upon their interests as debtors and that the Constitution would support the interests of creditors. Similarly, Beard infers a secret or hidden motivation within the Federalists, “Under the circumstances the framers of the Constitution relied, not upon direct economic qualification, but upon checks and balances to secure the rights of

²⁶ Beard, *Economic Interpretation of the Constitution*, 6.

²⁷ Beard, *Economic Interpretation of the Constitution*, 291, 324, 325.

property – particularly personal property – against the assaults of the farmers and the proletariat.”²⁸ For Beard, the Federalists become a group aligned under certain economic interests, who were generally advocates of “commercial regulations advantageous to personalty operations in shipping and manufacturing and in western land speculations.”²⁹

In his “Impressions As To The New Constitution”, Hamilton’s statement is telling of Federalist sentiment, “...men of property in the several states who wish a government of the Union able to protect them against domestic violence and the depredations which the democratic spirit is apt to make on property.”³⁰ In Beard’s analysis the Federalist perspective representing personalty took on a decidedly aristocratic and anti-democratic spirit, which many historians had previously ignored. Beard points to such evidence as the letter of “Civis”, published in the *Maryland Journal* on March 21st, 1788, to demonstrate Federalist aristocratic sentiment:

Choose no man in debt, because being in debt proves that he wanted understanding to take care of his own affairs. ...A man in debt can scarcely be honest. ...Vote for no man who was in favour of paper money, for no honest man was for that measure. None but debtors and desperate wretches advocated the diabolical scheme. ...Elect no man who supported the law allowing insolvent debtors to discharge their persons from perpetual imprisonment, by honestly delivering up all their property to the use of their creditors. The legislature have no right to interfere with private contracts, and debtors might safely trust to the humanity and clemency of their creditors who

²⁸ Charles Beard, *The Economic Basis of Politics* (New York: 1922), 66-67.

²⁹ Beard, *Economic Interpretation of the Constitution*, 50. Western land speculations being investments of personalty rather than landed realty. Statements such as Hugh Williamson’s, as a Federalist and a member of the Convention from North Carolina, demonstrates the thrust of Beard’s interpretive analysis, in which people may think or say they act upon ideological principles, when in fact, they are led by personal economic interests, “For myself, I conceive that my opinions are not biased by private Interests but having claims to a considerable Quantity of Land in the Western Country, I am fully persuaded that the Value of those Lands must be increased by an efficient federal Government.”

³⁰ Alexander Hamilton “Impressions As To The New Constitution” 1787. *The Works of Alexander Hamilton*, ed. Henry Cabot Lodge (Federal Edition) (New York: G.P. Putnam’s Sons, 1904). Vol. 1, .

will not keep them in gaol all their lives, unless they deserve it. ... Men of great property are deeply interested in the welfare of the state; and they are the most competent judges of the form of government, best calculated to preserve their property, and such liberties as it is proper for the common and inferior class of people to enjoy. Men of wealth possess natural and acquired understanding, as they manifest by amassing riches, or by keeping and increasing those they derive from their ancestors, and they are best acquainted with the wants, the wishes, and desires of the people, and they are always ready to relieve them in their private and public stations."³¹

It is in Beard's economic interpretation that the Anti-Federalists would find positive publicity. Heretofore the Federalists had inherited the veneration of historians and the title of "founding fathers". From the perspective of those in the first quarter of the twentieth century within the burgeoning Populist and Progressive Movements, Beard's suggestion that the Federalists represented commercial interests and creditors would be jarring if not profane. Beard's work was not a complete defamation however, a new set of stylized heroes could be gleaned from Beard's interpretative analysis, the Anti-Federalists.³²

Beard identified the opposition to the Constitution as stemming from the democratic, agrarian and landed interests; or what he termed "realty" or landed interests. The great Anti-Federalist, Patrick Henry would seemingly anticipate Beard's identification of small farmers as the opponents of the Constitution, when during the Virginia Convention, he was reported to say,

"I believe it to be a fact, that the great body of yeomanry are in decided opposition to it. I may say with confidence that, for nineteen counties adjacent to each other, nine-tenths of the people are conscientiously opposed to it. ... You have not solid reality - the hearts and hands of the men who are to be governed."³³

³¹ Beard, *Economic Interpretation of the Constitution*, 317-318.

³² The Populist and Progressive movements in 1913 were interested, "in reforming the structure of the national government to make it more democratic." Kenyon, "Men of Little Faith": 5.

³³ Elliot, vol. III. p. 592.

These interests represented the majority of the people but they also consisted of the least represented people. While the interests of commerce, money and securities had centralized population centers in eastern, coastal cities with methods of public communication and easy interaction, the landed agrarian interests were separated by distances and had such little direct intercourse that it was difficult for their interests, while demographically much greater, to coalesce into solidarity. Beard would note that as the ratification conventions were largely held in urban centers of Federalist control, the difficulties of travel to polls from the outlying counties and additionally, the financial status of small farmers and debtors stood as a impediment to financing a public campaign opposing the Constitution, while Federalist interests often controlled the newspapers and presses.³⁴ If the conspiracy of economic interests still seems untenable to a contemporary historian, consider this letter from “Cornelius” (1787) of Massachusetts:

I wish, there never might be any competition between the landed and the mercantile interests, nor between any different classes of men whatever. ... The citizens in the seaport towns are numerous; they live compact; their interests are one; there is a constant connection ... between them; they can, on any occasion, centre their votes where they please. This is not the case with those who are in the landed interest; they are scattered far and wide; they have but little intercourse and connection with each other. ...I conceive a foundation is laid for throwing the whole power of the federal government into the hands of those who are in the mercantile interest; and for the landed, which is the great interest at of this country, to lie unrepresented, forlorn, and without hope. It grieves me to suggest an idea of this kind: But I believe it to be important and not the mere phantom of imagination, or the result of an uneasy and restless disposition.³⁵

³⁴ Beard, *Economic Interpretation of the Constitution*, 252.

³⁵ Charles Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Free Press, 1913) 305-306.

The disposition of historians sympathetic to Beard in the beginning of the 20th century found the association of Federalists with aristocratic capitalists in conflict with their prior high esteem for the Federalists and created a less sympathetic image of the Constitutional drafting.

Beard contends that the recognition of the economic interests at stake were not lost on either the Federalists or the Anti-Federalists. Rufus King in a letter to Madison in 1788, complained of the Anti-Federalist sentiment to the opposition of the Constitution as founded in their fears of aristocracy:

Apprehension that the liberties of the people are in danger, and a distrust of men of property or education have a more powerful effect upon the minds of our opponents than any specific objections against the Constitution. ...The opposition complains that the lawyers, judges, clergymen, merchants, and men of education are all in favour of the Constitution - and for that reason they appear to be able to make the worse appear the better cause.³⁶

Beard's thesis was highly controversial, as Beard was reproached for having “accused the members of the Convention of working merely for their own pockets” and that his purported theory of economic determinism did not stand up to rigorous analysis.³⁷ Beard answered to his critics that his theory is not stolidly deterministic, but that economic considerations should be ignored at the peril of the historians’ integrity.³⁸ Beard allowed for historical actors “the guidance of abstract principles of political science” beyond mere personal interests but he cautioned that many times what appeared to be ostensible ideological issues, can often be found to have a

³⁶ Ibid., 304.

³⁷ Ibid., xvi.

³⁸ “I have never been able to discover all pervading determinism in history. ...Nevertheless, whoever leaves economic pressures out of history or out of the discussion of public questions is in mortal peril of substituting mythology for reality and confusing issues instead of clarifying them. ...By refusing to do this we become victims of history - clay in the hands of its makers.” Ibid., xvi.

economic underpinning.³⁹ Still, Beard's work would become very popular with progressive historians for several decades; as cited in Kenyon (1955), Maurice Blinkoff (1936) would conduct a study of college history textbooks for his *The Influence of Charles A. Beard upon American Historiography*, in which he would say that Beard's interpretation would be taken up by those same textbooks with, "virtual unanimity".⁴⁰

Cecelia Kenyon (1955) would later oppose Beard's (1913) interpretation of the Anti-Federalists in her article "Men of Little Faith". Kenyon represented a new wave of historical interpretation, designated as "consensus history," that was coming into strength as the progressive histories had begun to weaken under rigorous historical analysis. The new consensus history emphasized the homogeneity of historical factions. Kenyon would stress the, "essential unity of the Federalists and Anti-Federalists," as, "they shared a large body of political ideas and attitudes, together with a common heritage of political institutions."⁴¹ In this spirit, Kenyon proposed that the Anti-Federalists were not as different from the Federalists in their political views and economic interests as suggested by Beard; they differed only in degree of sentiment, not as a divergence in class or economic interests.⁴² Kenyon's theory held that the Anti-Federalists held true ideological objections, even if these

³⁹ Ibid., 73.

⁴⁰ Kenyon, "Men of Little Faith": 4. *Kenyon would go on to note that she did not think the same could be said of college history textbooks in her own time.

⁴¹ Hutson, "Country, Court, and Constitution": 347; Kenyon, "Men of Little Faith": 37-38.

⁴² "It would seem to be very clear, that the factors that united the Federalists and Anti-Federalists were stronger than those that divided them." Cecilia Kenyon, ed., *The Antifederalists*, (Indianapolis: 1966) xcvi.
Beard's unwillingness or failure to rigorously define his thesis makes it difficult to label him as a categorical economic determinist. Certainly, many of the progressive historians to follow Beard did take this direction, while Beard himself would later deny any monistic theory of causation. (Kenyon, "Men of Little Faith": 3)

may have been largely polemical, to the Constitution rather than the personal and economic interests of Beard but those objections were based upon fears of potential abuses of powers, fears that the Federalists had shared. The difference between the two groups amounted to the subtle distinction that while the Federalists thought that they had engaged the problem of potential abuses of power and had rectified these by adequate separations of power with checks and balances, the Anti-Federalists had thought the Federalist efforts were not enough to secure the prevention of tyranny and despotism.

Kenyon asserts that the influence of the political writings of Montesquieu, in the Anti-Federalist esteem of Montesquieu, was a significant central impediment to their solidarity with the Federalists.⁴³ Kenyon's assertion aside, Montesquieu was quite influential with many Federalists as well, notably, Alexander Hamilton and James Madison.⁴⁴ The writings of Montesquieu would provide much credence to the fears of the potential for despotism within the proposed national government. The sticking point for many of the Anti-Federalists, was Montesquieu's argument that for a republic to "long subsist", it must necessarily have "only a small territory", for in republics of extensive size, a natural aristocracy or oligarchy will arise which will seek their own prosperity by "oppressing [their] fellow-citizens."⁴⁵ The problem of a

⁴³ Kenyon, "Men of Little Faith:" 6.

⁴⁴ Melvin Richter, *Montesquieu: Selected Political Writings* (Indianapolis: Hackett Publishing Company, 1990), 1. "Opponents... have with great assiduity cited and circulated the observations of Montesquieu on the necessity of a contracted territory for a republican government. But they seem not to have been apprised of the sentiments of that great man in another part of his work." – Hamilton; "The oracle who is always consulted and cited upon this point is the celebrated Montesquieu. ...Let us endeavor in the first place to ascertain his meaning on this point." – Madison.

⁴⁵ Charles Louis de Secondat, Baron de Montesquieu, *The Complete Works of M. de Montesquieu* (London: T. Evans, 1777), 4 vols. Vol. 1. Chapter: *CHAP. XVI.: Distinctive Properties of a Republic*, paragraph 934. For a larger excerpt of Montesquieu concerning these attributions, see Appendix II

large republic is compounded by the colonial experience in local and “colony-sized” governments which represented a relatively homogeneous population of cultural and economic interests and in Montesquieu’s approbation of local government.⁴⁶ This argument was used by the Anti-Federalists to oppose what they perceived as the construction of an extensive republic in the federal government of the proposed Constitution.

The Anti-Federalists, according to Kenyon, used the established political thinking of their time and corroborated this with their political experience in the colonies, and then the states, to make arguments that the new national system proposed by the framers of the Constitution would fundamentally change the quality of representation to which they were accustomed and this they argued was a reason to have great reservations regarding the new national government. Kenyon however, would typify these reservations as a psychological fear. The Anti-Federalists, in Kenyon's view, were motivated by their fear of despotism, aristocracy, loss of government interests in local economic and cultural interests and values, and loss of personal and direct contact with and knowledge of their representatives. All of these fears, according to Kenyon, stem from a more basic mistrust of human nature. While Montesquieu would associate honor with monarchies, fear with despotism, and virtue with republics, Kenyon argued that the reason for Anti-Federalist reservations was a lack of confidence in the basic virtue of other citizens, far removed from themselves, to govern with wisdom and in respect for the liberty of individuals.

⁴⁶ Kenyon, “Men of Little Faith”: 6. “The inhabitants of a particular town are much better acquainted with its wants and *interests* than with those of other places; and are better judges of the capacity of their neighbours than of that of the rest of their countrymen..” Montesquieu, *Complete Works*, Vol. 1. Chap. VI.: paragraph 1200.

The Federalists would have similar fears regarding basic human nature, namely that the primary motivation for most individuals is self-interest, and this is why they had incorporated Montesquieu's separation of powers with a system of checks and balances. Such a sentiment comes to mind in the speech of Benjamin Franklin, given to the Constitutional Convention on Monday September 17th 1787, after hearing the objections of :

“In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years. ... I doubt too whether any other Convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an Assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; ... Thus I consent, Sir, to this Constitution because I expect no better ... Much of the strength & efficiency of any Government in procuring and securing happiness to the people, depends, on the general opinion of the goodness of the Government, as well as well as of the wisdom and integrity of its Governors.⁴⁷

As Kenyon would have it, it was not so much that the Federalists had a different set of ideological premises for reservations concerning the new Constitution from the Anti-Federalists, but that their evaluation of whether these reservations had been properly met became the issue. In Kenyon's evaluation, the Federalists had a basic confidence in the virtue of the administrators of government and failing their virtue, the separation of powers with the proposed checks and balances and the occasional check of the people's confidence in elections would supply adequate

⁴⁷ Max Farrand, *The Records of the Federal Convention of 1787*, ed. Max Farrand (New Haven: Yale University Press, 1911). Vol. 2. Chapter: *MONDAY, SEPTEMBER 17, 1787*. paragraph 4864.

appeal to self-interest to maintain the republic. A statement of Kenyon's picture of the Federalist confidence in human nature balanced by their realism of the pursuit of self-interest or ambition can be seen in Madison's declaration in essay 51 of the *Federalist*,

Ambition must be made to counteract ambition. ... But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.⁴⁸

As can be seen from the title, Kenyon asserts in her final evaluation, that the Anti-federalists were, "men of little faith". For Kenyon, the Anti-Federalists were negative in their outlook of human nature, excited in their vision and creativity for the potential abuses of power and largely motivated by fear of such abuses. Kenyon assigns to the Anti-Federalists various fears; fears of: centralization of power, of far distant localities affecting local political policy, despotism, aristocracy, demagogues, corrupt officials, any blending of branches of government, any clause of the Constitution found to be elastic or indeterminate that might possibly result in unchecked abuses of power by creative legislation however remote, usurpation of governmental power by foreign religious influences (Roman Catholics, "Jews", "Mahometans" and pagans, variously), and generally any power of government with the potential to be destructive of liberty.⁴⁹ This list could be made much longer but

⁴⁸ David Mootton, ed., *The Essential Federalist and Anti-Federalist Papers*. (Indianapolis: Hackett Publishing Company, 2003), 243.

⁴⁹ Kenyon, "Men of Little Faith": 30. "The Anti-Federalists probed the Constitution for ever conceivable treat, explicit or implicit, to their conception of free and popular government."

the general theme is not missed. Kenyon's assessment is reflected in Anti-Federalist caution or lack of "faith and vision" in the adoption of a national government.⁵⁰

Where Beard would suggest that the Anti-Federalists were the more democratic of the two, Kenyon would point out that the Anti-Federalist fears of potential abuses of powers would lead to "more checks and balances [of power], not fewer".⁵¹ Kenyon would conclude that, "the Anti-Federalists were not latter-day democrats. Least of all were they majoritarians with respect to the national government. ... The last thing in the world they wanted was a national democracy which would permit Congressional majorities to operate freely and without restraint."⁵² Thus, the Anti-Federalists were not to be framed as the radical and liberal defenders of democracy against the conservative aristocracy of the Federalists as presented in Beard, instead they were, "men of little faith" that had not the courage or faith to trust elections to secure liberty against Congressional tyranny. For Kenyon, the Anti-Federalists were the true conservatives protecting their small republics in the form of the states and the more radical Federalists represented a grander vision of a national government was, "far more advanced than their opponents".⁵³

In 1981, the Anti-Federalists would be revived again to challenge Kenyon's view by James Hutson and Herbert Storing. As Hutson reviewed the uneasy dispute between the Consensus and Progressive interpretations of the Anti-Federalists, he agreed that while the Federalists and Anti-Federalists were very similar, the sheer amount of material in which they expressed their differences reduced the strength of

⁵⁰ Ibid.: 43.

⁵¹ Ibid.: 43.

⁵² Ibid.: 42-43.

⁵³ Ibid.: 39.

the Consensus historians' interpretation. At the same time, the Consensus criticism of the Progressives' distinction of competition between distinction economic groups warranted a need for historians to recapture the, "essence of those differences with appropriate terminology".⁵⁴ Hutson thought that the Anti-Federalists and Federalists could be taxonomically separated by an alternate terminology used by English politics to more accurately describe their differences. For this Hutson proposed to use the distinction of "Court" which represented the, "collective designation of the monarch, his residence, council, officials, and courtiers" and "Country", which represented the countryside and expressed as a general "opposition to the exercise of government power".⁵⁵ Hutson believed that this revised terminology would more accurately describe the dispute between the Federalists (Court) and Anti-Federalists (Country). Hutson would agree with Kenyon that the Anti-Federalists should not be associated with democracy but that their dispute with the Federalists was not a mere lack of faith but a deeply rooted fear of centralized government power that they had inherited from the Whigs and transmitted through Trenchard, Gordon, and Burgh.

At the same time that Hutson was attempting to mediate the conflict between the Consensus and Progressive historical interpretations by his revised terminology, Herbert J. Storing (1981) published his own response to the Consensus historians. Storing in an extraordinary effort to frame the entire ratification debates over the Constitution, would gather a collection of Anti-Federalist writings in a seven volume set titled *The Complete Anti-Federalist*. Sadly, Storing would pass away before the

⁵⁴ Hutson, "Country, Court, and Constitution": 356.

