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The Use and Abuse of the Classics in American Constitutionalism

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It may well be thought an understatement to say that the Founders’ stance toward classical Greece and Rome was one of complex ambivalence; “barely qualified hostility” may seem closer to the mark. To simplify an otherwise intractable question, let us begin by taking The Federalist as our guide.

In the eighty five papers that constitute the most authoritative defense of the new American science of politics, classical political thought is conspicuous by its near-complete absence. There are no references to Aristotle, none to Cicero, and just one passing mention of Polybius’ description of Carthage, for the sole purpose of bolstering the contention that the “popular” branch of the legislature will tend to usurp power from the Senate.

Two other references are somewhat weightier. In No. 49, Madison remarks that “a nation of philosophers is as little to be expected as the philosophical race of kings wished for by Plato.” The context is a discussion of Jefferson’s proposal for frequent conventions to amend, or to correct breaches of, popularly based constitutions. Madison argues against this, in part on the grounds that in practice all governments rest on opinion rather than reason. If a particularly favorable constitutional moment, in which public opinion is exceptionally wise and moderate, happens to enshrine a sound basic structure, it is risky to allow fundamental issues to be reopened too readily. Madison’s reason deserves full quotation: “[A]s every appeal to the people would carry an implication of some defect in the government, frequent appeals would, in great measure, deprive the government of that veneration which time bestows on everything, and without which perhaps the wisest and freest governments would not possess the requisite stability.”

It is hard to read this passage without recalling Aristotle’s discussion of Hippodamus, the expert city planner and amateur political phi-

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2. Id. at 314.
Among his other ideas, Hippodamus proposed a law to reward those who offered public innovations. In response, Aristotle broadens the issue to consider "whether it is harmful or advantageous for cities to change traditional laws, if some other one should be better." He acknowledges the need for progressive change in the arts, and the fact of appropriate change in laws: "the laws of ancient times were overly simple and barbaric." Yet on balance we should throw our weight on the side of legal stability rather than change:

Change in an art is not like change in law; for law has no strength with respect to obedience apart from habit, and this is not created except over a period of time. Hence the easy alteration of existing laws in favor of new and different ones weakens the power of law itself.

In this regard, then, Madison's rejection of Platonic philosopher-kings brings him close to an important tenet of classical republicanism. More generally, the authors of *The Federalist* were convinced that liberty must be "ordered" (the alternative is the constant threat of anarchy) and that order requires a due measure of stability. As we shall see shortly, this conviction is bolstered by, and engenders the rejection of, much of what they took to be the essentials of classical political practice.

*The Federalist* contains only one other direct reference to a classical political philosopher. In No. 55, Madison asserts that "[i]n all very numerous assemblies, of whatever characters composed, passion never fails to wrest the scepter from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob." The issue, clearly, is the relative influence of personal character and institutional design. The classics were inclined to the view that the character of

3. ARISTOTLE, POLITICS 1268a.
4. Id.
5. Id. at 1269a.
6. It is important not to push too hard on the Madison/Aristotle resemblance. As Professor Pangle has rightly reminded us, classical political thought is in no small measure constituted by sustained reflection on the relation between politics and philosophy. The classics could only understand such topics as tradition and law (indeed, political institutions and public virtue entirely) in light of their relation to the philosophic quest and to the image of human perfection inherent in that quest. (In much the same way, Christian thinkers believe that politics cannot be properly understood without reference to a Divine presence that bursts the bounds of all political, all merely human, aspirations and relations.) I can find no trace of this understanding in Federalist thought, perhaps for the reason Professor Pangle suggests: the Humean account of human psychology, largely accepted by the Federalists, in which reason is the slave of the interests and passions and in which the love of fame is the ruling passion of the noblest minds, rules out any exemplary status for philosophical activity. Pangle, *The Federalist Papers' Vision of Civic Health and the Tradition Out of Which that Vision Emerges*, W. Pol. Q. 577 (1986). Rather, philosophy and political founding are understood as two parallel paths to undying glory. For an acute discussion, see D. ADAIR, *Fame and the Founding Fathers*, in *FAME AND THE FOUNDING FATHERS: ESSAYS BY DOUGLASS ADAIR* 3 (T. Colbourne ed. 1974).
the citizenry crucially influenced the quality of political life and that institutions, though important, had to be regarded as secondary. They would have understood the inconvenience of a Socratic assembly in which, of necessity, one-on-one dialectical discussion gives way to a more public discourse. They would not have understood how mere numbers could transform that assembly into a "mob," at least if that term designates the rule of passion.