⁵⁵ Hutson, "Country, Court, and Constitution": 356-357. Hutson notes that these definition of terms would remain valid from Charles I's reign until the Glorious Revolution.

completion of his entire project but in addition to the collection of primary source material, his essay as a preface to the set, “What the Anti-Federalists were FOR” attempts to express the positive political ideologies of the Anti-Federalists as they would have understood them. While Storing himself would admit, the “Anti-Federalists were primarily *against* the Constitution” they, “understood their negative conclusions about the Constitution to be derived from a positive political theory or set of political principles.”⁵⁶

In a nod to Kenyon, Storing would acknowledge that Federalist, “... reservations are scarcely distinguishable from Anti-Federal objections,” but that in what the Consensus historians had erred was that the emphasis should not have been to what was, “*common* so much as for what is *fundamental*.”⁵⁷ Storing presented the Anti-Federalists as standing for an ideology of federalism as representing the states as the primary unit of political power, equal to each other in their confederation but that by the time of ratification, the use of the term “federalism” had “acquired a specific ambiguity that enabled the Federalists to not merely take but keep the name”.⁵⁸ The ambiguity of “federalism” arose from the distinction of whether any particular increase in federal power would in fact violate the basic federal principle. This for Storing would be the crux of the contention; the Anti-Federalist would claim generally that many of the proposed increases in federal power would reduce the independent status of the states, while the Federalists denied such a violation of principle.

⁵⁶ Herbert J. Storing, *What the Anti-Federalists were For* (Chicago: University of Chicago Press, 1981), 5. (Italics original.)

⁵⁷ *Ibid.*, 5, 6. (Italics original.)

⁵⁸ *Ibid.*, 9.

Storing would agree with Kenyon that the Anti-Federalists were strongly influenced by the thoughts of Montesquieu in their advocacy of small republics of homogenous populations but that they also desired a union of the states. Patrick Henry would express this sentiment succinctly on behalf of the Anti-Federalists on June 5, 1788, in the Virginia Convention, “The first thing I have at heart is American liberty: the second thing is American union....”⁵⁹ The problem that Storing attributes to the Anti-Federalists were in their perception of a unified government given such broad and potentially expansive grants of power as identified in the “supremacy” and “necessary and proper” clauses of the Constitution amounted to, “an unlimited grant of power to the general government to do whatever it might choose to do.”⁶⁰ Storing contends that the ambiguous and elastic nature of these clauses had for the Anti-Federalists, “endless possibilities of usurpation and tyranny”.⁶¹

Yet it would be this ambiguity that would lead the Anti-Federalists to their defeat according to Storing. The Anti-Federalists were committed both to the union and to the states, “to both the great American republic and the small, self-governing community...” and due to this, they were subject to Hamilton’s charge of trying to “reconcile contradictions”.⁶² Thus, Storing charges that the Anti-Federalists as having the “weaker argument” in their simultaneous desire both to provide for local self-control, independent states and a unified limited federal government; they could not bring themselves to completely reject a unified government for they acknowledged

⁵⁹ Jonathon Elliot, (ed.). 1876. *Debates in the Several State Conventions on the Adoption of the Federal Constitution*. Philadelphia: J.B. Lippincott & Co. 3:123.

⁶⁰ Storing, *What the Anti-Federalists were For*, 28.

⁶¹ *Ibid.*, 28.

⁶² *Ibid.*, 6.; Alexander Hamilton, *The Works of Alexander Hamilton*, ed. Henry Cabot Lodge (New York: G.P. Putnam’s Sons, 1904). Vol. 11. Chapter: *From the New York Packet, Tuesday, December 18, 1787 the federalist. no. xxiii (hamilton) To the People of the State of New York*, 450.

that this would bring anarchy amongst the states. The Anti-Federalist ideology in Storing's view, batted back and forth against their distain for anarchy and their fears of despotism; they could rarely be satisfied with the compromises of the Federalists that to them seemed to be too far to one extreme or the other.⁶³

Even with such a final evaluation, Storing provides the Anti-Federalists with perhaps their most noble attribution; as Storing says, the Anti-Federalists "contributed to the dialogue of the American founding" and thus are, "entitled ... to be counted among the Founding Fathers".⁶⁴ While the Federalists were in general agreement that the proposed Bill of Rights would not be necessary in such a federal system, it would be the Anti-Federalist reservations to the Constitution that would instill the demand for a Bill of Rights and this would be the Anti-Federalists' great legacy.⁶⁵ Storing's great commendation of the Anti-Federalists would be this: "If, however, the foundation of the American polity was laid by the Federalists, the Anti-Federalist

⁶³ "...they were generally the same men who now wish to save us from the distractions of anarchy on the one hand, and the jaws of tyranny on the other" -Paul Leicester Ford, *Pamphlets on the Constitution of the United States, published during its Discussion by the People, 1787-1788*, (Brooklyn, N.Y., 1888). Chapter: *Gerry, Eldridge. Observations On the new Constitution, and on the Federal and State Conventions By a Columbian Patriot. Sic transit gloria Americana. [Boston: 1788.]*, 17.; "The general government... must very soon destroy all elective governments in the country, produce anarchy, or establish despotism." *ibid.* Chapter: *Lee, Richard Henry. Observation leading to a fair examination of the system of government, proposed by the late Convention; and to several essential and necessary alterations in it. / In a number of Letters from the Federal Farmer to*, 829.

⁶⁴ Storing, *What the Anti-Federalists were For*, 3.

⁶⁵ "some Federalists ... contended that a bill of rights was not necessary because the Constitution was a compact not between individuals but between sovereign and independent societies.", *Ibid.*, 65.; "It is obviously impracticable, in the federal government of these states, to secure all *rights* of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those *rights* which must be surrendered, and those which may be reserved...", Jonathan Elliot, *The debates in the several state conventions on the adoption of the federal Constitution, as recommended by the general convention at Philadelphia, in 1787.*. Chapter: *CONSTITUTION*, 152.

reservations echo through American history; and it is in the dialogue, not merely in the Federalist victory, that the country's principles are to be discovered."⁶⁶

Of the more recent treatments of the Anti-Federalists, Christopher M. Duncan (1994) takes up his case directly with Kenyon. Duncan would claim that the Anti-Federalists were fundamentally, "Men of a Different Faith" rather than Kenyon's "Men of Little Faith". Duncan believes that when the Anti-Federalists are viewed through their ideals or values of public happiness, local communities and state sovereignty, the necessity of their opposing the Constitution becomes clear. Duncan suggests that Republicanism as the priority of the local community and local form of public association and participation was, "the primary language of American political discourse throughout the early life of the country."⁶⁷

It is just this sense of Republicanism which Duncan believes contributed in early American politics to what he terms as "public happiness" which is the ability to participate in public matters. Duncan's view is that many other historians have associated "public happiness" with private property, wealth or personal satisfaction and that statements as to the "general welfare" are not early prescription for social policy but rather instructions for self-government. Duncan would invoke Arendt to read Jefferson's "pursuit of happiness" as consisting in the, "citizen's right of access to the public realm, in his share of public power – to be participator in the government of affairs ... even against public power."⁶⁸ It is then the centralization of power which the Anti-Federalists despised most because in that centralization was a

⁶⁶ Storing, *What the Anti-Federalists were For*, 72.

⁶⁷ Christopher M. Duncan, "Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought," *Polity*, 26, no. 3 (1994): 392.

⁶⁸ *Ibid.*: 394. (Interestingly, a very Aristotelian reading)

reduction in number of citizens who might participate and hence act in the public sphere.

In Duncan's general theoretical model of the Anti-Federalist position, it was not the "collective fear of government or extra-libertarian impulses" of Kenyon and Storing, but "corrupt or detached government".⁶⁹ Whereas the Federalists might have seen the state as prior to the individual outside of a "state of nature"⁷⁰, and prior historians might have assigned the Anti-Federalists as seeing the individual as prior to the state; Duncan argues that more appropriately, the Anti-Federalists saw the community as being prior to both the individual and the state. As the Federalists would have attempted to replace the community with the nation, the Anti-Federalists would have seen this as atheoretical with the context of republicanism because of its, "emphasis on both extensive citizen participation in the construction and care of the public sphere and of the shared values and mores that enable such an endeavor in the first place".⁷¹

Duncan's theory is more subtle than most and difficult to understand because of the basic presupposition the reader might have as an inheritor of a tradition of nationalism so perhaps it would be best to consider another hypothetical. If China was to be divided into 100 independent territories with equal populations, which all were applied for statehood within the United States and were approved by Congress for annexation, the political ramifications for the pre-annexation Americans might well be quite severe. Each annexed territory of China would have a greater

⁶⁹ Ibid.: 396.

⁷⁰ As a political concept most notably referred to in Hobbes, Locke, Rousseau and Hume.

⁷¹ Ibid.: 397.

population base than any other State, with the exceptions of California, Texas, New York and Florida. The combined influence of the new Chinese states would be such that they, if unified, could easily select the next President, their interests would dominate the House of Representatives and as one hundred states, they would also have a two thirds majority of the Senate. Essentially all federal power would eventually transfer into the hands of a different people, far removed in distance and culture. How might, a pre-annexation American, feel about this change in the national government? The displeasure that a pre-annexation American might feel at this turn of events is what Duncan attributes to the Anti-Federalists; that their individual ability to act politically would be swallowed up by people far distant with different values and mores. Under this scenario, pre-annexation American self-government would be fundamentally destroyed.

Similarly, the thrust of Duncan's argument and theory is that the Anti-Federalists saw in the Constitution, a centralization of power, which would reduce the public happiness, diminish local communities and fundamentally damage state sovereignty. For Duncan, this is why the Anti-Federalists would be found to bemoan standing armies, expanded bureaucracies and powers of taxation. For as Duncan cites, "free people were not those who were merely spared actual oppression, but those who have a ...check upon the power to oppress."⁷² Duncan's final evaluation of the Anti-Federalists is neither one extolment nor condemnation but as "Men of a Different Faith", "their loss ultimately has been our loss as well."⁷³

⁷² Ibid.: 394.

⁷³ Ibid.: 415.

In part, the very generalization of Anti-Federalists is a faulty construction. As it is often acknowledged but rarely substantially dealt with in the historiographical matter, the Anti-Federalists represented a remarkable heterogeneity of opinion. Among the historians mentioned, Storing addresses this most directly, “It would be difficult to find a single point about which *all* of the Anti-Federalists agreed. They did not, finally, even agree unanimously in opposing the adoption of the Constitution.”⁷⁴ One need then in the historical literature is a systematic and specific account of several of the prominent and possibly even a few of the obscure Anti-Federalists with an individual assessment of their particular and individual ideologies. Such a course of study may shed more light on what a general Anti-Federalist ideology might look like. Furthermore, while the number of theoretical frameworks and interpretations are sufficient to be adequate, topical studies of the Anti-Federalists measured against several of these frameworks is also apparently absent from the literature, such as “The Anti-Federalists on Militias and Standing Armies” or “The Anti-Federalists on Taxation” and maybe worthy pursuits of study. Perhaps more contentious but certainly appealing are how modern claims of associations with the Anti-Federalists might be appropriate from an ideological viewpoint; such as “The Libertarians and the Anti-Federalists”. Obviously, as Duncan has been briefly presented, he would dismiss such an association but even his theory of Anti-Federalism does not entirely exclude the possibility of a partial appropriate association. The Bill of Rights stands as the great legacy of the Anti-Federalists and while the literature reviewed for this study for the most part glossed over this

⁷⁴ Storing, *What the Anti-Federalists were For*, 5.

dimension of Anti-Federalist historical/political contribution, a glancing review of the literature in the political sciences would seem to indicate that this avenue of study is fertile for more historical review. Whiggish influence, particularly that of Cato's letters by the pen of Trenchard and Gordon, also seem to be attractive possibilities for further investigation.

Perhaps considering the rough treatment the Anti-Federalists have received, this author, in a moment of historical empathy would like to permit the Anti-Federalists to have the last word of this historiography. Neither the Federalists nor the Anti-Federalists were above characterizing their opponents in derogatory ways, and neither side demonstrated any lack of sarcastic talent. This creed written by an Anti-Federalist, does much to sum up the Anti-Federalist perspective of what the Federalists stood for, albeit in a particularly tongue-in-cheek manner; speaking now for the Federalists:

I believe in the infallibility, all-sufficient wisdom, and infinite goodness of the late convention; or in other words, I believe that some men are of so perfect a nature that it is absolutely impossible for them to commit errors or design villainy. I believe that the great body of the people are incapable of judging in their nearest concerns, and that, therefore, they ought to be guided by the opinions of their superiors. ...I believe that aristocracy is the best form of government. ... I believe that trial by jury and the freedom of the press ought to be exploded from every wise government. ...I believe that the new constitution will prove the bulwark of liberty - the balm of misery - the essence of justice - and the astonishment of all mankind. In short, I believe that it is the best form of government which has ever been offered to the world. I believe that to speak, write, read, think, or hear any thing against the proposed government is damnable heresy, execrable rebellion, and high treason, against the sovereign majesty of the convention - And lastly I believe that every person who differs from me in belief is an infernal villain. AMEN.⁷⁵

⁷⁵ Beard, *Economic Interpretation of the Constitution* , 295.

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Reconciling Contradictions:

Unraveling Anti-Federalist Ideology Through a Conceptual Framework of Natural Rights

"For the absurdity must continually stare us in the face of confiding to a government the direction of the most essential national interests, without daring to trust it to the authorities which are indispensable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative." Hamilton, *The Federalist* no. 23. (1788)⁷⁶

⁷⁶ James Madison, *The Federalist* no. 23, 1788. Accessed from: http://avalon.law.yale.edu/18th_century/fed23.asp on 2010-11-22 on 2010-11-22.

The Anti-Federalists pose a difficult subject for historical inquiry. Historians have generally grouped those authors who opposed the ratification of the Constitution together for conceptual simplicity but the Anti-Federalists would defy even this minimalist definition.⁷⁷ The Anti-Federalists were remarkably varied in their concerns and critique, they attempted to appeal to different audiences, they often used pseudonyms, sometimes obscuring original authorship, and made use of various rhetorical modes (logos, ethos, and pathos) that are perhaps open to the criticisms of demagoguery, which compounds the difficulty of determining true concerns with mere attempts to persuade their audiences.⁷⁸ If these difficulties are compounded by the Anti-Federalists being guilty of Hamilton's charge of inconsistency, then an exacting lens is required to analyze the textual evidence as it stands. I will argue that adopting a conceptual framework that parses or interprets political speech based on a rationally established praxeology and a consistently applied Natural Law theoretical framework, will illuminate the Anti-Federalist inconsistency, indicating relative political ideologies that has not to my knowledge been previously elucidated within

⁷⁷ "It would be difficult to find a single point about which *all* of the Anti-Federalists agreed. They did not, finally, even agree unanimously in opposing the adoption of the Constitution." Storing, 5. "Are they agreed, are any two of them agreed, in their objections to the remedy proposed, or in the proper one to be substituted?" - James Madison, *The Federalist* no. 38. Accessed from <http://www.constitution.org/fed/federa38.htm> on 2010-11-16. [It is interesting that the Federalist response to the variation of criticism and sometime conflict within that criticism is that the conflict between critics rendered *their* arguments negligible, rather than seeing the need to defend the rationale for ratification from *all* criticism.]

⁷⁸ The use of pseudonyms were a part of the cultural print conventions of the time. Pseudonyms protected the authors from libel charges that were all too frequent (and only worsened after ratification of the Constitution with the Alien and Sedition Acts) and it allowed for community consideration of ideas without regard to the esteem of personalities. To explore the use of pseudonyms, in Federalist and Anti-Federalist thought see: Saul Cornell, *The Other Founders: Anti-Federalism & the Dissenting Tradition in America, 1788-1828*. (The University of North Carolina Press, Williamsburg V.A. 1999) 37-38, 76, 105-106.

the historical context of the Anti-Federalists.⁷⁹ The Anti-Federalist legacy have had a significant impact on the current political landscape, as it was their objections to the Constitution that forced the ratifying conventions to amend the Constitution to include the Bill of Rights; if an examination of the Anti-Federalist contradiction may unravel their potentially latent political ideologies, I would consider the effort worthwhile.

Historians have never been contented to be mere catalogers of facts but have instead, sought to apply explanatory functions to collections of evidence so as to make sense of the historical data; to weave a historical narrative with a loom of historical theory. It has been argued persuasively that it is not possible to construct a coherent history without such a theoretical background or historical perspective, which informs and directs the historical narrative.⁸⁰ Therefore, in the interest of clarity, the following is the outline for the conceptual framework used to interpret the complexity of the Anti-Federalist ideology. It is the absence of such a framework, which has lead to the conclusion that the Anti-Federalist ideology is more internally harmonious than will be shown.

⁷⁹ The particular formation of the natural law ideology argued for here is greatly in the debt of Ludwig von Mises', *Human Action* (New Haven, Conn.: Yale University Press, 1949) and Murray N. Rothbard's, *Man, Economy and State* (Auburn, AL: Ludwig Von Mises Institute, 2009) and Rothbard's, *Ethics of Liberty*. (New York: University Press, 2001). If history is a study largely of human agency, a praxeological application may be used to provide a conceptual framework for providing an interpretation of the historical narrative. "Action is purposive conduct. It is not simply behavior, but behavior begot by judgments of value, aiming at a definite end and guided by ideas concerning the suitability or unsuitability of definite means. . . . It is conscious behavior. It is choosing. It is volition; it is a display of the will." – Ludwig von Mises, *Ultimate Foundation of Economic Science*, (Princeton, N.J.: D. Von Nostrand, 1964) 34.

⁸⁰ J.A. Passmore, "The Objectivity of History". *Philosophy*, Vol. 33, No. 125 (Apr., 1958), pp. 97-111.

Published by: Cambridge University Press on behalf of Royal Institute of Philosophy. ". . . history's incurable subjectivity." Ibid. 111.

All logical reasoning must proceed by irreducible axioms. Often these axioms are left unexamined; if the truth-value for them is found wanting, all conclusions derived thereof (while they may still be logically valid) are suspect. In order to avoid the criticism of circular reasoning, that reasoning in which the conclusions are used to validate the premises, I shall outline the axiomatic ethical principles under which the conceptual framework here used, is based. I do not here intend to construct a full philosophical defense of these principles but the conclusions thereby derived from them, pass for me and I hope for others, the intuitive ethical test; that is to say, that in nearly all ethical situations, the derivative ethical judgment based on these principles will be intuitively sound.⁸¹ When these principles are extended to the traditional/historical social sphere will have radical political applications and will explain the crux of the Anti-Federalist inconsistency. Considered as first principles, these premises are offered as if they were obviously true unto themselves; I leave it to the reader to consider and criticize their truth-value upon their own subjective evaluation.

The basis of the Natural Law argument requires the possibility of a rationally apprehended ethic; that there are universal and rationally apprehended laws inherent to the nature of people as ethical beings. For this conceptual framework, we shall consider this a principle premise, as a through defense of the principle of Natural Law would require a treatise all of its own but this should not be necessary, as the theory of natural law has had many able defenders.⁸² For the purposes of conceptual clarity,

⁸¹ The subset of possible ethical scenarios consisting of “nearly all” is meant to exclude creative logical paradoxes and various “lifeboat” scenarios.

⁸² Martin Luther King, *Letter from Birmingham City Jail*: “one has a moral responsibility to disobey unjust laws... . an individual who breaks a law that conscience tells him is unjust and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the

the concept of Natural Law differs from positive law in as much as the principles of Natural Law which inform ethical content are theoretically universal and apprehended by the rational mind, whereas Positive Law is particular and circumstantial. The concept of Natural Law suffers epistemically from the lack of agreement among rational minds to apprehend all of its aspects and in all of its applications, whereas, Positive Law can be much more easily apprehended or at least predicted but suffers from the potential for injustice or of arbitrariness. It is not difficult to concede that laws that are simply posited may be unjust or arbitrary (slavery or the Holocaust) and to the extent that they are, they fail the challenge of St. Augustine's tenet, "An unjust law is no law at all."⁸³ If Augustine's proposition is fundamentally sound, then the theory of positive law must be rendered superfluous.

Natural law is a necessary precursor to Natural Rights; for without the conceptual establishment of Natural Law, from whence might a basis for natural rights precede? For the purposes of this theoretical framework, we take as our next

community over its injustice, is in reality expressing the highest respect for law."

(<http://abacus.bates.edu/admin/offices/dos/mlk/letter.html>). William Blackstone as quoted in the "Declaration of Sentiments" by Elizabeth Cady Stanton: "This law of nature, being co-eval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original" (1979, 41). Henry David Thoreau "Civil Disobedience": "Under a government which imprisons any unjustly, the true place for a just man is also a prison." St. Thomas Aquinas, *Treatise on Law*. (Regnery Publishing, Inc. Washington D.C. 1996), 33: "A tyrannical law, through not being according to reason, is not a law, absolutely speaking, but rather a perversion of law;". Sophocles, *Antigone*: [Antigone responding to Creon's charge at having violated Creon's law forbidding the burial of her brother] "...for it was not Zeus that had published me that edict; not such are the laws set among men by the justice who dwells with the gods below; nor deemed I that thy decrees were of such force, that a mortal could override the unwritten and unfailing statutes of heaven. For their life is not of to-day or yesterday, but from all time, and no man knows when they were first put forth."

⁸³ Augustine, *On Free Choice Of The Will*, Book 1: 5. trans. Thomas Williams (Cambridge: Hackett Publishing Company, 1993), 8. [That is to say, if any law that is posited by a particular person or group of persons, fails to correspond to the nature of rationally apprehended justice, such a law has no ethical force or justification and must be considered as illegitimate.]

premise the principle of a natural right to self-ownership and the derivative principle of private property. This principle is most famously explained by John Locke:

[E]very man has a *property* in his own *person*. This nobody has any right to but himself. The labour of his body and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, an left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his *property*. It being by him removed from the common state nature placed it in, it hath by this *labour* something annexed to it that excludes the common right of other men.⁸⁴

The principle of self-ownership carries with it, the rational extension of that ownership, to one's labors and the products thereof, in as much as any theory of personal property is possible.⁸⁵ If a person has a natural right to self-ownership and to legitimately obtained property, then what is entailed by this right? It must mean at least this: that in all cases, it is illegitimate and immoral, for any individual, or group of individuals acting in concert, to initiate aggressive action against another (or make a reasonable threat thereof) with the intention of deprivation of another person's life, liberty or property (or any and all natural rights). This minimalist definition of what entails a natural right has been variously designated as the principle of non-aggression. Murray Rothbard elucidates the condition this way:

...it is a man's right to do whatever he wishes with his own person; it is his right not to be molested or interfered with by violence from exercising that right. But what may be the moral or immoral way of exercising that right is a question of personal ethics rather than of political philosophy – which is

⁸⁴ John Locke, *An Essay Concerning the True Origin, Extent, and End of Civil Government*, V. pp. 27-28, in *Two Treatises of Government*, P. Laslett, ed. (Cambridge: Cambridge University Press, 1960).

⁸⁵ "The right to enjoy liberty is inalienable.... Every man has a right to his own body – to the products of his own labor – to the protection of law.... That all these laws which are now in force, admitting the right of slavery, are, therefore, before God, utterly null and void... and therefore they ought instantly to be abrogated." –William Lloyd Garrison, "Declaration of Sentiments of the American Anti-Slavery Convention" (December 1833), cited in W. and J. Pease, eds., *The Antislavery Argument* (Indianapolis: Bobbs-Merrill, 1965)

concerned solely with matters of right, and of the proper or improper exercise of physical violence in human relations.⁸⁶

Therefore, the basis of our conceptual framework is a Natural Law theory that provides the basis for the natural right of self-ownership and that this right forms the basis of a theory of ethics of how individuals may act in accordance with this latter principle of non-aggression. Given this framework, political action is conceptually reduced to an ethical analysis regarding the proper or improper exercise of physical violence (or coercion) in human relations.⁸⁷ The principle of non-aggression might have been posited from the beginning but then the framework for interpretation offered here might be accused of applying modern values that were not capable of being rationally expressed due to the historical progression of ideas at the time. I will show that the Anti-Federalists, shared implicitly a very similar conceptual framework of Natural Law but this framework can be found in America even prior to the American revolution. In the words of Elisha Williams, Congregational minister, legislator, jurist, and rector of Yale College from 1726 to 1739, writing his, "*A Seasonable Plea for the Liberty of Conscience and the Right of Private Judgment in Matters of Religion Without any Controul from Human Authority*" in 1728:⁸⁸

As reason tells us, all are born thus naturally equal, i.e. with an equal right to their persons, so also with an equal right to their preservation . . . and every man having a property in his own person, the labour of his body and the work of his hands are properly his own, to which no one has right but himself; it will therefore follow that when he removes anything out of the state that nature has provided and left it in, he has mixed his labour with it, and joined something to it that is his own, and thereby makes it his property. . . . Thus every man having a natural right to (or being proprietor of) his own person

⁸⁶ Murray N. Rothbard. *The Ethics of Liberty*. (New York: New York University Press, 2001) 24.

⁸⁷ Correspondingly, this analysis would reduce the sphere of economics into those voluntary/consensual exchanges.

⁸⁸ Elisha Williams' credentials obtained by [www.wikipedia.org](http://en.wikipedia.org) Accessed from http://en.wikipedia.org/wiki/Elisha_Williams on 2010-11-04.

and his own actions and labour, which we call property, it certainly follows, that no man can have a right to the person or property of another: And if every man has a right to his person and property; he has also a right to defend them . . . and so has a right of punishing all insults upon his person and property."⁸⁹

This framework for the interpretation of human action, considers the purposeful actions of the individual as the primary unit for ethical, political and economic analysis.⁹⁰ When individuals act in concert, their actions necessarily emanating from each individual's volition, their actions must be analyzed as separate individual ethical evaluations. This analysis declines to admit groups of individuals as corporate ethical entities; therefore political action, as corporate-group action, cannot be admitted as legitimate if such action violates Natural Law or the natural rights of individuals. In fact, the concept of Natural Rights does not admit the ability of the individual to divest herself of her natural rights even if she were inclined to do so, such as by selling oneself into permanent bondage; such an action would be the logical equivalent of a denial her own personhood, which is why natural rights are properly said to be inalienable.⁹¹

⁸⁹ Ellis Sandoz, *Political Sermons of the American Founding Era: 1730-1805*, (2nd ed. Indianapolis: Liberty Fund, 1998). vol. 1. chap. 3: Elisha Williams, "The Essential Rights and Liberties of Protestants".

Accessed from <http://oll.libertyfund.org/title/816/69224> on 2010-11-04

⁹⁰ "All rational action is in the first place individual action. Only the individual thinks. Only the individual reasons. Only the individual acts." –Ludwig von Mises. *Socialism*. (New Haven, Conn: Yale University Press 1951). 97.

⁹¹ "When a man renounces his liberty he renounces his essential manhood, his rights, and even his duty as a human being. There is no compensation possible for such complete renunciation. It is incompatible with man's nature, and to deprive him of his free will is to deprive his action of all moral sanction. The convention, in short, which sets up on one side an absolute authority, and on the other an obligation to obey with question, is vain and meaningless. Is it not obvious that where we can demand everything we own nothing? Where there is no mutual obligation, no interchange of duties, it must, surely, be clear that the actions of the commended cease to have any moral value? For how can it be maintained that my slave has any 'right' against me when everything that he has is my property? His right being my right, it is absurd to speak of it as ever operating to my disadvantage." – Jean-Jacques Rousseau, *The Social Contract*, bk. 1, chap. 4, in E Barker, ed., *Social Contract* (New York: Oxford University Press, 1948), p. 175.

The inalienability of natural rights is the rebuttal of Social Contract theory, which as will be shown later, is the philosophical slippery slope which often at the center of the Anti-Federalist contradiction. The theory of Social Contract requires that individuals relinquish a certain portion of their natural rights in order to form a social compact in which their other natural rights may be better preserved, however, this justification fails to retain the explicit consent required of contracts and permits the abuse of the weaker party. The unfortunate consequence of the theory of Social Contract is the latent possibility of attempted legitimization of any actions of a ruling body (who creates, enforces and interprets the terms of the contract) under the pretense of a tacit consent of the governed. The Social Contract theory creates a hegemonic relationship, one in which the weaker or governed party is automatically considered as having consented to the contract (implied or tacit consent) and has no power or to extricate herself from the supposed contract; that merely existing within a certain place/time one has implied the surrender of certain natural rights for one's own alleged benefit.⁹² As the legal philosopher Ronald Dworkin notes:

So some political philosophers have been tempted to say that we have in fact agreed to the social contract of that kind tacitly, by not just emigrating when we reach the age of consent. But no one can argue that very long with a straight face. Consent cannot be binding on people, in the way this argument requires, unless it is given more freely, and with more genuine alternate choice, than just by declining to build a life from nothing under a foreign flag. And even if the consent were genuine, the argument would fail as an argument for legitimacy, because a person leaves one sovereign only to join another; he has no choice to be free from sovereigns altogether.⁹³

⁹² "All men are born free; liberty is a gift which they receive from God himself; nor can they alienate the same by consent, though possibly they may forfeit it by crimes. No man... can... give away the lives and liberties, religion or acquired property of his posterity, who will be born as free as he himself was born, and can never be bound by his wicked and ridiculous bargain." -John Trechard and Thomas Gordon, *Cato's Letters*, no. 59, in D.L. Jackson, ed., *The English Libertarian Heritage* (Indianapolis, Ind.: Bobbs-Merrill, 1965), p.108.

This is the basic outline for a conceptual framework based on a theory of Natural Law which may be used to analyze Anti-Federalist texts in order to understand their internal ideological contradictions and thereby to gain greater insight into the Anti-Federalist ideological landscape. I will endeavor to show that the Anti-Federalists accepted the basis for such a Natural Law theory and yet their failure to apply this theory consistently would prove their culpability of the Hamiltonian charge of contradiction.

The historian Saul Cornell (1999) correctly identifies the weakness in the Anti-Federalist historiography, "...historians have invariably sought an authoritative Anti-Federalist position, focusing on a single strain of Anti-Federalism as an expression of the true voice of the opposition to the Constitution."⁹⁴ In constructing a coherent Anti-Federalist historical narrative, the prejudice has been to reconcile the apparent inconsistencies of the Anti-Federalist internal ideology; the propensity of historians to create coherent narratives produces a prejudice to reconcile inconsistencies and ignore ideological contradictions in favor of thematic unity or essential identity. Yet most historians have recognized the central inconsistency; the historian Herbert Storing would grapple with the Anti-Federalist contradiction this way:

⁹³ Ronald Dworkin, *Law's Empire* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1986) 192-3.

⁹⁴ Saul Cornell, *The Other Founders: Anti-Federalism & the Dissenting Tradition in America, 1788-1828*. (Williamsburg VA: The University of North Carolina Press, 1999) 7. Cornell seems to be referring directly to Herbert Storing and Cecelia Kenyon, "We are looking not for what is *common* so much as for what is *fundamental*. ... the theoretical ground that most other Anti-Federalists took for granted." –Herbert J. Storing, *What the Anti-Federalists Were FOR: The Political Thought of the Opponents of the Constitution*. (Chicago: The University of Chicago Press, 1981). "...they shared a large body of political ideas and attitudes, together with a common heritage of political institutions." –Cecilia Kenyon, "Men of Little Faith: The Anti-Federalists on the Nature of Representative Government" *The William and Mary Quarterly*, Third Series, 12, no. 1 (Jan 1955): 37-38.

This is the critical weakness of Anti-Federalist thought and at the same time its strength and even its glory. For the Anti-Federalists could neither fully reject nor fully accept the leading principles of the Constitution. They were indeed open to Hamilton's scornful charge of trying to reconcile contradictions. ... They did not fail to *see* the opportunity for American nationhood... but they could not join in grasping it. They doubted; they held back; they urged second thoughts. This was, however, not a mere failure of will or lack of courage. They had *reasons*, and the reasons have weight. They thought – and it cannot easily be denied – that this great national opportunity was profoundly problematical, that it could be neither grasped nor let alone without risking everything. 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.⁹⁵

Yet even with this recognition of the Anti-Federalist contradiction, Storing would still strive for a unified ideology, "...the Anti-Federalists themselves understood their... conclusions... to be derived from a positive political theory or set of political principles".⁹⁶ While Storing would try to glean what he thought fundamental to Anti-Federalist thought, Cornell would adopt a different tact by subdividing Anti-Federalists themselves into several interests groups in order to smooth the ideological disparity, yet Cornell still seems to comprehend the internal contradiction within Anti-Federalist thought, the "Anti-Federalists sought to reconcile the contradictions between their concern for liberty and their commitment to the rights of the people to legislate on behalf of the good of the community".⁹⁷

The Anti-Federalists generally agreed with the Federalists about the inadequacy of the Articles of Confederation.⁹⁸ In the letters of the Federal Farmer, "It

⁹⁵ Herbert J Storing. *What the Anti-Federalists Were FOR: The Political Thought of the Opponents of the Constitution*. (Chicago: The University of Chicago Press 1981) 6.

⁹⁶ *Ibid.* 5.

⁹⁷ Saul Cornell, *The Other Founders: Anti-Federalism & the Dissenting Tradition in America, 1788-1828*. (The University of North Carolina Press, Williamsburg V.A. 1999) 6.

⁹⁸ The Anti-Federalists were not completely united in this agreement however, particularly in the early debate, many still expressed their esteem for the Articles of the Confederation, "Sir, I venerate the spirit with which every thing was done at the trying time in which the Confederation was

must, however, be admitted, that our federal system is defective,” but the issue for the Anti-Federalists was whether the proposed Constitution was a legal proposal and consistent with what the Anti-Federalists supposed to be the values of the American Revolution and their heritage of respect for civil liberties.⁹⁹ The impetus for the proposal of the Philadelphia Convention was admission of the Congress that the Articles of Confederation were in some ways deficient but the Anti-Federalists contended that the Convention had exceeded its bounds. The Philadelphia Convention had been convened, “for the sole and express purpose of revising the Articles of Confederation” and did not have the legal authority to propose an entirely different constitution of government.¹⁰⁰ Patrick Henry remarked during the Virginia ratifying convention, “That they exceeded their power is perfectly clear... The Federal Convention ought to have amended the old system – for that purpose they were solely delegated: The object of their mission extended to no other consideration.”¹⁰¹ This excess of the Convention was multiplied by the fact that the proposed Constitution carried with it a new legal standard for its own ratification; to alter the Articles of Confederation, the requirement was to “be agreed to in a congress of the united States, and be afterwards confirmed by the legislatures of every State.”

formed. America had then a sufficiency of this virtue to resolve to resist perhaps the first nation in the universe, even unto bloodshed. What was her aim? Equal liberty and safety. What ideas had she of this equal liberty? Read them in her Articles of Confederation.” -G. Livingston [Herbert J Storing, *What the Anti-Federalists Were FOR*. (Chicago: The University of Chicago Press 1981) 8.]

⁹⁹ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) Federal Farmer 2.8.2.

¹⁰⁰ Herbert Storing, *What the Anti-Federalists Were For* (University of Chicago Press, Chicago: 1981) 7. [Regarding the proposed Constitution Patrick Henry states, “A proposal that goes to the utter annihilation of those solemn engagements of the States.” {Herbert Storing, *The Anti-Federalist* (University of Chicago Press, Chicago 1985) 5.16.1.}]

¹⁰¹ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 5.16.1.

while the Constitution deemed itself ratified with the approval of only three fourths of the state legislatures.¹⁰² Luther Martin would warn:

...the same reasons which you *now* urge for destroying our *present* federal government, may be urged for *abolishing the system* which you now propose to adopt; and as the *method prescribed* by the *articles* of confederation is *now totally disregarded* by you, as *little regard* may be shown by you to the *rules prescribed* for the amendment of the *new system*.¹⁰³

As the movement for the ratification of the proposed Constitution gained velocity, it became clear to most Anti-Federalists that they could not rely solely of the issue of the illegality of its ratification method but they would have to demonstrate sustained critique of the Constitution itself, in order to block its ratification.

The primary political objection of the Anti-Federalists was how the Constitution seemed to detract from the sovereignty of the states. In a twist of historical irony, it was the Anti-Federalists who favored and advocated for a true federal government of sovereign states, while it would be the Federalists who instead supported the proposed Constitution because it promoted a mixture of national and federal government. This divergence induced the Anti-Federalists to show that the proposed Constitution had in its formulation, improper and indefinite objectives of government, and excessive means of government; and that these two indiscretions combined to threaten state sovereignty and individual rights.