For Madison, by contrast, institutional design trumps personal character—even reasonable people become unreasonable when placed in unreasonable circumstances—which is not to say that personal character and virtue were as inessential to the Federalist understanding as some contemporary interpreters have suggested. Still, as Gordon Wood argued two decades ago, the Federalist persuasion contained "an amazing display of confidence in constitutionalism, in the efficacy of institutional devices for solving social and political problems." In this respect, as others, the gap between Federalist and classical political thought was wide indeed.

While the authors of *The Federalist* gave conspicuously short shrift to classical thought, the same cannot be said of classical practice. On the contrary, they extensively discussed the politics of Greece and Rome, which they viewed with a kind of fascination—horrid fascination, to be precise.

Their image of Greek republicanism was almost unbelievably bleak. The polis was incapable of achieving either external security or internal tranquility; war and civil strife were the constant lot of Greek citizens. The orientation toward war made steady material progress all but impossible: "The industrious habits of the people of the present day, absorbed in the pursuits of gain and devoted to the improvements of agriculture and commerce, are incompatible with the condition of a nation of soldiers, which was the true condition of the people of those republics." Not that omnipresent war promoted either security or liberty; on the contrary, the structural circumstances of war—the division of Greece into small poleis—rendered Greece vulnerable to divide-and-rule strategies that led to her subjection, first by Macedon, then by Rome.

If anything, the consequences of internal division were even worse. In some of the strongest language to be found anywhere in *The Federalist*, Hamilton writes that:

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[i]t is impossible to read the history of the petty republics of Greece . . . without feeling sensations of horror and disgust at the distractions with which they were continually agitated, and at the rapid succession of revolutions by which they were kept in a state of perpetual vibration between the extremes of tyranny and anarchy.\(^1\)

This is more than a matter of retrospective judgment, Hamilton continues. Advocates of monarchical government have employed the misfortunes of Greek republics as Exhibit A in their case against republicanism as such. And rightly so: if the friends of liberty were incapable of curing the defects of Greek politics, they would in good conscience be compelled to abandon republican commitments and accept whatever measure of liberty might be secured within monarchical orders. Fortunately, however, this will not be necessary:

The science of politics . . . like most other sciences, has received great improvement. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. . . . They are means, and powerful means, by which the excellencies of republican government may be retained and its imperfections lessened or avoided.\(^1\)

Modern republicanism, in short, is defensible not because it imitates the Greeks, but rather because it deviates from them.

The case of Rome is more complex. The authors of The Federalist found instruction in the legislative copresence of the patrician comitia centuriata and the plebeian comitia tribuna, a split analogized (somewhat improbably) to the Constitution's proposed division of authority between the states and the national government. Like the state/national structure, Rome's dual legislature represented divergent interests and embodied differing principles: "And yet these two legislatures coexisted for ages, and the Roman republic attained to the pinnacle of human greatness."\(^1\)

Even weightier was the example of the Roman Senate. History, declares Madison, "informs us of no long-lived republic which had not a senate."\(^1\) Gesturing toward Carthage and Sparta as well as Rome, he asserts that these success stories offer "very instructive proofs of the necessity of some institution that will blend stability with liberty,"\(^1\) proofs all the more vivid when compared with the "fugitive and turbulent existence of other ancient republics . . . ."\(^1\)

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13. Id. at 72-73. See also THE FEDERALIST No. 14, at 100 (J. Madison)(C. Rossiter ed. 1961).
16. Id.
17. Id.
Madison was alert to the political risks inherent in even a qualified appeal to these classical practices—in particular, the danger of appearing to propose a branch of government not “wholly popular”—that is, of seeming to revert to the superseded theory of mixed government. He acknowledges that these examples of ancient senatorial republics are “as unfit for the imitation as they are repugnant to the genius of America . . .”\(^\text{18}\) In a rare, and somewhat defensive, personal aside, he insists that “I am not unaware of the circumstances which distinguish the American from other popular governments, as well ancient as modern; and which render extreme circumspection necessary, in reasoning from one case to the other.”\(^\text{19}\) Still, he concludes, after giving due weight to these differences, “there are many points of similitude which render these examples not unworthy of our attention.”\(^\text{20}\)

Rome, finally, provided some support for the proposition that republican stability and liberty are not only not inconsistent with, but actually require, a strong executive. In the course of his well-known argument equating feeble execution with bad government, Hamilton notes that:

> every man the least conversant in Roman history knows how often that republic was obliged to take refuge in the absolute power of a single man, under the formidable title of dictator, as well against the intrigues of ambitious individuals who aspired to the tyranny, and the seditions of whole classes of the community whose conduct threatened the existence of all government, as against the invasions of external enemies who menaced the conquest and destruction of Rome.\(^\text{21}\)

If there is a criticism to be made of Roman institutions, continues Hamilton, it is that in normal circumstances the executive power was divided between two consuls, which produced some difficulties but no discernible advantages: “The experience of other nations . . . teaches us not to be enamored of plurality in the executive.”\(^\text{22}\)

The image of Rome emerging from the pages of *The Federalist* is distinctly more favorable than that of Greece. Still, Rome could not be held up as a model for American republicanism. We have already seen one reason why: the concept of different orders in society, and of institutions corresponding to them, cut across the grain of emerging American beliefs and social realities. Even more significant was the fact that Roman republicanism was linked to, even sustained by, aggressive imperial-

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18. *Id.*
19. *Id.*
20. *Id.*
22. *Id.* at 425.
ism. While pretending to be faithful allies, the Romans seized every opportunity to subvert the institutions and diminish the liberties of those they pretended to protect.\textsuperscript{23} This behavior could in no way be justified by the requirements of self-defense: "Rome was never sated of carnage and conquest."\textsuperscript{24} Nor in the last analysis was constant external aggression compatible with the maintenance of domestic liberty, for it gave rise to a military establishment that ultimately subverted civilian government: "the liberties of Rome proved the final victim to her military triumphs . . . ."\textsuperscript{25}

Taken together, then, The Federalist's extended reflections on classical political practice yielded conclusions not markedly more favorable to antiquity than its brief consideration of classical political philosophy. Indeed, it is not implausible to read that document, and the constitution it defends, as a declaration of independence from antiquity. Madison summed up this respectful rebellion, or—what comes to the same thing—this historically informed defense of innovation, in a ringing rhetorical question:

Is it not the glory of the people of America that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to outrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience?\textsuperscript{26}

And yet: there is the authors' choice of "Publius" as their pseudonym. If Forrest McDonald is correct, among Americans of the revolutionary period Plutarch was the best known and most widely read of all ancient authors, and writers of political tracts who selected Plutarchian pseudonyms "could assume that their readers would understand something of their message from their choice of pen name."\textsuperscript{27} Moreover, there is evidence that Hamilton made his selections with more than ordinary care, and with the intention of emphasizing the broad thrust of his argument.\textsuperscript{28} In a remarkable article, Douglass Adair comprehensively catalogued the numerous pseudonyms, many of them Plutarchian, employed by Hamilton over the course of thirty years as one of the most active pamphleteers of his generation.\textsuperscript{29} Adair demonstrated in detail the

\begin{itemize}
\item \textsuperscript{23} THE FEDERALIST NO. 5, at 53 (J. Jay)(C. Rossiter ed. 1961).
\item \textsuperscript{24} THE FEDERALIST NO. 6, at 57 (A. Hamilton)(C. Rossiter ed. 1961).
\item \textsuperscript{25} THE FEDERALIST NO. 41, at 257 (J. Madison)(C. Rossiter ed. 1961).
\item \textsuperscript{26} THE FEDERALIST NO. 14, at 104 (J. Madison)(C. Rossiter ed. 1961).
\item \textsuperscript{27} F. MCDONALD, Novus Ordo Seclorum: The Intellectual Origins of the Constitution 67-68 (1983).
\item \textsuperscript{28} Id.
\item \textsuperscript{29} D. ADAIR, A Note on Certain of Hamilton's Pseudonyms, in Fame and the Founding Fathers: Essays by Douglass Adair 272 (T. Colbourne ed. 1974).
\end{itemize}
links between the lives of ancient heros and the details of contemporary policy Hamilton urged in their name. These heroes were linked on the level of symbol as well as policy: all were in some measure estranged from the public they served so devotedly.\footnote{Id.} It was Hamilton who selected, not only the overall title of his collaborative defense of the Constitution, but also the Roman statesman whose name was to serve as the authors’ public identity.\footnote{A. Furtwangler, The Authority of Publius: A Reading of the Federalist Papers 46-51 (1984).} Surprisingly, Adair addresses this choice only in a brief and unrevealing footnote.\footnote{D. Adair, supra note 29.} For students of The Federalist, therefore, the life of Publius Valerius (ultimately known as Poplicola—“people-lover”) deserves more than its usual measure of attention.