The ends or purpose of the general government proposed by the Constitution may be found in its preamble, “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the

¹⁰² *Articles of Confederation*. Accessed from <http://www.usconstitution.net/articles.html#Article13> on 2010-11-22

¹⁰³ Herbert Storing, *What the Anti-Federalists Were For* (University of Chicago Press, Chicago: 1981) 7-8.

common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity”. The Anti-Federalists found much to object to on the basis of the preamble alone. Patrick Henry would object to the use of the phrase, “We the People” as an unjustified, over-extension of the express purpose given to the Philadelphia Convention by Congress :

What right had they to say, *We, the People*... who authorized them to speak the language of , *We, the People*, instead of *We, the States*? ... If the States be not the agents of this compact, it must be one great consolidated National Government of the people of all the States... The people gave them no power to use their name. That they exceeded their power is perfectly clear.¹⁰⁴

While Brutus protested explicitly on the openness of interpretation permitted in the language of the preamble, a theme to which the Anti-Federalists would continually return:

The great objects then are declared in this preamble in general and indefinite terms to be to provide for the common defence, promote the general welfare, and an express power being vested in the legislature to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the general government. The inference is natural that the legislature will have an authority to make all laws which they shall judge necessary for the common safety, and to promote the general welfare. This amounts to a power to make laws at discretion: No terms can be found more indefinite than these, and it is obvious, that the legislature alone must judge what laws are proper and necessary for the purpose.¹⁰⁵

For both the Federalists and Anti-Federalists, the purposes or ends of government could only be justified in the sense of general welfare or public good/happiness, this after all is the ideological justification for entering into the alleged social contract, that a person’s liberty and property may be better secured by entering into the social arrangement than not. However, for the Anti-Federalists, the

¹⁰⁴ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 5.16.1

¹⁰⁵ *Ibid.* 2.9.57

purpose of government is the preservation and protect of rights and liberties, rather than the provision of an optimized degree of public good/happiness, as may have been conceived by the Federalists. Mercy Otis Warren under the pseudonym of A Columbian Patriot writing in various passages of her letters, “The principle aim of society is to protect individuals in the absolute rights which were vested in them by the immediate laws of nature” and, “the rights of individuals ought to be the primary object of all government” and “government is instituted for the protection, safety, and happiness of the people.”¹⁰⁶ It was not that the Anti-Federalists objected to the idea that the general welfare was a legitimate end of government, for, “the object of every free government is the public good...” but that the general welfare would be best pursued by minimizing the number of rights necessary to be surrendered or alienated, in order to promote the general welfare, rather than the direct pursuit of an optimization of the general welfare itself.¹⁰⁷

The design of civil government is to protect the rights and promote the happiness of the people. For this end, rulers are invested with powers. But we cannot from hence justly infer that these powers should be unlimited. There are certain rights which mankind possess, over which government ought not to have any controul, because it is not necessary they should, in order to attain the end of its institution. There are certain things which rulers should be absolutely prohibited from doing, because, if they should do them, they would work an injury, not a benefit to the people.¹⁰⁸

¹⁰⁶ Saul Cornell, *The Other Founders*. (The University of North Carolina Press, Williamsburg V.A. 1999) 56.

¹⁰⁷ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 2.9.45. “the great end of civil government is to protect the weak from the oppression of the powerful to put every man upon the level of equal liberty....” –Centinel. [Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 2.7.107.]

¹⁰⁸ *Ibid.* Brutus 2.9.102

The pursuit of the general welfare as an end unto itself was a negation of the purposes of government, it gave too much power to the government which consequently threatened too much civil and personal liberty.

The Anti-Federalist objections towards the proposed ends of government were in the balance minor in comparison to the emphatic objections against the provision of the means for government. As stated succinctly by none other than George Washington, “Government is not reason, it is not eloquence – it is force! Like fire it is a dangerous servant and a fearful master; never for a moment should it be left to irresponsible action.”¹⁰⁹ Though Washington is not generally considered as among the Anti-Federalists, he expresses here the basic Anti-Federalist objection towards the means of government. Hamilton and Madison in the *Federalist*, argued that it was appropriate and necessary for the general government, that it should have all the means necessary in order to accomplish its ends and consequently justifying the Necessary and Proper clause:

This is one of those truths which, to a correct and unprejudiced mind, carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal; the **MEANS** ought to be proportioned to the **END**; the persons, from whose agency the attainment of any **END** is expected, ought to possess the **MEANS** by which it is to be attained.¹¹⁰

¹⁰⁹ Upton Sinclair, *A Cry for Justice* (John C. Winston Company, Philadelphia 1915) 305. (This is the earliest source readily available for this quotation, in this respect the attribution may be suspect.)

¹¹⁰ James Madison, *The Federalist* no. 23. Accessed from: http://avalon.law.yale.edu/18th_century/fed23.asp on 2010-11-22. “Few parts of the Constitution [the Necessary and Proper clause] have been assailed with more intemperance than this; yet on a fair investigation of it, no part can appear more completely invulnerable. Without the SUBSTANCE of this power, the whole Constitution would be a dead letter.” – James Madison, *The Federalist* no. 44. Accessed at http://avalon.law.yale.edu/18th_century/fed44.asp on 2010-11-22.

This was a central point of controversy for the Anti-Federalists who tended to abhor the idea of the use force or coercion to meet the purposes of government.¹¹¹ Instead, the Anti-Federalists tended to think of the proper role of government as a leader or promoter of public virtue by use of persuasion. The Federal Farmer expresses the sentiment this way, “I conceive, for a government to be so free, or so supported by voluntary consent, as never to want force to compel obedience to the laws.”¹¹² For the Anti-Federalists, the use of force or coercion negates or contradicts the very ends government is supposed to pursue:¹¹³

Every government must be supported, either by the people having such an attachment to it, as to be ready, when called upon, to support it, or by a force at the command of the government, to compel obedience. The latter mode destroys every idea of a free government;... for the same force... probably would be used to wrest from the people their constitutional liberties.¹¹⁴

While James Madison would be considered the nemesis of the Anti-Federalists during his tenure as co-author of the Federalist Papers, after the ratification of the Constitution, the Hamiltonian Madison would undergo a transformation into the Jeffersonian Madison and by 1829 would speak in a voice in keeping with the sentiments of the Anti-Federalists on the dangers of giving governments the means to accomplish their specified ends:

It is sufficiently obvious, that persons now and property are the two great subjects on which Governments are to act; and that the rights of persons, and the rights of property, are the objects, for the protection of which Government

¹¹¹ “I take it for granted, as an axiom in politic, that the people should never authorise their rulers to do any thing, which if done, would operate to their injury.” – Brutus. [Herbert Storing, *The Anti-Federalist*. (Chicago: University of Chicago Press, 1985) 2.9.98]

¹¹² Herbert Storing, *The Anti-Federalist*. (Chicago: University of Chicago Press, 1985) The Federal Farmer 2.8.93

¹¹³ “Neither the general government, nor the state governments, ought to be vested with all the powers proper to be exercised for promoting the end of government.” – Brutus. [Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 2.9.80]

¹¹⁴ *Ibid.* Brutus 2.9.48.

was instituted. These rights cannot well be separated. The personal right to acquire property, which is a natural right, gives to property, when acquired, a right to protection, as a social right. The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse. In monarchies, the interests and happiness of all may be sacrificed to the caprice and passions of a despot. In aristocracies, the rights and welfare of the many may be sacrificed to the pride and cupidity of the few. In republics, the great danger is, that the majority may not sufficiently respect the rights of the minority.¹¹⁵

For the Anti-Federalists, it was necessary for the government to have the consent of the people, for the government would not require the use of force to compel and enforce obedience to laws if those laws were seen as just by all people. This was the model of the ideal government as expressed by Federal Farmer, “I conceive, for a government to be so free, or so supported by voluntary consent, as never to want force to compel obedience to the laws” and this is concurred by Brutus, “The origin of society then is to be sought...in the united consent of those who associate.”¹¹⁶ This then is Anti-Federalist rebuke to the Necessary and Proper clause; if the laws passed by the general government are just, then no use of force by the government is necessary to obtain obedience, therefore there can be no use of force to compel obedience that can be said to be appropriate.¹¹⁷

¹¹⁵ James Madison, Speech in the Virginia Constitutional Convention, December 2, 1829. Accessed from http://www.constitution.org/jm/18291202_vaconcon.txt on 2010-11-22.

¹¹⁶ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 2.8.93, 2.9.24.

¹¹⁷ “After the general idea of virtue, I know of no higher principle than that of rights; these two ideas, rather, are united in one. The idea of rights is simply that of virtue introduced into the political world. It was the idea of rights that enabled men to define anarchy and tyranny, that taught them how to be independent without arrogance and to obey without servility. The man who submits to violence is debased by his compliance; but when he submits to a right of authority that he acknowledges in a fellow creature, he rises in some measure above the person who gives the command. There are no great men without virtue; and there are no great nations – it may almost be added, there would be no society – without respect for rights, for what is a union of rational and intelligent beings who are held together only by the bond of force?” –Tocqueville [Marvin Zetterbaum. *Tocqueville and the Problem of Democracy*. (Stanford: Stanford University Press, 1967) 40.]

Brutus, one of the most cogent of the Anti-Federalists, would invoke the Declaration of Independence as a defense of the Anti-Federalist perspective:

...they hold this truth as self-evident, that all men are by nature free. No one man, therefore, or any class of men, have a right by the law of nature, or of God, to assume or exercise authority over their fellows. The origin of society then is to be sought, not in any natural right which one man has to exercise authority over another, but in the united consent of those who associate.¹¹⁸

For Brutus, individuals enter into social compacts for the purpose of their own mutual protection and defense. This mutual benefit for the protection of their natural rights, he calls their “common good” and that “the common good, therefore, is the end of civil government, and common consent, the foundation on which it is established. To effect this end, it was necessary that a certain portion of natural liberty should be surrendered, in order, that what remained should be preserved” but to which natural liberties Brutus is willing to admit are surrendered, he responds, “I shall not now enquire.”¹¹⁹ However, Brutus indicates that only so much of that portion of an individual’s natural liberty should be surrendered as is necessary to, “establish laws for the promoting the happiness of the community, and to carry those laws into effect.”¹²⁰ There is however a caveat to this condition of Brutus, “it is not necessary, for this purpose, that individuals should relinquish all of their natural rights. Some are of such a nature that they cannot be surrendered” such as, “the rights of conscience, the right of enjoying and defending life” and some other natural liberties, “are not necessary to be resigned, in order to attain the end for which government is instituted... to surrender them, would counteract the very end of government, to wit,

¹¹⁸ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985). 2.9.24.

¹¹⁹ *Ibid.* 2.9.24.

¹²⁰ *Ibid.* 2.9.24.

the common good.”¹²¹ It should be carefully noted that Brutus, though seemingly compelled to acknowledge that some certain portion of a person’s natural rights must be given up, is not willing to enumerate them, while in the same passage he is quick to endorse which are to be preserved as inalienable. The fundamental problem that Brutus’ argument evades is that if the natural rights of individuals are to be surrendered for their mutual protection and the powers to accomplish this protection is submitted or supplied to the authority of government, how is the individual to protect themselves from the arbitrary authority of government?¹²² The problem is stated far more eloquently by none other than the personage of the pseudonymous Federalist author, Publius:

“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controuls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to controul the governed; and in the next place, oblige it to controul itself.”¹²³

While Brutus would attempt to contend with the erroneous integration of the Social Contract theory with a theory of Natural Rights, Federal Farmer would attempt his own exposition of the characteristics of Natural Rights in regards to entering the civil polity. Federal Farmer would make a rather uniquely egalitarian statement concerning the conception of Natural Rights, so much so that he would ascribe it not just to Americans or Englishmen but to all peoples:

¹²¹ *Ibid.* 2.9.24.

¹²² “...men came together, and agreed that certain rules should be formed, to regulate the conduct of all, and the power of the whole community lodged in the hands of the rulers to enforce obedience to them. But the rulers have the same propensities as other men; they are as likely to use the power ... to the injury and oppression of those over whom they are placed.... It is therefore a proper that bounds should be set to their authority, as that government should have at first been instituted to restrain private injuries.” – Brutus. Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 2.9.24.

¹²³ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 191-192.

Men, in some countries do not remain free, merely because they are entitled to natural and unalienable rights; men in all countries are entitled to them, not 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 of course to believe them to be sacred.¹²⁴

It is necessary therefore in Federal Farmer's ideation, to declare the natural and inalienable rights, "not depending on silent titles," that there might be a communal recognition of these rights so they may in time become sacred to all and therefore no person would be willing to violate them and the community would then instantly recognize any transgression upon those rights.¹²⁵ Federal Farmer observes the custom of England:

"When the people of England got together, at the time they formed the Magna Charta... they were indisputably entitled to certain natural and unalienable rights... they by declaratory act, expressly recognized them, ...and therefore, that the people might not forget these rights, and gradually become prepared for arbitrary government, ... to be read twice a year in public places, ... to fix the contents of it in the minds of the people."¹²⁶

This requirement and emphasis on the explicit declaration of what natural rights are maintained by individuals is likely a refutation of the original Federalist position that the inclusion of a bill of rights was not required by the Constitution. The Federalist, James Wilson's well known speech in which Wilson claimed it would not be necessary to enumerate the rights reserved to the people because to make such an enumeration of rights would imply that, "every thing which is not reserved is [then] given" but if a bill of rights is to be omitted, then the reverse is implied and, "every thing which is not given, is reserved."¹²⁷

¹²⁴ *Ibid.* The Federal Farmer 2.8.196.

¹²⁵ *Ibid.* 2.8.196.

¹²⁶ *Ibid.* The Federal Farmer 2.8.196.

¹²⁷ Bernard Bailyn ed., *The Debate on the Constitution*. (New York: Literary Classics of the United States, Inc., 1993) 64.

Like Brutus, Federal Farmer seems to indicate that some rights must be given up in the, “forming of the social compact” but, like Brutus, it is difficult to discern explicitly what these might be from his writings as he fails to describe the kinds of rights that are surrendered in the act of forming the social compact. Federal Farmer attempts to make some distinction between different kinds of rights, “of rights, some are natural and unalienable, of which even the people cannot deprive individuals: Some are constitutional or fundamental; these cannot be altered or abolished by the ordinary laws...” but this distinction is not always maintained and Federal Farmer can also be detected taking a more immoderate stance.¹²⁸

There are 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, and they will fix limits to their legislators and rulers, ... [so that the limits of the rulers] cannot be passed ... without giving a general alarm.¹²⁹

Even in making a concession to the Federalist position, the Federalist Farmer deems it necessary to repeat this principle; “It is proper the national laws should be supreme, and superior to state or district laws: but then the national laws ought to yield to unalienable or fundamental rights...”¹³⁰

In their opposition to the ratification of the Constitution, Anti-Federalists became mired in an enmeshment of their own ideological heritage as they were pulled by two different, irreconcilable ideologies. The first ideology being the newly incorporated theory of Natural Law/Natural Rights, while the second ideology being the historically inherited ideology of rulership/political-sovereignty (or put another

¹²⁸ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985) 2.8.80.

¹²⁹ *Ibid.* 2.8.19.

¹³⁰ *Ibid.* 2.8.49.

way, the ideology of self-ownership with non-reciprocal ownership of others). The ideology of natural rights, proposes that individual persons are inalienable self-owners, that person 'Z' owns herself (individual sovereignty); while the second ideology, the ideology of self-ownership with non-reciprocal ownership of others, person 'X' is a self-owner (individually sovereign), who may/must also own 'Y' but that 'Y' does-not and can-not own 'X'. In this latter case, 'Y' does not have self-ownership but may properly said to be the property of 'X'; 'Y' then belongs to some set of, "subhuman beings who do not have a right to participate as full human-beings in the rights of self-ownership enjoyed" by 'X'.¹³¹

The ethical ideology of rulership/political-sovereignty became part of the historical inheritance of the Anti-Federalists by way of the chieftains, kings, tyrants or despots; who used the means of force, violence and coercion to animate their will upon others. It is not difficult to see how it would be useful for such persons to have at their disposal, a rational, or at least seemingly rational justification for their aggressive acts against others; the feudal exchange of protection for the right of taxation, the divine right of kings, and theory of social contract would only be a few examples of these justifications. These justifications would become transformed by the episodes of monarchical overthrow and a theory of popular sovereignty would generally supplant the theory monarchical sovereignty in popular belief.

The concept of popular sovereignty would, at first glance solve the ethical problem of an ideology of rulership/political-sovereignty, as the people would seem to own themselves under popular sovereignty. However, a more rigorous analysis

¹³¹ Murray Rothbard, *The Ethics of Liberty*. (New York University Press: New York, 2002) 45-46.

reveals that popular sovereignty as a substitution for a monarchical or aristocratic sovereignty does not change the basic ethical ideology of self-ownership with non-reciprocal ownership of others; in popular sovereignty, person 'Y' does not truly have ownership of herself but rather, the total set of persons in the given polity ('A', 'B', 'C', through 'Y') has some claim of ownership upon 'Y' while 'Y' has only a partial and rather inconsequential claim of ownership of the total set. This basic critique does not change if it is altered to the majority of the total set (democracy) or if it is the majority of a chosen subset (representatives of a republic). The only stipulation of popular sovereignty in its base ethical form that is different from the original ideology of rulership/political-sovereignty is the negation of the initial self-ownership claimed by the tyrant; that is to say in popular sovereignty, there are no self-owners. It should be obvious then, when an attempt is made to integrate the ideology of popular sovereignty with an ideology of Natural Law/Natural Rights, contradiction is the inevitable result. The practical manifestation of this contradiction are the conflicts which arise as to which natural rights are to be respected and under which circumstances may natural rights be violated to provide which public goods as determined by an establishment of a popular sovereignty, which is precisely the ideological dilemma the Anti-Federalists faced. Similarly, Lord Acton, commenting on the reception of the Natural Law theory of Grotius, wrote, "...every settled authority, every triumphant interest recoiled aghast.... It was manifest that all persons who had learned that political science is an affair of *conscience* rather than of *might* and *expediency*, must regard their adversaries as men without principle."¹³²

¹³² John Edward Emerich Dalberg-Acton, *Essays on Freedom and Power* (Glencoe, Ill.: Free Press, 1948), 74. [Emphasis added]

Anti-Federalist respect for Natural Rights having ideological primacy over the claim of a popular sovereignty, while at the same time supporting that popular sovereignty put them in a very awkward philosophical position. The Anti-Federalist attempts to answer the questions provoked by attempting preserve the inviolability of natural rights or liberties if some must be given up for the public good, or how to give powers to the authorities, while preventing those authorities from having the powers that might swallow up those liberties, was the central problem that led to their being guilty of Hamilton's charge of contradiction. The Anti-Federalists were generally willing to concede some of the proper and legitimate *ends* of government but they were unwilling to agree further with the Federalists in allowing government to appropriate the *means* to supply those ends, as the means would necessitate or at least permit government to act aggressively, violating natural rights; a negation of the concession.

It should not be considered too unusual that the Anti-Federalists found themselves caught in a contradiction of ideologies. The currents of history and its influence on culture provides an inheritance of a multitude of values, such that it is not uncommon to accept mutually exclusive ideas so long as they are intellectually compartmentalized or otherwise rationalized using external argumentation. Thomas Jefferson in an early draft of the Declaration of Independence unthinkingly used to the term "fellow-subjects" in place of the finalized version using the term "fellow-citizens".¹³³ A Maryland Farmer recognized this problem within the Anti-Federalist

¹³³ Library of Congress. "Hyperspectral Imaging by Library of Congress Reveals Change Made by Thomas Jefferson in Original Declaration of Independence Draft" Accessed from <http://www.loc.gov/today/pr/2010/10-161.html> on 2010-11-17.

ideology when he said, “These defects spring from our attempting to erect republican fabrics on the ruined and imperfect pillars of an old corrupt monarchy – not less absurd, than to expect the limbs to perform the functions of life, after cutting off the head.”¹³⁴ The great majority of persons are not philosophers reasoning from first principles with the interest of logical consistency and linguistic precision and yet nearly all persons may properly recognize when they have been transgressed against; the ethical conclusions of Natural Rights theory are easily apprehended and the Anti-Federalists were no exception to this condition. It was this apprehension that resulted in the Anti-Federalist reaction to the proposed Constitution; it was a projection of their fears on how the proposed Constitution might threaten violation of their natural rights based on their experiences and traditions of how governments historically operate. The political scientist Samuel Huntington expounds the nature of the Anti-Federalist difficulty in this way:

No ideational theory can be used to defend existing institutions satisfactorily, even when those institutions in general reflect the values of that ideology. The perfect nature of the ideology's ideal and the imperfect nature and inevitable mutation of the institutions create a gap between the two. The ideal becomes a standard by which to criticize the institutions, much to the embarrassment of those who believe in the ideal and yet still wish to defend the institutions.¹³⁵

It was never seriously in question that the Anti-Federalists held strongly to a theory of Natural Rights but their internal contradiction was a result of their deviation of that Natural Rights theory due to their acceptance of external premises in the form of historical traditions, namely that a person or group of persons must exist with the power to perform certain acts to provide for the public good. Who those persons are,

¹³⁴ Herbert Storing, *The Anti-Federalist*. (Chicago: University of Chicago Press, 1985) 5.1.73.

¹³⁵ Samuel P. Huntington, “Conservatism as an Ideology,” *American Political Science Review* (June 1957): 458-459.

how they should be selected, how much power they should have and which public goods should be produced from their powers were all in dispute. This analysis does not begin with those unexamined external premises but rather proceeds immediately from the ethic first established and then extended to the political sphere. If one cannot aggress against another individual on the basis that all are self-owners with inherent natural rights, there is no rationale to conclude that any group of persons may legitimately proceed against that person without their explicit consent; no political coalition or arrangement can use powers of force or coercion legitimately against an unwilling, unconsenting participant.

This is the crux of the Anti-Federalist contradiction; they gave ideological primacy to a theory of Natural Law/Natural Rights and yet accepted as an external proposition, the legitimacy of the State in the representative form of popular sovereignty. They were willing to concede that a state or government is a legitimate form of community cooperation that has for its purposes, legitimate ends, yet they could not, or were at least hesitant to, give the State the means to enforce those ends. They did not wish to give the State the means or powers that might occasion the violation of the natural rights of the subject, yet they conceded the legitimacy of the state and the legitimate ends of the state. The Anti-Federalists wished to deprive the general government to the means of power; they wished to divide the means (powers) to ensure that the general government would require the cooperation of the states in order to use the means of government.¹³⁶

¹³⁶ Such divisions sought by the Anti-Federalists include the separation of the power to tax with the power to direct military powers, the power to adjudicate legislation with juries who were to judge both the facts of the case and if necessary the law, effectively separating legislative powers between the representatives and the people as represented by local juries (a practice that often secured the liberties of Americans before the revolution against monarchical or parliamentary encroachment),

In the final analysis, the Federalists were also guilty of this same contradiction but the Federalist inconsistency is either, more complete, by permitting the alienation of the inalienable for the interest of the general welfare or public good, or else the Federalist gave the ideology of non-reciprocal ownership of others, ideological primacy and adding a theory of natural rights as an external premise. The Federalists in general seemed far more comfortable in giving the general government all the means of power to accomplish what they conceived to be the proper ends of government, with the implicit assumption of trust that the individuals composing the general government would have such virtue that there would seldom be any violations of natural rights.¹³⁷ In this analysis, it is incumbent upon historians to determine

as well as the possibility of extra-legal action: "... to grant all the great executive powers of a confederation, and a STANDING ARMY IN TIME OF PEACE, that grand engine of oppression, and moreover the absolute controul over the commerce of the United States and all external objects of revenue, such as unlimited imposts upon imports, etc. – they are to be vested every species of *internal* taxation; – whatever taxes, duties and excises that they may deem requisite for the *general welfare* ... would be enforced by the standing army..."–Centinel 2.7.11; "they [the framers of the Constitution] propose to lodge in the general government very extensive power – *powers* nearly, if not altogether, complete and unlimited, over the purse and the sword."–The Federal Farmer 2.8.20; "jury trial of the vicinage, or the trial of fact in the neighborhood..."–The Federal Farmer 2.8.53; "The trial by jury in criminal as well as in civil causes, has long been considered as one of our fundamental rights." –The Federal Farmer 2.8.199; The people, aroused by, "the enlightened pen of patriotism," will, "assert their liberty, if necessary, by the sword."–Centinel 2.7.116; "State governments must stand and see the law take place; they may complain and petition – so may individuals; the members of them, in extreme cases, may resist, on the principles of self-defense – so may the people and individuals."–The Federal Farmer 2.8.211 [Herbert Storing, *The Anti-Federalist*. (Chicago: University of Chicago Press, 1985)]; "*arbitrary power may and ought to be resisted even by arms if necessary.*" –Cincinnatus [(Saul Cornell, *The Other Founders*. (The University of North Carolina Press, Williamsburg V.A. 1999) 60.].

¹³⁷ The Anti-Federalists would find that trusting to the virtue of the persons who would form the government would be an unsatisfactory guard against violations of natural rights: "...men of the greatest purity of intention may be made instruments of despotism in the hands of the *artful and designing*."– Centinel, 2.7.3.; "Though this truth is proved by almost every page of the history of nations, to wit, that power, lodged in the hands of rulers to be used at discretion, is almost always exercised to the oppression of the people, and the aggrandizement of themselves; yet most men think if it was lodged in their hands they would not employ it in this manner."– Brutus 2.9.54. [Herbert Storing, *The Anti-Federalist*. (Chicago: University of Chicago Press, 1985)]. Also, the implicit assumption of trust, assumes that the representatives would be different in kind or different in virtue, than the people themselves; if representatives must be chosen by the people through electoral processes, then the people are assumed to have enough virtue to select those with sufficient virtue as not to become tyrannical over the people, yet the need for such a system necessarily implies that the people cannot be trusted to have sufficient virtue as to provide for their

whether the debate over the propriety of the Constitution was truly in regard to its ratification or some other alternative, or whether the true demarcation of what has been traditionally associated with the conceptual groupings of Federalists or Anti-Federalists, was instead a public deliberation over the proper ideological primacy of Natural Rights, which the issue of ratification brought to the forefront. The Anti-Federalists should not be considered as a defeated faction from American history; the Anti-Federalist tradition continues to this day in the extreme right and the extreme left of American politics – it is the tradition of dissent towards the powers and authority of governments; a tradition whose philosophical underpinnings is firmly entrenched in a theory of Natural Rights.

In closing, I observe these words out of respect for the Anti-Federalist ideology and the possibility of an ethical interpretation of history through a theory of Natural Rights:

“The more experience I acquire, the stronger is my conviction that *unlimited power cannot be safely trusted* to any man or set of men on earth. No men have undertaken to exercise authority with intention more generous and disinterested than the Congress.... [How} could individuals blessed with peaceable domestic affluence... endeavor at increasing the power with which they are invested, when their tenure of it must be exceedingly dangerous and precarious...? This is a question I believe cannot be answered but by a plain declaration that power of all kinds has an irresistible propensity to increase desire for itself. It gives the passion of ambition a velocity which increases in its progress, and this is a passion which grows in proportion as it is gratified.”
–Thomas Burke (1777)¹³⁸

“But the weight of opinion is against me when I exhort you never to debase the moral currency or to lower the standard of rectitude, but to try others by the final maxim that governs your own lives; and to suffer no man and no

own determination of what would constitute, public goods.

¹³⁸ Murray Rothbard, *Conceived in Liberty* (Auburn AL: Ludwig von Mises Institute, 1999). vol. iv, 246.

cause to escape the undying penalty which history has the power to inflict on wrong.” –Lord Acton (1906)¹³⁹

¹³⁹ John Edward Emerich Acton, Inaugural Lecture on the Study of History, (1906). Accessed from <http://www.fordham.edu/halsall/mod/1906acton.html> on 2010-11-17. Ralph Raico, in his lecture “Classical Liberal Historians” (Auburn AL: History of Liberty Seminar, 2001) paraphrased these words of Acton’s as, “Don’t easily exonerate any of the powerful persons in history. Push and push into the evidence and find the whole story.”

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Reflections on Researching the Anti-Federalists:

Praxeological and Natural Rights Implications for the Theory of History and
Pedagogy

When the ideas of the “Anti-Federalists” are analyzed within the ideological context of praxeology and an ethical theory of Natural Rights, or more properly, Natural Law, there are several significant implications that discursive reasoning will begin to reveal, about the theory and interpretation of history and accordingly, how history should be taught. What follows is a modest attempt to justify the use of a Natural Rights ethical theory in the interpretation of history and the corresponding implications for pedagogy. If as historians and educators, we are to permit in our theory of history and pedagogy, the assertion that all persons have inalienable ethical rights, based in their nature as rational beings, this may well have significant ramifications on how we interpret historical narratives.

There is a sense in which in consideration of “Anti-Federalist” sources, the inclusion of a Natural Rights theory is not mandated by the weight of the historical evidence alone; only a handful of the “Anti-Federalists” seem to be consciously aware of their use of Natural Rights argumentation and even these, seem to fail to comprehend all the logical implications this theory would have, if applied more universally, to the states themselves. The writings of “Brutus”, “Federal Farmer” and “A Columbian Patriot”, as has been demonstrated, are sufficiently conscious of a Natural Rights theory in their own use of argumentation, to merit the call for attention to the relevance of such a theory in the understanding of the ideological import of their objections to the ratification of the Constitution, as it may concern our own historical understanding of their thoughts.¹⁴⁰ However, even if this were not the case, if the “Anti-Federalists” had never mentioned or implied a theory of Natural Rights,

¹⁴⁰ Jacob Solt, “*Reconciling Contradictions: Unraveling Anti-Federalist Ideology Through a Conceptual Framework of Natural Rights*” (Rochester, NY: *Unpublished*, 2010).

the use of such an analysis, may be justified by the need for some interpretive framework for the synthesis of history, itself.

Consider what a purported historical “narrative” might look like, if all ethical and praxeological frameworks were *verboten*; I suggest that such a narrative, could only recommend what evidence may be relevant (but even this would require an interpretive {subjective} framework, in the selection of a question, though not necessarily an ethical or praxeological one) and would consist of nothing more than a collection of footnotes, suggesting where possibly relevant evidence may be found. Such theoretical considerations should be carefully weighed by all historians, as few historians explicitly reveal their philosophical, ethical and praxeological assumptions, to their readers, and yet these assumptions when logically applied, dictate the interpretive framework, and therefore the great bulk of all derived interpretive conclusions.¹⁴¹

A history without a clear praxeology, would deny all intentional interpretations of personal action; no human action could be said to be the selection of *means*, for the *purpose* of realizing specific *ends*. Without a praxeological framework, history would be relegated to study human action in the same way that a geologist studies rock formations or in the way that a physicist studies atomic particles or celestial bodies. These objects of study, do not have 'preferences', they do not have 'purpose', they do not 'act' in any *intentional* sense; they react, or are acted

¹⁴¹ “History cannot teach us any general rule, principle, or law. There is no means to abstract from a historical experience a posteriori any theories or theorems concerning human conduct and policies. The data of history would be nothing but a clumsy accumulation of disconnected occurrences, a heap of confusion, if they could not be clarified, arranged, and interpreted by systematic praxeological knowledge.” – Ludwig von Mises, *Human Action* (San Francisco CA: Fox & Wilkes, 1963) 41.

upon in a *deterministic* sense. Only within the context of a praxeological framework, may we begin to make interpretive decisions as to the identification of *means* selected by actors to *effect* definitive preferred (subjective) *ends* in historical human action.

Peter Boettke demonstrates the importance of a praxeological framework, in a thought-experiment, imagining an extra-terrestrial “Martian” with no understanding of human thought, observing the events at Grand Central Station of New York city and attempting to analyze the 'data':

“Our Martian could observe that when the little hand on the clock points to eight, there is a bustle of movement as bodies leave these boxes, and that when the little hand hits five, there is a bustle of movement as bodies re-enter the boxes and leave. The Martian may even develop a prediction about the little hand [of the clock] and the movement of bodies and boxes. But unless the Martian comes to understand the purposes and plans (the commuting to and from work), his 'scientific' understanding of the data from Grand Central Station would be limited. The sciences of human action are different from the natural sciences, and we impoverish the human sciences when we try to force them into the philosophical/scientific mold of the natural sciences.”¹⁴²

It is certainly possible, within a purely praxeological framework, which is to say, a praxeological framework of interpretation that does not have any ethical assumptions, to construct a coherent historical narrative and would permit the most value-free of historical analyses. With such an analysis, we could make judgements about whether the particular means selected by a particular individual, was productive

¹⁴² Peter Boettke, *Handbook on Contemporary Austrian Economics* (Northampton MA: Edward Elgar Publishing Limited, 2010) xii.

[Murray Rothbard recounted Ludwig von Mises' account of this thought experiment: “...the difference between two fundamental ways of approaching human behavior was in looking at Grand Central Station behavior during rush hour. The 'objective' or 'truly scientific' behaviorist, he pointed out, would observe the empirical events: e.g., people rushing back and forth, aimlessly at certain predictable times of day. And that is *all* he would know. But the true student of human action would start from the fact that all human behavior is purposive, and he would see the purpose is to get from home to the train to work in the morning, the opposite at night, etc. It is obvious which one would discover and know more about human behavior, and therefore which one would be the genuine 'scientist.' ” Ludwig von Mises, *Theory and History* (Auburn AL: Ludwig von Mises Institute, 2007), xvi.]

or unproductive in the attainment of the preferred end-state that that individual intended to produce in the world. In such a case, it would be a purely speculative and theoretical matter to suggest that other means would have been more productive or less productive, for the attainment of those chosen ends; and no judgement whatsoever could be made on the appropriateness of the preferred end-state. Such a historical analysis would be most concerned with source material indicating possible ideas held by the individual in question (the premises or axioms accepted by the individual, rationalizing the individual's conclusions), the preferred end-state or preferred outcomes of the individual (subjective preferences), and the means selected to produce the outcomes desired.¹⁴³ Therefore, in a purely praxeological historical analysis, only the means selected, as represented by the actions taken by a particular individual, would be both relevant and objectively verifiable to the historical narrative.

It is my opinion however, that the pure praxeological interpretation of history is generally unsatisfactory for most people. A purely praxeological interpretation cannot exceed the judgements of the historical subject, as any further judgement or interpretation, being beyond the ken of the historical subject herself, must function in the application of some other external principle or framework. A purely praxeological interpretation, removes, as much as is possible, the ability for the historian or student of history, to respond to the sources as they construct a historical

¹⁴³ Note that the former two conditions would generally only be found in the individual's own recorded statements, as these conditions are particular to the individual's own mind, which is only available to inspection, inasmuch as the individual has made expression of their own thoughts (evidence which is always suspect to conditions of possible deception). Only the last condition is readily accessible to the historian as the means selected by the individual, are represented by the actions taken by said individual, which may be corroborated and verified by multiple sources.

narrative, as the praxeological historical narrative is only concerned with the actions of the historical subject (individual) as they relate to the subject's intentions (relative to the subject's subjective preferences).

While there might be an argument to be made for such a nearly “value-free” historical construction, there are also strong indications that such a historical narrative may be perceived by the author and the reader alike, to be rather wooden and flat; dimensions of understanding that come from the personal-subjective response to the evidence in primary sources would be absent.¹⁴⁴ The author, Ayn Rand correspondingly wrote: "You must write that which you consider good, to the best of your judgment, taste and ability. There is no other rule or standard to go by."¹⁴⁵ If in the attempt to create such a value-free historical construction, we are to deem as significant/relevant to the historical narrative, the actions taken by the historical subject based on *her* subjective preferences, there is a worthy case to be made that this is an entirely conceptual and theoretical mode, divorcing the thinking mind from its own subjectivity; that the act of constructing the historical narrative in the first place, begs the question, and the action of such (creating the narrative) is a selected means that *we* (historians) are using to create a preferred end-state based on our own subjective preferences. Therefore, I contend that this being the case, we rather *should* and *in reality do*, appropriately apply our subjective preferences in the construction of historical narratives by our evaluations and responses to the source material and our

¹⁴⁴ Robert Marzano & Debra Pickering, *Dimensions of Learning* (Aurora CO: McREL, 1997) 189-259, 234.

¹⁴⁵ Micheal S. Berliner, *Letters of Ayn Rand* (New York NY: Penguin Books USA Inc., 1997) 151.

only responsibility in doing so, is to be honest and forthright with our audience and confess our premises that direct our interpretive/theoretical frameworks.

In this spirit, I will put forward, what I believe is my implicit assumptions or premises that likely lead to my conclusions about the appropriateness of adopting a Natural Right theory in the construction and analysis of history. The first premise that is necessary for a Natural Rights theory is that human persons, have free-will (that human persons make meaningful choices). The second premise, that human persons have intrinsic rights, in and of themselves as ethical beings, (that all human persons have equally relevant ethical standing to make ethical claims). The third and last premise being, that personal, private property is a necessary human right (that the concept of personal, private property is ethically, meaningful and legitimate).

While it would be a simple matter to merely request that these assumptions be given for the purposes of argumentation, it is worthwhile to provide some defense of these premises. Perhaps the most effective means of defending these premises, is to deny the premises for the purposes of argumentation and then reason the conclusions that are derived from that denial; if the conclusions derived from the denial of an ethical premise, creates an ethically unsatisfactory result (which ultimately, only our subjective preferences may resolve), then we are then left to *deny* the *denial*, resulting in the assertion our original premise. The denial of the first premise, would be to deny that human persons make meaningful choices. If human persons do not make meaningful choices, this means that they do not control their thoughts and actions of themselves, but that they are controlled by forces, unknown and unknowable. The assertion of the premise that human persons do not make meaningful choices,

contradicts the very notion of ethics, entirely; it would not be meaningful to say that a person 'should' act in a way and not in some other way, if the 'person' in question does not have control or the volition to act differently. The acceptance of such a philosophical determinism, results in a denial of the fundamental praxeological foundations and assumptions, and logically reduces human action, to something that merely *is*, rather than as a means to attain desired ends. The denial that persons make meaningful choices is an ethically unsatisfactory outcome in my own subjective determination, and therefore I deny the denial and accept the first premise.