Amidst all the marvelous details of Plutarch’s account, a few key theses stand out. First, Publius was a sincere republican and a determined enemy of monarchical restoration. This was the case in spite of the fact that the common people initially mistrusted him as a potential ally of the deposed tyrant Tarquin, or as a man with royal ambitions of his own. Indeed, he refused opportunities to reinstate despotism and instead used his power to establish truly republican institutions.

Second, Publius’ efforts were wise, farsighted, and effective. Unlike Solon of Athens, whose republican innovations were swept away within a few decades, Publius’ institutions endured for centuries. He succeeded by wisely mixing order and liberty: by enhancing popular control of the government, strengthening its authority vis-a-vis ambitious individuals and seditious groups, reinvigorating the Senate, and enhancing the legal protections enjoyed by every citizen.

Third, Publius enacted his reforms paraconstitutionally. Plutarch remarks that after the defeat of Tarquin’s forces, during which Publius’ fellow consul Brutus was killed, Publius temporarily blocked the appointment of a successor, as required by law, in order to further his constitutional objectives: “before the admittance of a colleague, mistrusting the chances, lest emulation or ignorance should cross his designs, [he] by his sole authority enacted his best and most important measures.”\footnote{Plutarch’s Lives 152 (Dryden trans., revised by A. Clough).}

Plutarch’s overall point, it seems to me, is this: Publius was a man of extraordinary virtues and talents, eminently capable of ruling monarchically. It was inevitable that the people would fear his intentions; inevitable but mistaken. For in spite of his excellence, Publius was a true lover of the people as well as a committed partisan of republican government.
Once he was trusted enough by the people to act on their behalf, they came to see how well his authority served their interests, and they freely deferred to him. There is then no conflict between popular government and natural aristocracy: though rightly jealous of its liberties and suspicious of tyrannical designs against them, a discerning people will entrust the design and operation of republican institutions to those outstanding individuals who can best act in the people's name. In the process of change guided by wise and public-spirited leaders, moreover, the people should not dwell on legal niceties: acts that would be usurpation if carried out by selfish or tyrannical men are fully justified when committed by the worthy.

The pseudonym Publius, then, casts in high relief an issue I take to be fundamental to the Federalist enterprise: the relation between aristocracy and republicanism. The social strains of the 1780s had generated a high-pitched debate between established elites and beneficiaries of the new economic and political mobility. Despite the rhetorical intensity of this conflict, the authors of *The Federalist* did not consider it to be fundamental. That is, they saw no deep antagonism, theoretical or practical, between aristocracy rightly understood and republican government rightly understood.

Whatever the private reservations of Hamilton, Madison and others may have been, we must take seriously their public determination to base every constitutional institution on the authority of the people—in good revolutionary fashion, to derive all just powers of the new government from the consent of the governed, and to treat each citizen as equal in rights to every other. At the same time, they regarded citizens as unequal in other crucial respects. The question before them, then, was how to fashion an institutional order that appropriately combined equality of natural rights with inequality of natural gifts, and having done so, how to craft an effective public justification of that combination.

The authors of *The Federalist* recognized two politically relevant types of inequality. The first, notoriously, is the "different and unequal faculties of acquiring property," the protection of which is the "first object of government." 34 The second, less emphasized today but equally fundamental to *The Federalist*, is inequality of capacity to fulfill the duties of public office. This latter theme was hardly confined to the most ardent partisans of ratification. As Thomas Jefferson argued in a letter to John Adams:

There is a natural aristocracy among men. The grounds of this are

virtues and talents . . . . The natural aristocracy I consider as the most precious gift of nature for the instruction, the trusts, and government of society . . . . May we not even say that that form of government is the best which provides the most effectually for a pure selection of these natural aristoi into the offices of the government? 35 As Madison put it, the aim of the new constitution was that of any good political order: "to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society . . . ." 36

The document was designed therefore to combat "levelling" on two fronts: to throw up barriers to redistributionist majorities and to maximize the chances that individuals most fit to govern would in fact come to dominate the government. The battle on the first front was to be waged through the much-discussed strategy of widening the sphere and creating effective counterweights to dangerous local combinations. The strategy on the second front was more complex. To begin with, as Gordon Wood has made clear, the Federalists hoped that the various constitutional institutions would serve as "filters" through which only the worthy would be able to pass. 37 The extensive sphere of representative districts; the indirect election of senators for lengthy terms; the elaborate contrivances of the electoral college; the complex appointment mechanism of the federal judiciary and its careful insulation from political pressures—all these (and other) devices were designed to improve the chances of the virtuous and talented at the expense of self-seeking, uneducated parvenus.