The denial that human persons have rights, in and of themselves (that their rights are somehow intrinsic to their very nature as rational/ethical entities), asserts an ethical theory that places its ethical determination, extrinsically of ethical actors. There are many possibilities on the loci and justification this extrinsic designation may imply (utilitarianism, cultural relativity, subjective relativity, etc.) but what is of consequence to the denial of the second premise, is that harm to any particular individual may be justified as irrelevant or inconsequential to the ethical analysis, when the loci of ethics is extrinsic to the individual. The most severe and extreme of these possible consequences, is the possibility of the ethical justification of slavery and other forms of individual sacrifice for the preferences of another. When the locus of ethics is extrinsic to the individual, such that the individual has no intrinsic rights to herself, then it is of no consideration that the 'slave' may say of the 'master', "You do wrong, unto me" or for the 'slave' to say, "She violates my right to liberty, by using the threat of violence to coerce me to labor, for another, under conditions of duress." If persons do not have rights, intrinsically to their persons, than however other

admirable the alternative ethical foundation, the inevitable result will be that in some cases (if not all) human persons are to be treated as solely means to arrive at some other extrinsic end and not ends unto themselves.¹⁴⁶ The treatment of another person as a means only, to execute a desired end, is to diminish the humanity of that person as an ethical being; it is to treat people, in the same way we treat material objects, to serve a purpose and to be discarded when its purpose no longer serves. The denial that persons have rights intrinsic to their status as ethical/rational beings, results in the ethically unsatisfactory outcome, that some persons are not entitled to humanity, and may be treated as means solely for the purposes of whatever proposed ends, and consequently, I deny the denial of the second premise.

The denial of the third premise, that personal, private property is not a necessary human right or that the concept of personal, private property is not ethically legitimate or that its meaning is substantially circumscribed, would seem to imply that the appropriation of resources for the exclusive use of an individual, must either be ethically illegitimate or meaningfully circumscribed. If it is illegitimate for a person to appropriate material resources or goods for exclusive personal use, then this would seem to imply that the act of eating or drinking itself would be illegitimate. As it would be queer indeed, if the requirements of life for an ethical being would

¹⁴⁶ It is possible that the essential idea of our second premise may, in fact be reduced to Kant's 'Categorical Imperative', that "the rational being himself [should], be never employed merely as means, but as the supreme condition restricting the use of all means, that is in every case as an end likewise." Abbott, Thomas Kingsmill, *Kant's Critique of Practical Reason and Other Works on the Theory of Ethics*, (London: Kongmans, Green and Co., 1889) Accessed at: http://files.libertyfund.org/files/360/Kant_0212_EBk_v6.0.pdf on 11-10-2011. An alternative formulation of Kant's 'Humanity' form of the 'Categorical Imperative': "Now, I say, man and, in general, every rational being exists as an end in himself and not merely as a means to be arbitrarily used by this or that will. In all his actions, whether they are directed toward himself or toward other rational beings, he must always be regarded at the same time as an end." Louis P. Pojman, *Ethical Theory* (Belmont CA: Wadsworth Publishing Company, 1998), 305

themselves be unethical, resulting in the conclusion, that it is unethical that an ethical being should subsist, I therefore deny the contention that it is illegitimate for any individual to acquire personal private property to the exclusion of others.

If the second contention is denied, that there is no meaningful restriction on the legitimate acquisition of private property (that property may be acquired by laboring under natural conditions {home-steading} or trade), such a denial would imply a meaningful circumscription or restriction to the acquisition of private property (legitimate exclusive use of material goods). This denial would seem to implicate that persons must in some sense, be able to use material resources for their own legitimate exclusive use, at least for subsistence and perhaps other uses but in some case or sense, the denial would limit or restrict the kinds of property or kinds of acquisition of property that may be ethically 'owned'. Such a contention would therefore imply that some forms of property or acquisitions of same, would lack the ethical status of a right. Where the specific bifurcation between the legitimate kinds property or acquisition is likely to be arbitrarily defined and there are many possible permutations for the demarcation of when the private appropriation of material goods may cross the line of definition from a legitimate 'ownership' to an illegitimate acquisition of 'property'. It may be useful to examine one such example of a circumscription on the ethical analysis of property.

One of the more notable thinkers that deny the legitimacy of 'property' is Pierre-Joseph Proudhon; Proudhon argued for a theory of justice, which would deny the legitimacy of certain kinds of private property, as Proudhon felt that it necessitated the result of material inequality (and hence, for Proudhon, an injustice).

For Proudhon, the goods that one produces with one's own labor, is properly the possession of that person but those goods/resources which are the result of corporate labor, are corporate goods and cannot be owned by particular individuals as a 'possession'.

Proudhon distinguishes between:

“Property pure and simple, the dominant and seigniorial power over a thing; or, as they term it, *naked property*” [for Proudhon, an illegitimate form of property] and a, “*Possession*. ... The tenant, the farmer, the *commandité*, the usufructuary, are possessors" [a legitimate form of property]; "the owner who lets and lends for use, the heir who is to come into possession on the death of a usufructuary, are proprietors." [illegitimate] "... This double definition of property -- domain and possession -- is of the highest importance; and it must be clearly understood..."¹⁴⁷

In Proudhon's formulation of property, the farmer and artisan could 'possess' the results and production of her own labor, which she properly and legitimately owns but such a formulation would not permit the ownership of capital goods and resources (like factories), which Proudhon identifies as an illegitimate acquisition of the productive power of labor.¹⁴⁸

Proudhon's ideas demonstrates just one of the possible demarcations between the bifurcation of the more common sense of property, into a concept of 'property'

¹⁴⁷ Pierre Joseph Proudhon, “*What is Property? An Inquiry into the Principle of Right and of Government*” (New York NY: Humboldt Publishing Company, 1890) 43. Accessed 11-10-2011 at <http://etext.lib.virginia.edu/etcbin/toccer-new2?id=ProProp.sgm&images=images/modeng&data=/texts/english/modeng/parsed&tag=public&part=all> Proudhon quotes Dranton and Toullier in this same passage: “Possession,’ says Duranton, ‘is a matter of fact, not of right.’ Toullier: ‘Property is a right, a legal power; possession is a fact.’”

¹⁴⁸ "Under the law of association, transmission of wealth does not apply to the instruments of labour, so cannot become a cause of inequality... We are socialists... under universal association, ownership of the land and of the instruments of labour is *social* ownership... We want the mines, canals, railways handed over to democratically organised workers' associations... We want these associations to be models for agriculture, industry and trade, the pioneering core of that vast federation of companies and societies, joined together in the common bond of the democratic and social Republic." -Pierre-Joseph Proudhon. '*Oeuvres Complètes*' (Lacroix edition), volume 17, pages 188-9.

which is legitimate (property as 'possession'), and one which is not (property as 'domain'). While Proudhon's bifurcation of property, is not untenable, the philosophic anchor to what is legitimate property (possession), being located in the personal expenditure of labor to produce it (labor theory of value), would be economically conducive to fairly primitive economic organizations, where self-sufficiency is of primary necessity, but Proudhon's theory would be fairly limiting to more complex economic organization, in which the specialization of labor permits exponentially greater efficiency in the satisfaction of human wants/desires.¹⁴⁹ In as much as I do not perceive the actions of trade between persons, as illegitimate, and the complex economic organization, such as in factories, are differences in the measure of the complexity of trade between persons and not a difference in kind, I would reject the contention that, the meaning of property as the material resources, acquired through the mixture of labor with natural resources (home-steading) and through voluntary/consensual trade between persons, for private and exclusive use, is thence circumscribed or restricted. This rejection of Proudhon's theory is hardly a foregone conclusion, and it expresses more of a subjective preference of theoretical insight on

¹⁴⁹ Certainly Proudhon thought that his theory allowed for complex economic organization, as he would have the laborers of a factory, its owners; preserving the idea that one only legitimately owns, on what one labors. A thorough account of why this allocation of property right would result in severe reductions in production may be found in Ludwig von Mises' "Fallacies of Syndicalism". Essentially, Mises identifies that in free-market scenario, the entrepreneur is forced to anticipate and respond to the market-forces of consumer demand, in order to compete and remain solvent. This control that the consumer demand has over the entrepreneur owner of a factory, Mises identifies and consumer-sovereignty. The replacement of the entrepreneur, with a federation of workers in collective ownership, would have the economic tendency to respond less to market-forces of consumer demand and more on individual apportionment of the collective ownership, tending to an unsustainable producer sovereignty (tragedy of the commons). A workers collective then, would neither have the same motivation, the same willingness to accept the risk of new market-ventures, nor the same skill, as the entrepreneur, in the anticipation and response to market-forces. Ludwig von Mises (1963) *Human Action* (San Francisco CA: Fox & Wilkes) 813-14.

my own part, than a substantive refutation; Proudhon's theory of property remains tenable for anyone advocating a more or less self-sufficient life, suppling all of their needs by means of their own labor. As Ludwig von Mises has written:

It is obvious that this controversy cannot be settled by appeal to historical experience. With regard to the establishment of the facts there is no disagreement between the two groups. Their antagonism concerns the interpretation of events, and this interpretation must be guided by the theory chosen. The epistemological and logical considerations which determine the correctness or incorrectness of a theory are logically and temporally antecedent to the elucidation of the historical problem involved. The historical facts as such neither prove nor disprove any theory. They need to be interpreted in the light of theoretical insight.¹⁵⁰

Therefore, these three initial premises, defended as modestly as they are here, if accepted, concludes that rational individuals are by their very nature, ethical entities (free-will), that have the locus of their rights intrinsic to their status as ethical beings, and that among their rights, is the ownership or domain to their own body (life) and to their property, acquired through nature (home-steading), or trade. The right, ownership or domain to use one's property (whether one's own body or external property) as one sees proper, as long as the action does not conflict with another person's rights (liberty), is the philosophic essence of Locke's theory of Natural Rights, "life, liberty and property".

[E]very man has a *property* in his own *person*. This nobody has any right to but himself. The labour of his body and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, an left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his *property*. It being by him removed from the common state nature placed it in, it hath by this *labour* something annexed to it that excludes the common right of other men.¹⁵¹

¹⁵⁰ Ludwig von Mises, *Human Action* (San Francisco CA: Fox & Wilkes, 1963) 622.

¹⁵¹ John Locke, *An Essay Concerning the True Origin, Extent, and End of Civil Government*, V, in *Two Treatises of Government*, P. Laslett, ed.. (Cambridge: Cambridge University Press, 1960) 27-28.

Hopefully, this philosophical exposition of the fundamental interpretive framework, is not too much to bear under the topic of history and pedagogy, but as these are the theoretical and ethical assumptions that have been selected as the basis for an interpretive frame-work to analyze the “Anti-Federalists”, and as it has been argued that historians ought to reveal their premises, it was thought best to model the proposition suggested.

Up until this time, “Anti-Federalist” has been placed in quotations to emphasize that the propriety of the reference, had not yet been established. The denomination of “Anti-Federalist” was not a term that was generally accepted as a term of self-identification by the so called “Anti-Federalists” themselves, and therefore represents a naming convention, not accepted by (most) of those, so named. As Pauline Maier points out, “I prefer not to use the word 'Anti-Federalist' since it was a Federalist term of opprobrium” and that Maier believes that, “seeing the contest as between two sides is misleading” as, “it suggests other dichotomies, such as 'for' and 'against'.”¹⁵² This kind of objection to the term, respects the manifold divergence of historical evidence and respects the praxeological tenet, discerned by Ludwig von Mises, that only individuals act, and that this unit of analysis is the most pertinent to the construction of the historical narrative:

The hangman, not the state, executes a criminal. It is the meaning of those concerned that discerns in the hangman’s action an action of the state. A group of armed men occupies a place. It is the meaning of those concerned which imputes this occupation not to the officers and soldiers on the spot, but to their nation. If we scrutinize the meaning of the various actions performed by individuals we must necessarily learn everything about the actions of collective wholes. For a social collective has no existence and reality outside of the individual members’ actions. The life of a collective is lived in the

¹⁵² Pauline Maier *Personal Correspondence with Jacob Solt* (Unpublished, 2011)

actions of the individuals constituting its body. There is no social collective conceivable which is not operative in the actions of some individuals. The reality of a social integer consists in its directing and releasing definite actions on the part of individuals. Thus the way to a cognition of collective wholes is through an analysis of the individuals' actions.¹⁵³

Therefore, it is in this sense that generalizations attributed to the “Anti-Federalists”, indeed even the use of the “Anti-Federalist” designation is to dabble in inaccuracies. It would be more accurate to treat each “Anti-Federalist” as a unique person, with a set of ideas that can only be described as peculiar to her; a person who changes through time, whose actions compose one strand in the tapestry of history, which itself is unique and non-repeatable weave.

While recognizing the clarity of conceptual focus of this basic praxeological tenet, it should be noted that generalizations have utilitarian uses and are pragmatic conceptual tools. Generalizations and conceptual groupings abstract similar concepts together for the purposes of conceptual simplicity, and it is that simplification of the complex and multifarious, that makes such generalizations useful. Therefore, I will hence refer to those known as the “Anti-Federalists”, without further quotations, in reference to a rough conceptual grouping of individuals who had in one fashion or another, opposed the ratification of the Constitution. Inasmuch as all proper names are arbitrary symbolic references of language and inasmuch as the original 'opprobrium' hardly lingers in the current cultural sensitivities, this naming convention should not be viewed as a veiled attempt at disrespect; only a pragmatic decision to avoid unnecessary confusion of renaming the denominal convention, or resorting in all cases, to individually referencing the specific members in the set.

¹⁵³ Ludwig von Mises *Human Action* (San Francisco CA: Fox & Wilkes, 1963) 42. “First we must realize that all actions are performed by individuals.” 42.

If it is not possible to interpret history objectively, due to “history's incurable subjectivity”, then it would be preferable to explicitly accept an ideological framework for the interpretation of historical sources.¹⁵⁴ The adoption of an explicit ethical theory to interpret Anti-Federalist sources made it possible to abstract a general theory (Natural Rights) informing the ideological reasons for the Anti-Federalists' dissent in my own research and may similarly help students use inductive reasoning processes, for rule-making, rule-adaptation, and environmental modeling, to construct their own frameworks of interpretation.¹⁵⁵ An ethical theory explicitly selected and philosophically justified, creates an interpretive tool, by which information may be constructed into a cohesive whole by, “recognizing patterns... [in the] less-obvious general patterns in specific information we see and hear and then using these general patterns to see similarities between blocks of information that at first seem to be quite different”.¹⁵⁶ Using ethical frameworks in the interpretation of historical narratives has a powerful chance to fulfill Marzano's challenge of using knowledge meaningfully, “The challenge is to engage learners in using knowledge in a context that is meaningful *to them*.”¹⁵⁷ If students feel that they may legitimately make ethical determinations that are philosophically justified, then they may be more engaged in the process of creating historical narratives, as they are actively participating in an important part of the interpretive process.

¹⁵⁴ J.A. Passmore, “The Objectivity of History”. *Philosophy*, Vol. 33, No. 125 (Apr., 1958), pp. 97-111. Published by: Cambridge University Press on behalf of Royal Institute of Philosophy. 111.

¹⁵⁵ John H. Holland, *et al.*, *Induction: Processes of Inference, Learning and Discovery* (Cambridge MA: MIT Press, 1987)

¹⁵⁶ Robert J. Marzano & Debra J. Pickering, *Dimensions of Learning* (Aurora CO: McREL, 1997) 130.

¹⁵⁷ *Ibid.* 189. [It may be significant to point out that hard determinism, cultural subjectivism or personal subjectivism, may have the opposite effect, as these may have the tendency to make ethical interpretations less meaningful.]

The use of an ethical framework for the interpretation of historical events is to simplify the complex, by using a theory that dictates the legitimate and illegitimate interactions of just a few individuals and then extending that ethical theory to more complex relationships with a great number of individuals. Seen this way, the normal political analysis so familiar in forming of historical narratives is *sublimated* into, or is transformed by, the ethical analysis. The historian Lord Acton exhorted his students to similarly use the (ethical) maxims that governed their own lives, to try the actions of historical actors, when he said in his inaugural lecture on history:

But the weight of opinion is against me when I exhort you never to debase the moral currency or to lower the standard of rectitude, but to try others by the final maxim that governs your own lives, and to suffer no man and no cause to escape the undying penalty which history has the power to inflict on wrong. The plea in extenuation of guilt and mitigation of punishment is perpetual. At every step we are met by arguments which go to excuse, to palliate, to confound right and wrong, and reduce the just man to the level of the reprobate. The men who plot to baffle and resist us are, first of all, those who made history what it has become. They set up the principle that only a foolish Conservative judges the present time with the ideas of the past; that only a foolish Liberal judges the past with the ideas of the present. The mission of that school was to make distant times, and especially the Middle Ages, then most distant of all, intelligible and acceptable to a society issuing from the eighteenth century. There were difficulties in the way; and among others this, that, in the first fervour of the Crusades the men who took the Cross, after receiving communion, heartily devoted the day to the extermination of Jews. To judge them by a fixed standard, to call them sacrilegious fanatics or furious hypocrites, was to yield a gratuitous victory to Voltaire. It became a rule of policy to praise the spirit when you could not defend the creed. So that we have no common code: our moral notions are always fluid; and you must consider the times, the class from which men sprang, the surrounding influences, the masters in their schools, the preachers in their pulpits, the movement they obscurely obeyed, and so on, until responsibility is merged in numbers, and not a culprit is left for execution. A murderer was no criminal if he followed local custom, if neighbours approved, if he was encouraged by official advisers or prompted by just authority, if he acted for the reason of state or the pure love of religion, or if he sheltered himself behind the complicity of the Law.... My principles enable me to form my judgment upon men and actions in history, just as they do in common life; and are not formed

out of events and characters, either present or past. History is a preceptor of prudence, not of principles. The principles of true politics are those of morality enlarged; and I neither now do, nor ever will admit of any other.¹⁵⁸

If we may take Acton's incitement to practical effect, we must acknowledge our own ethical premises, and respond to history with those premises, and in such way, we engage honestly in historical interpretation.

This process of using ethical frameworks to judge the interpretive legitimacy of historical narratives, also permits students to test or try, different ethical theories, to see which ones result in acceptable ethical conclusions and which ones result in absurdities. This use of ethical frameworks would seem to have direct relevance to Marzano's research that shows the efficacy of pedagogic techniques which utilize the generating and testing of hypotheses.¹⁵⁹ In this instance, the ethical framework, may be viewed as the hypothetical, which is testing if the application of the theory to the interpretation of history leads to personally satisfactory ethical outcomes. If the ethical outcomes from applying an ethical theory, leads to paradoxical or absurd conclusions which require particular exceptions to be made in the universalization of the ethic, then this would indicate that the hypothesis may require revision.

¹⁵⁸ John Edward Emerich Acton (1906) "*Inaugural Lecture on the Study of History*" Accessed from <http://www.fordham.edu/halsall/mod/1906acton.html> on 2011-11-17. Ralph Raico, in his lecture "Classical Liberal Historians" (Auburn AL: History of Liberty Seminar, 2001), paraphrased those words of Acton's as, "Don't easily exonerate any of the powerful persons in history. Push and push into the evidence and find the whole story."

¹⁵⁹ Robert Marzano, et al., *Classrooms Instruction that Works*. (Denver CO: McRel, 2001) 103.

Calvin and Hobbes

BY NEVISON



GET WHAT YOU CAN WHILE THE GETTING'S GOOD - THAT'S WHAT I SAY! MIGHT MAKES RIGHT! THE WINNERS WRITE THE HISTORY BOOKS!



The Anti-Federalists used Natural Rights theory to criticize the Constitution, as the Constitution appeared to them, a document which could support the violations of individual Natural Rights. For some of the more principled of the Anti-Federalists, the principle purpose for the forming of society, is the additional protection of one's own Natural Rights in a social community, as opposed to the security in a state of nature. As Mercy Otis Warren (*A Columbian Patriot*) would write variously, "the principle aim of society is to protect individuals in the absolute rights which were vested in them by the immediate laws of nature" and, "the rights of individuals ought to be the primary object of all government" and, "government is instituted for the

protection, safety, and happiness of the people.”¹⁶⁰ This very same sentiment would be elucidated by Brutus when he would write:

...they hold this truth as self-evident, that all men are by nature free. No one man, therefore, or any class of men, have a right by the law of nature, or of God, to assume or exercise authority over their fellows. The origin of society then is to be sought, not in any natural right which one man has to exercise authority over another, but in the united consent of those who associate.¹⁶¹

For Brutus and Warren, any application of the Constitution which would violate the Natural Rights of individuals, would delegitimize the reason for the creation of the Constitution in the first place. This use of argumentation is the use of ethical theory to deconstruct political organization, in the same way that St. Augustine would do when he wrote, “An unjust law, is no law at all.”¹⁶²

Whereas the Anti-Federalists can be seen as making the Lockean ethical argument, the Federalists seem to be making an contrasting Hobbesian political argument, which has much explanatory power in understanding their fundamental ideological differences. The Federalists can be seen as essentially transferring the *Divine Right of monarchical sovereignty*, to the concept of *popular sovereignty*. This ideological transference results in the smuggling of the ideological premise that ethically legitimates the 'right' of one person to rule another person, or persons; a contention that can not be admitted to an ethic that attributes inalienable rights to individuals. Anti-Federalists like Brutus and Warren, could not ideologically permit the so-called, '*popular sovereignty*' to manifestly deny the rational nature of

¹⁶⁰ Saul Cornell, *The Other Founders*. (The University of North Carolina Press, Williamsburg V.A. 1999) 56.

¹⁶¹ Herbert Storing, *The Anti-Federalist*. (University of Chicago Press, Chicago 1985). 2.9.24. 44 *Ibid*. 2.9.24.

¹⁶² Augustine, *On Free Choice Of The Will*, Book 1: 5. *trans.* Thomas Williams (Cambridge: Hackett Publishing Company, 1993), 8.

individuals by allowing it to initiate aggression, coercion or theft – contrary to the voluntary consent of individuals.

In conclusion, if it is not possible to interpret history without assumed praxeological and ethical frameworks, then we would do well if we were to make those assumed premises explicit to our readers and our students. This will require that as historians and teachers, we must also be part-philosophers and delve into the ideological assumptions that we bring to the construction of historical narratives; and if such an approach can be recommended to educators, it would also have value for students. The application of ethical theories, especially the Natural Right theory has the potential for inviting students to have greater engagement in the process of creating historical narratives, by justifying their own natural inclination to universalize ethics and appealing to their great concern for justice and fairness.¹⁶³ As educators of the social studies, we are entrusted to share the value of the humanities, including philosophy and ethics, and perhaps through a fuller integration of the humanities into our historical studies, we will assist students to more richly understand history.

“In a battle between force and an idea, the later always prevails. ... Repression by brute force is always a confession of the inability to make use of the better weapons of the intellect – better because they alone give promise of final success. ... The ultimate outcome of the struggle, however, will not be decided by arms, but by ideas. It is ideas that group men into fighting factions, that press the weapons into their hands, and that determine against whom and for whom the weapons shall be used. It is they alone, and not arms, that, in the last analysis, turn the scales.”
-Ludwig von Mises¹⁶⁴

¹⁶³ Claudia Dalbert & Hedvig Sallay, *The Justice Motive in Adolescence and Young Adulthood: Origins and Consequences*. (New York NY: Routledge, 2004) 117.

¹⁶⁴ Ludwig von Mises *Liberalism* (Indianapolis IN: Liberty Fund Inc., 2005) 29.

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Reflections on Research Dissemination:

A Beginners Foray into Audio/Video Production and Social Media Promotion

When tasked with the purpose of disseminating my research on the Anti-Federalists, my first thought was to emulate the great resources I had discovered on *iTunes University* and various *iTunes Podcasts*. I had originally purchased an *iPod* to listen to my favorite Bluegrass and Folk music but after discovering the field of what was available by individuals producing their own pseudo-radio programs and from *iTunes University*, my *iPod* was promptly repurposed. I found that I could load a lecture on history or philosophy from Yale or Oxford universities and then listen to it on a hike along the Genesee river in the city of Rochester, or while mulching the garden, or even something as mundane as doing the laundry. The primary reason I valued the content from these sources was due to the mobility of the content. The value of consuming ideas as rich and as complex, as can generally only be found while spending dedicated time reading, was tremendously significant to me; listening to my *iPod* was a significant enhancement to time normally spent with just my own thoughts; I wanted my research dissemination to be equally accessible and mobile.

When I began the project, I was aware of a few resources on *iTunes* about the Anti-Federalists. *Librivox* has a significant amount of the primary source material of the Anti-Federalists which have been recorded primarily by volunteers and published to *iTunes*.¹⁶⁵ In a similar fashion, Wyn Delano, actor, singer, and director, has read aloud the chapters of the advanced placement, U.S. history text book, *The American Pageant* as an *iTunes* publication and a portion of chapter ten includes mention of the Anti-Federalists.¹⁶⁶ Ms. Scott, of *Ms. Scott's JH History* podcast, gives her own four

¹⁶⁵ LibriVox (2007-2010) *The Anti-Federalist Papers* <http://librivox.org/> Accessed at <http://itun.es/iLd6BL> on 12-01-2011

¹⁶⁶ Wyn Delano (2008) "The American Pageant, Chapter 10" Accessed at <http://itun.es/iLd66w> on 12-01-2011. http://web.mt.com/wyndelano/Wyn_Delano/Podcast/Podcast.html

minute synthesis of the Federalist/Anti-Federalist debates on *iTunes*.¹⁶⁷ Interestingly, one of the earliest references to the Anti-Federalists on *iTunes* that I am aware of is from the *Life of a Law Student* podcast; Rob Wiltbank gives a fifteen minute lecture about the Federalist/Anti-Federalist debates and its significance on Constitutional law in 2005.¹⁶⁸ One of the best resources on *iTunes* regarding the Anti-Federalists, is professor Luigi Marco Bassani's lectures in the *History of Liberty* lecture series that was given at the Ludwig von Mises Institute in 2004.¹⁶⁹ Professor Bassani's lectures are particularly fascinating in relation to my own research because Bassani makes a similar connection of the Anti-Federalist arguments to a Natural Law theory of ethics, that I make in my own research thesis.

Because of the value I had found in mobile audio podcasts, I was very interested in producing my own content for an online audience and the requirement to disseminate my research seemed a sufficient impetus to create the opportunity to attempt this then-mysterious podcasting-feat. An equipment upgrade was needed to be able to do to the video-capture and video-processing but after the computer, digital video recorder, digital audio recorder and appropriate software was obtained, I needed to create some digital content with which I could begin to learn to manipulate that content for internet publication. With that first simple digital audio recorder, I began to record a few of the conversations I had with people of my acquaintance on the bus during my commute to work and at my place of employment during work-breaks, in

¹⁶⁷ Ms. Scott (2010) "Federalists and Anti-Federalists Review" Accessed at <http://itun.es/iLd66P> on 12-01-2011.

¹⁶⁸ Rob Wiltbank (2005) "Constitutional Law I #2: Federalists and Anti-Federalists" (LoaLS Team) Accessed at <http://itun.es/iLd6gM> on 09-10-2011.

¹⁶⁹ Luigi Marco Bassani (2004) "Anti-Federalist Traditions until the Civil War" in *History of Liberty* (Ludwig von Mises Institute) Accessed at <http://itun.es/iLd6t.2> on 09-10-2011.

order to have some digital audio files available to use as a test of my equipment, software and research. In the process of recording these very informal discussions, I quickly discovered that casual conversations, while interesting in their various divergences, are often difficult to keep on a single topic and that it was clear that a more formal discussion would be required. The problem that I soon encountered was that as long as I was recording casual conversations for a “school project” on the general topic of the “Anti-Federalists”, people were more than happy to chat and discuss various topics, but when trying to create a more formal and topical discussion with the explicit intention for publication to the internet, many people immediately felt uncomfortable speaking about a topic for which they did not have much background knowledge and which was going to be made available publicly.

While I could empathize with my potential participants' discomfort about discussing a topic with which they had little background information, since the primary topics I wished to discuss were the political, historical and ethical *ideas* of the Anti-Federalists that were essentially philosophical in character, the actual historical background seemed less critical in contrast with the need to actually think critically regarding the ideas, that I had thought that even non-historians could easily engage the content that I was interested in discussing. At the same time, it was becoming clear to me that this lack of background information was an issue for many of the people I sought to engage in conversation and therefore, I would have to do something to remedy this deterrent to participation. Therefore, I began to outline the topics that I thought most relevant to the background information for understanding the historical context of the Anti-Federalists, for the purpose of making a few audio

recordings that would help give the potential participants of my project, the background information that would help them feel more comfortable speaking about topics related to the Anti-Federalists, without themselves having to spend the time to do their own research, something that was necessary since I was asking them to do me the favor of participating.

At the same time as I observed the hesitancy on the part of participants, due to lack of comfort speaking to an unknown public audience about an unfamiliar topic, the other impediment that I encountered was that many people were having difficulty accessing my first informal audio-recordings, as not everyone had access to *iTunes* through the *iPod* product and the server I was using was fairly limiting in terms of the monthly download limits. Because my own primary use of the iPod product was a way of consuming intellectually stimulating audio content while performing manual tasks and exercising, I still intended to produce mobile audio content, yet it was becoming clear that *YouTube* was a much more accessible forum by which people could access the potential content that I would be producing, however, if I was going to produce videos, my project's vision had to be revised and expanded to include the skills of video production.

The first few “introductory” videos I eventually produced, served to be an excellent learning experience in how to produce video content. It was also immediately obvious, after my first few videos were produced, that video on *YouTube* generated far more interest in my project than the audio *podcast* and with only a small amount of self-promotion, the views on *YouTube*, greatly exceeded the *iTunes* downloads. While I probably would have guessed that video would have a greater

positive reception, I had never expected the actual disparity in popularity to be so extreme. I created a *YouTube* channel by registering for a *YouTube* account and because this was early on in the process I had named this *YouTube* channel “*AntiFederalistTheory*”. If I had the chance to do it over again, I would have standardized the name of the *YouTube* channel early on as “*AntiFederalistProject*”, as “*The Anti-Federalist Project*” is the name that 'stuck' in the memory of most people; understandably, a greater skill in business marketing techniques would have been useful in the promotion and research of potential 'market penetration' and 'brand testing'.

The web address for the *YouTube* channel “*AntiFederalistTheory*” may be accessed here:

<http://www.youtube.com/user/AntiFederalistTheory>

While all of the videos I have produced for this project, may be found on the *YouTube* channel and I will provide links to each of the videos individually; perhaps the easiest way to access all of the videos in one place may be a blog I created for this project, which may be accessed at:

<https://antifederalistideology.wordpress.com/>

In the first video I produced, I attempted to provide potential participants of the project, an idea of what I envisioned for the purposes and goals of the project and invite them to participate. At this stage, I was still experimenting with inserting titles on the top layer of the video and eventually was able to add links to the video through the *YouTube* editor, to link the video to the blog I was using to bring all my videos together. This first video may be accessed here:

<http://youtu.be/fOt-q6IaZUs> [*The Anti-Federalist Project Video 1 introduction*]

The second video I produced, was centered around the Articles of Confederation. In my understanding of the context for the Federalist and Anti-Federalist debates, understanding the Articles of Confederation is critical for seeing the proposal of the Constitution in the context of an *alternative* to the Articles of Confederation. It was important, therefore, to demonstrate the perceived weaknesses of the Articles of Confederation, to understand what the Constitution was intended to remedy. In this video I was able to fully utilize video titles as well as make my video narration imprint smaller, while displaying an image file at the same time. The introductory video I produced on the Articles of Confederation may be accessed here:

<http://youtu.be/YN11cRWCE2U> [*The Anti-Federalist Project Video 2 ArticlesofConfederation*]

The next video I produced was on Shay's Rebellion because in my own historical interpretation, it was not mere political theory that impelled the Constitutional Convention, but the fears and anxieties associated with the ideas and causes of Shay's rebellion were important factors motivating the Constitutional Convention. I introduced the primary source quotations from Plough Jogger and Henry Knox as representative of the two different world-views, Plough Jogger representing the perspective of the protesters surrounding Shay, and Henry Knox, representing the conservative opinion that feared a social and political upheaval, which may have instigated the perceived need for a reconsideration of the Articles of Confederation. The video I had produced on Shay's Rebellion may be accessed here:

http://youtu.be/ODYNh4FGu_Y [*The Anti-Federalist Project Video 3 Shaysrebellion*]

In the next video, I took on the subject of the Constitutional Convention. This was the last of the 'introductory' videos that I was producing in order to provide the potential participants to my project, the background information they would need to feel comfortable discussing the issues in my research. In this video, I wanted to capture the essence of the Constitutional Convention as it is very relevant to the Federalist and Anti-Federalist debates, without getting too bogged down, in the very interesting but extraneous details. I derived much satisfaction to credit Gordon Lloyd for all his great work on the *teachingamericanhistory.org* site, as it was of much value to my research in producing the videos as many of the primary sources were easily accessible; and by referring my audience to his site, they could fortify the necessarily abbreviated treatment I was able to give the Constitutional Convention. The video I produced on the Constitutional Convention may be accessed here:

<http://youtu.be/nlS47Huib40> [*The Anti-Federalist Project Video 4 Constitutionalconvention*]

With the 'introductory' videos complete, and my video production skills modestly established, the next three videos I produced concerned my personal research and thesis concerning the Anti-Federalists. The first video in this series was my video concerning the objections of the Anti-Federalists to the Constitution proposed by the Convention. I felt that this was important because the most important hurdle for understanding the Anti-Federalists, is to think of them as having reasonable objections to the Constitution; a Constitution which is assumed by so many, to be manifestly sound and proven and perhaps by some to be unquestionably sacred. My goal for this video was to invoke a certain amount of historical empathy

for the Anti-Federalists; that they had reasonable objections to a system, that for them was unproven and potentially dangerous. The video I have produced on the objections to the Constitution by the Anti-Federalists, can be accessed here:

<http://youtu.be/VYs8wFfTmV0> [*The Anti-Federalist Project Video 5*

Antifederalistobjections]

The second video which I produced to summarize the thesis of my research, was on the subject of Natural Rights. It was the ethical theory of Natural Rights which some of the Anti-Federalists appealed to, which permitted the essential insight of my thesis; that the Anti-Federalists fundamentally appealed to the ethical theory of Natural Rights as expressed in John Locke, and that the Federalists fundamentally appealed to the political economy of Thomas Hobbes. The purpose of this video was to explain the history, ethical importance and philosophic foundation of a Natural Rights theory and then to connect that theory with the recorded Anti-Federalist sources. The video I have produced on the theory of Natural Rights, may be accessed here:

<http://youtu.be/KrOf-Koeh08> [*The Anti-Federalist Project Video 6:*

NaturalRights.mov]

In the last video which summarizes my research, I attempt to make my primary research thesis explicit; that the Anti-Federalists were confounded in their argumentation by their acceptance of contradictory philosophical assertions, which caused the difficulty of discerning the essence of the Anti-Federalist contention by previous historians, who had assumed that the Anti-Federalists were ideologically consistent. I argue that the Anti-Federalists had in futility, attempted to reconcile their

historical traditions of political power-structures with the ideological import of the theory of Natural Rights, which cannot tolerate coercive power-structures that may violate the rights of individuals.¹⁷⁰ The video where I argue for the Anti-Federalist contradiction, may be accessed here:

<http://youtu.be/hUvznzBhXJw> [*The Anti-Federalist Project Video 7: Reconciling Contradictions*]

After the video on the Anti-Federalist contradiction, I determined that one more video was necessary to act as a capstone for the videos I had produced thus far. I wanted to explain the insights into the theory of history that I had developed during my research. This last monologue would be the stepping stone which led to my essay on the praxeological and Natural Rights implications for the theory of history and pedagogy. The video I have produced describing my reflections on the research I had conducted on the subject of the Anti-Federalists, may be accessed here:

http://youtu.be/Jbq7_G0jjTE [*Anti-Federalist Project Video 8 Reflections on History*]

After producing these video monologues, I had sent out invitations to individuals who had previously expressed interest in the participating in the project, as well as to many others that might provide unique insight for the topic. The most significant difficulty for getting people to participate was that the technological hurdle of interested persons having in their possession, the technical equipment (computer, webcam & microphone) necessary, that I could record the video and audio from both

¹⁷⁰ I also discussed what I saw as the essential Federalist contradiction; which was an implicit lack of faith in the nature of humanity, which required the external controls on individuals and yet to entrust those controls into the hands of other individuals and have faith that their integrity would be sufficient that they would not succumb to their own human natures, which was thought to be so dangerous as to require the controls. This contradiction or irresolvable circular reasoning, violates the second ethical premise discussed in, “Reflections on Researching the Anti-Federalists: Praxeological and Natural Rights Implications for the Theory of History and Pedagogy” by Author

of our cameras simultaneously. In any event, though I had many people who expressed interest in participating and discussing my project, I was only able to secure a handful of interviews but in the whole, I am pleased with the outcome of the discussions. Those that kindly offered to participate, each brought different views and perspectives to the discussion that I greatly appreciated. If it were not for the discussions I had with project participants, I am uncertain, I would have, on my own accord, been able to develop the three fundamental premises for the Natural Rights theory. It was actually the objections to my thesis, that were the most useful, as these forced me to think more deeply about the philosophic implications and foundations of the Natural Rights theory. The videos that I had produced as a result of my conversations with various participants may be accessed here:

<http://youtu.be/SOj3DIT30q8> [*Interview with Jonathan List on the Anti-Federalist Project*]

<http://youtu.be/G4yVo0I5ig4> [*Matthew Ochs Interview on the Anti-Federalist Project (improved)*]

http://youtu.be/_YFoVOEKztA [*Interview with Chris Beyrle on the Anti-Federalist Project*]

After producing the discussion/interview videos, which required a whole new set of video editing skills, I decided to embark on another monologue in response to my monitoring of the social media site, *Twitter*. Nearly every *Twitter* submission is a public broadcast and those submissions may be searched. After the few weeks of monitoring *Twitter* to try to entice new participants to discuss my research, I determined that much of the interest in the Anti-Federalists came from middle and

high school students who had been assigned a project to investigate the Anti-Federalists, usually in the context of their debates with the Federalists. Since my previous videos were not explicitly designed for the middle and high school students (though certainly the first five 'introductory' videos have much relevance for secondary education applications), I determined to produce a video that might provide some value to those middle and high school students in their studies. This video resulted in a kind of summation of my previous videos for the purposes to describe the Federalist and Anti-Federalist debates in a video of just under eighteen minutes. The video I had produced for secondary education students, may be accessed here: <http://youtu.be/OXm1p5PP2Ec> [*Federalist/Anti-Federalist Compare & Contrast: Anti-Federalist Project*]

While mulling over the ideas that I wanted to express in my reflections essay, I decided to attempt to produce a few videos while on my daily constitutional exercise. I am not sure of the value of this kind of mental cogitation which is usually kept private to one's own mind before it ready for more formal expression, but I thought it might be interesting to record my ideas that were coming into focus for the essay I was anticipating. These videos may be accessed here:

<http://youtu.be/7YzG0yBNZWQ> Talking about the Three Premises for a Natural Rights Theory - Part 1

<http://youtu.be/EFRCRC6DDCTw> Talking about the Three Premises for a Natural Rights Theory - Part 2

<http://youtu.be/AJk0sSIhOvA> Talking about the Three Premises for a Natural Rights Theory - Part 3

In the case of all of the videos, I was able to strip the audio from the video and use that audio to produce a Podcast, as was the original intent of the project but clearly, the initial inception of the project had become one that was primarily focused on the visual/video component and I think that this additional challenge greatly enhances the value of the endeavor. In the podcast listing, there is an additional interview that I conducted with a contact from Twitter (Jacob Johnson), for which I did not have a video source. The podcasts may be downloaded using iTunes, under the heading of “*The Anti-Federalist Project*” or it may be directly accessed here: <http://antifederalistproject.podomatic.com/>

Overall, I am very satisfied with the results of my research dissemination. I have a whole new respect for those Podcasters that are able to produce an hour of content every day as for anything approaching professional editing (and my videos in no way approach this level of expertise), requires several times more time than the act of recording itself (which can require several 'takes' in order not to fumble over your own words). Even with the hours spent preparing to record the video by outlining topics to be discussed, scripting important ideas, checking all the factual claims, recording the video (generally with several takes) and then editing the video to make the monologue narration interesting, was a considerable task for someone would had never made the attempt previously; yet now that I have developed a modest ability to do so, I have already produced several videos for my personal blog on topics of personal interest.

I really like the accessibility that this approach to publication gives to the creator of content. Few formats have the opportunity or potential to reach so many

unique users, however, time being what it is, if your content is not interesting or accessible, few people will spend the time to consume your content. As of the time of this writing, my YouTube videos for this project have been viewed in more than six hundred instances, with my most viewed video, receiving one hundred and forty one 'views'. Even so, some of my videos have received less than twenty 'views' and I have found that the number of views, is often directly correlated with my own efforts to promote my videos within social networking vehicles such as *Twitter* and *Google+*. I have also found that for most people, viewing my videos as they are embedded into the HTML code of my blog, is more accessible than *YouTube's* actual site, when trying to view more than a single video with a single link.

Publication or dissemination of research to *YouTube* or other blog format is the unique prospect for audience response; *YouTube* users can not only comment on my videos, they can produce their own video responses to my videos. YouTube users also have the ability to press a 'like' and 'dislike' button on the uploaded videos. Other than the more intimate public speaking engagements, there are few platforms in which you could have such richness in audience interaction. This interaction is further deepened by the time-factor involved with this particular form of research dissemination, as the videos, theoretically remain available indefinitely and are continually available for interested persons searching for the relevant terms related to my content. With many people increasingly having mobile phones and devices wirelessly connected to the internet, dissemination of research via *YouTube* or internet publication has the potential for more mobility than previously internet submission has had and while paper printing has had this advantage for quite some time, the

ability to consume content in an auditory fashion, allows people to consume research while attending to more important visual tasks (i.e. driving).

The implementation of social-networking and *YouTube* video-sharing websites to communicate information is often referred to as “Web 2.0” to reflect the change of moving to generally text-based web content to multi-media and socially interactive content. As Albert Harris and Alan Rea point out, “Web 2.0 and virtual world technologies are here to stay. Today, our students come to our classroom with a presence on Facebook, the latest concert as a podcast on their MP3 player, and experience playing games in virtual worlds. In some respects, students are more tech-savvy than their ... professors.”¹⁷¹ Students are already coming to the classroom initiated in these technologies and have adapted the techniques to answer questions posed by intensely driven form of inquiry-based and learner-directed learning. When a student discovers a topic of interest and they use a search query to investigate further, they select relevant information from the query search results and if they then respond to that information with their own unique synthesis on social-networking sites, they may already be implementing all of the relevant dimension of learning, advocated for by Robert Marzano and Debra Pickering.¹⁷²

Whether it is a social networking site like Facebook, a video stream delivered via YouTube, or collaborative discussion and document sharing via Google Apps, more people are using Web 2.0 and virtual world technologies in the classroom to communicate, express ideas, and form relationships centered around topical interests. Virtual Worlds immerse participants even deeper in technological realms rife with interaction. Instead of simply building information, people create entire communities comprised of self-built worlds

¹⁷¹ Albert L. Harris & Alan Rea (2009) “Web 2.0 and Virtual World Technologies: A Growing Impact on IS Education” *Journal of Information Systems Education* vol 20(2) 137.

¹⁷² Robert J. Marzano & Debra J. Pickering (1997) *Dimensions of Learning* (Aurora CO: McREL).

and avatars centered around common interests, learning, or socialization in order to promote information exchange.¹⁷³

Teachers and professors are also using these technologies in the classroom.

As I am typing these very words on Saturday, December 3rd, 2011, I am receiving “Tweets” from the National Council of Social Studies conference in Washington D.C. about social studies teachers interested in using Twitter in their classrooms. The University of California at Berkeley was one of the first universities to start their own official YouTube channel, with the University of Southern California, the University of New South Wales and Vanderbilt University soon following.¹⁷⁴ Some of Berkeley's YouTube video lectures are generating over 100,000 views each; “Professors in a sense are rock stars,” Mr. Hochman concludes, “We're getting as many hits as you would find with some of the big media players.”¹⁷⁵

Peter Duffy describes the Web 2.0 learning experience as,

“a ubiquitous user-centric, user-content generated and user-guided experience... [which has] collaborative and (co)creative purposes as well as for the critical assessment, evaluation and personalization of information... provid[ing] educators with many possibilities for engaging students in desirable practices such as collaborative content creation, peer assessment and motivation of students through innovative use of media. These can be used in the development of authentic learning tasks and enhance the learning experience.”¹⁷⁶

¹⁷³ Albert L. Harris & Alan Rea (2009) “Web 2.0 and Virtual World Technologies: A Growing Impact on IS Education” *Journal of Information Systems Education* vol 20(2) 137.

¹⁷⁴ Jeffrey R. Young (2008) “*YouTube Professors: Scholars as Online Video Stars*” (Accessed at confluence.media.berkeley.edu/confluence/download/attachments/13110961/2008-01-28_YouTube+Professors+-+Scholars+as+Online+Video+Stars.pdf on 12/1/10) *The Chronicle of Higher Education*

¹⁷⁵ *ibid.* “...colleges were already offering lecture videos on their own Web sites or on Apple's iTunes U, an educational section of the iTunes Store.”

¹⁷⁶ Peter Duffy (2010) *Engaging the YouTube Google-Eyed Generation: Strategies for Using Web 2.0 in Teaching and Learning* (Hong Kong: The Hong Kong Polytechnic University)

http://books.google.com/books?hl=en&lr=&id=spo9X16qn30C&oi=fnd&pg=PA173&dq=education+video+YouTube&ots=rLcFXgXDt&sig=2iT0ZwjFpH1691UcE62-DnQmn_4#v=onepage&q=education%20video%20YouTube&f=false

Janice Agazio and Kathleen Buckley are using are using YouTube video-sharing technology in their classrooms of nursing students to, “...illustrate theoretical content, involve students, and inspire innovative teaching methods...” as well as, “...stimulate student discussions, share information, and create a learning community. YouTube stimulates active learning and brings new relevance and applications to nursing curriculum.”¹⁷⁷ This would seem to give credence to the possibilities of online video to promote and simulate the use of procedural knowledge as well as declarative knowledge as Marzano had advocated.¹⁷⁸ Burke & Snyder (2008) finds that the, “use of innovative video technology resources such as YouTube can be integrated to provide relevant and targeted information to supplement college course content, create a sense of 'classroom community,' and enrich the learning environment for all students--both younger and older”¹⁷⁹ There are some possible drawbacks to the inclusion of YouTube video content to the learning experience however; Knight (2006) describes his and other professors experience with publishing their lectures to YouTube as, “a great tool with which to supplement classroom lectures” but that it had the deleterious effect of decreasing student attendance to the classroom lectures.¹⁸⁰

¹⁷⁷ Janice Agazio & Kathleen Buckley (2009) “An Untapped Resource: Using YouTube in Nursing Education” *Nurse Educator*: January/February vol. 34(1) 23-28.

¹⁷⁸ Robert J. Marzano & Debra J. Pickering (1997) *Dimensions of Learning* (Aurora CO: McREL). 113.

¹⁷⁹ Sloane C. Burke & Shonna L. Snyder (2008) YouTube: An Innovative Learning Resource for College Health Education Courses. (Reston VA: International Electronic Journal of Health Education) p39-46. Accessed at: http://eric.ed.gov/ERICWebPortal/search/detailmini.jsp?_nfpb=true&_ERICExtSearch_SearchValue_0=EJ798652&ERICExtSearch_SearchType_0=no&accno=EJ798652 on 12-01-2011.

¹⁸⁰ R. Knight (2006) “Podcast pedagogy divides opinion at US universities” (Accessed at http://cbusinessforum.com/index.asp?doc_id=8152&layout=rich_story on May 9th, 2009) as referenced in Albert L. Harris & Alan Rea “Web 2.0 and Virtual World Technologies: A Growing Impact on IS Education” *Journal of Information Systems Education* vol. 20 (2) Accessed at:

Overall, the most intriguing idea that I keep pondering is the semi-permanence of the videos that I have produced on the subject of the Anti-Federalists will likely still be available and easily accessible for an indefinite period of time and the ability of the audience of my videos interacting in the future, producing their own videos in response to mine, and videos in response to those responses, long after I have moved on to other subjects, continually serves to fascinate. Perhaps more than the actual content of the Anti-Federalists themselves, I am very pleased with the results of my introduction to the skills necessary to disseminate and distribute my own ideas to a wider audience using the techniques of video production and YouTube. I only regret that I had not made the attempt to do so sooner. My hope is for the videos that I have produced is that they will be of some assistance to social studies teachers in preparing lessons on the Federalist/Anti-Federalist debates, and that they will be moved through my research to have some greater historical empathy and understanding for those Anti-Federalists, who may have been seen to have suffered somewhat in the political arena, but who may have had greater success in the arena of ideology.

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12/1/1011: *The Chronicle of Higher Education*.

Table 1: Tabled Historiography

	Anti-Federalist Description & Assignment	Federalists Description & Assignment	Evaluation of the Anti-Federalists
Ratification to Civil War	Treated Anti-Federalists with restraint and silence	Representing the success of the Constitution	Unpopular and Ignored.
Post-Civil War to 1913	Objectors to the Constitution.	The cherished “fore-fathers” that brought forth the Constitution, “conceived in liberty...”	To be treated with disdain and contempt as the objectors of the Constitution that was ordained and sacred.
Beard (1913)	Democratic and Agrarian. Holders of Realty: Landed Property and debtor-farmers	Commercial and Oligarchical. Represented “Personalty”, “money, public securities, manufactures, and trade and shipping” ¹⁸¹ Interested in economic stability; generally east coast urban areas.	Keepers of the radical Revolutionary Spirit of the War for Independence
Progressive Historians (1890’s – 1960’s)	Democratic levelers; Concerned with the interests of the People; Rustic	Introduced several aristocratic features in the federal system; Elitist, Merchant-Capitalists	Advocates for the people and defenders of democracy against the aristocratic Federalists
Kenyon (1955)	Protection from potentially despotic government by local and state government. Not the democrats that Beard portrayed.	Confident in human nature and the virtue of citizens in a future republic; failing this providing for checks against abuses of power.	Short-sighted and fearful of potential abuses of power
Consensus Historians	Very similar in values and principles to the Federalists, differing only in specific applications	Very similar in values and principles to the Anti-Federalists, differing only in specific applications	
Storing (1981)	Individual liberty protected by small local government,	Wanted a strong national government.	Held the weaker argument. Unable to rectify internal

¹⁸¹ Beard, *Economic Interpretation of the Constitution*, 291, 324, 325.

	representative representation, anti-aristocratic,		inconsistencies. Valued contrary principles that they were ultimately unable to reconcile.
Hutson (1981)	“Country” Opposition to the exercise of governmental power	“Court” Proponents of centralized government	Feared the power of government. Inheritors of Whiggish “jealousy” of government
Duncan (1994)	Concerned with public happiness, local communities and state sovereignty	Nationalist interested in the centralization of power for the general good.	The Anti-Federalists were “Men of a Different Faith” not to be extolled nor condemned but that, “their loss ultimately has been our loss as well.” ¹⁸²

¹⁸² Duncan, “Men of a Different Faith”: 415.

Appendix:

“Yet, I confess, I see great difficulty of drawing forth a good representation. What, for example, will be the inducements for gentlemen of fortune and abilities to leave their houses and business to attend annually and long? It cannot be the wages; for these, I presume, must be small. Will not the power, therefore, be thrown into the hands of the demagogue, or middling politician — who, for the sake of a small stipend, and the hopes of advancement, will offer himself as a candidate, and the real men of weight and influence, by remaining at home, add strength to the state governments? I am at a loss to know what must be done. I despair that a republican form of government can remove the difficulties. Whatever may be my opinion, I would hold it, however, unwise to change that form of government. I believe the British government forms the best model the world ever produced; and such has been its progress in the minds of the many, that the truth gradually gains ground. This government has for its object public strength and individual security. It is said with us to be unattainable. If it was once formed, it would maintain itself. All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and, however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give, therefore, to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second; and, as they cannot receive any advantage by a change, they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontrollable disposition requires checks. The Senate of New York, although chosen for four years, we have found to be inefficient. Will, on the Virginia plan, a continuance of seven years do it? It is admitted that you cannot have a good executive upon a democratic plan. See the excellency of the British executive. He is placed above temptation — he can have no distinct interests from the public welfare. Nothing short of such an executive can be efficient. The weak side of a republican government is the danger of foreign influence. This is unavoidable, unless it is so constructed as to bring forward its first characters in its support. I am therefore for a general government, yet would wish to go the full length of republican principles.”

—Alexander Hamilton

[Found in: Jonathan Elliot, *The debates in the several state conventions on the adoption of the federal Constitution, as recommended by the general convention at Philadelphia, in 1787.* paragraph 3205. Accessed from <http://oll.libertyfund.org/title/1905/112205> on 2009-4-16]

“It is natural for a republic to have only a small territory; otherwise it cannot long subsist. In an extensive republic there are men of large fortunes, and consequently of less moderation; there are trusts too considerable to be placed in any single subject; he has interests of his own; he soon begins to think that he may be happy and glorious, by oppressing his fellow-citizens; and that he may raise himself to grandeur on the ruins of his country. In an extensive republic the public good is sacrificed to a thousand private views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is more obvious, better understood, and more within the reach of every citizen; abuses have less extent, and, of course, are less protected.”

– Charles Louis de Secondat

[Found in: Charles Louis de Secondat, Baron de Montesquieu. 1777. *The Complete Works of M. de Montesquieu* (London: T. Evans,), 4 vols. Vol. 1. Chapter: *CHAP. XVI.: Distinctive Properties of a Republic*. Accessed from <http://oll.libertyfund.org/title/837/71310/1688750> on 2011-12-10]

“In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other. I doubt too whether any other Convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an Assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this *system approaching so near to perfection* as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another’s throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good — I have never whispered a syllable of them abroad — Within these walls they were born, and here they shall die — If every one of us in returning to our Constituents were to report the objections he has had to it, and endeavor to gain partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects & great advantages resulting naturally in our favor among foreign Nations as well as among ourselves, from our real or apparent

unanimity. Much of the strength & efficiency of any Government in procuring and securing happiness to the people, depends. on opinion, on the general opinion of the goodness of the Government, as well as well as of the wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress & confirmed by the Conventions) wherever our influence may extend, and turn our future thoughts & endeavors to the means of having it well administered.that in Kenyon's view of the later success of the national government in refraining from such abuses, turned out to be unwarranted.

–Benjamin Franklin

[Found in: Max Farrand, ed.. 1911. *The Records of the Federal Convention of 1787*. New Haven: Yale University Press. vol. 2. Chapter: MONDAY, SEPTEMBER 17, 1787. Accessed from <http://oll.libertyfund.org/title/1786/96200/2150846> on 2009-04-16.]