But it would be a mistake to conclude that these institutional contrivances reflected an unadulterated mistrust of the people. Indeed—and this leads directly to the second strategy—despite the social turmoil of the 1780s, the Federalists continued to believe that the people would recognize, and defer to, the natural aristoi as long as they were not diverted by momentary passion or (even more likely) by demagogues representing themselves as the people's tribunes. Hamilton wrote:

[T]he people commonly intend the PUBLIC GOOD . . . . [t]he wonder is that they so seldom err as they do, beset as they continually are by the wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate, by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess it rather than to deserve it. 38

37. G. WOOD, supra note 9, at 506-18.
In a private writing during the ratification struggle, Madison mused that if the Constitution had been:

framed and recommended by an obscure individual, instead of a body possessing public respect & confidence, there can not be a doubt, that altho it would have stood in the identical words, it would have commanded little attention from most of those who now admire its wisdom . . . . I infer from these considerations that if a Government be ever adopted in America, it must result from a fortunate coincidence of leading opinions, and a general confidence of the people in those who may recommend it. 39

In the previously quoted letter to John Adams, written after a quarter century of experience under the new government, Jefferson was still able to assert that the best way of achieving the rule of virtue and talent is “exactly that provided by all our constitutions, to leave to the citizens the free election and separation of the aristoi from the pseudo-aristoi, of the wheat from the chaff. In general they will elect the real good and wise.” 40

The public could be generally (though not invariably) relied upon, but public opinion was not, in the Federalists’ view, rightly regarded as static or fixed. This brings me to their third strategy for achieving the rule of natural capacities. The Federalists of the ratification period tended to believe (not without doubt or qualification, to be sure) that a combination of education, experience under the new Constitution, and the diffusion of general enlightenment would render the people increasingly able to separate the wheat from the chaff and to resist the wiles of designing men. The Jeffersonian faith that bad government was sustained by ignorance, and that public education would incline the people to defer to the natural excellence it would equip them to recognize, was not alien to the Federalist persuasion. In general, I think it is fair to say that in place of cyclical or degenerative theories of history, the ratification Federalists embraced a version of Enlightenment optimism.

To sum up: the Federalists saw a tension, but no outright contradiction in erecting a defense of natural aristocracy on a foundation of popular consent, provided that the people are acceptably clear-sighted and well-intentioned. Now it is perfectly true, as Professor Pangle has reminded us, that this republican defense of aristocracy does not leave the classical conception of aristocracy untouched: “[V]irtue ceases to bestow on its possessors a primary or indisputable title to rule. Individuals outstanding in their moral and political qualities gain authority only deriv-
tively, by winning the favor of the populace—a feat they accomplish by
demonstrating their efficacy in promoting popular liberties and prosper-
ity.” Still, one may wonder just how significant a shift this represents.
In classical practice, as opposed to theory, virtue enjoyed at most instru-
mental approval, and the claims of wisdom were always filtered through
the requirements of consent. And in American practice, as opposed to its
theory, political leadership has frequently gone beyond the bounds Pan-
gle has delimited. It may be true that in modern republics one cannot
attain or retain power without promoting the liberty and prosperity of
the people. It does not follow that leadership is necessarily confined to
this arena. Leaders who maintain popular confidence may employ their
power to promote a wide range of objectives, some of which may entail
sacrifice or require a widening of moral concern. Liberty and prosperity
are thresholds, not borders, for modern republican governance.

Yet one must concede this much: if republican leaders care only, or
too much, about retaining office, incentives are strong to pander to the
people, to promote present gratification in place of future progress, to
practice the little arts of popularity at the expense of real national needs.
It would not be difficult to offer an analysis of contemporary American
politics along these lines. This proves, it seems to me, that if republican
virtue is to be meaningful in even its modern, instrumental sense, it must
encompass the conviction that there is something more important than
the sheer acquisition of power.

None of this is intended to suggest that the Federalist prescription
was wholly stable, even within the specific circumstances of the late
1780s. Two ambiguities strike me as especially suggestive. First, it is
tempting, but at best partially valid, to read *The Federalist* as contending
that the organic unity of society had been supplanted by social cleavages
and factional clashes, and that the new point of republican government
was therefore to manage conflict in the manner least threatening to lib-
erty. In public and private, Madison and Hamilton continue to speak of
the common good, and it is hardly farfetched to see in the preamble to
the Constitution a rough but serviceable sketch of its major elements.
They believed that under the Constitution, though inequality would be
protected, all citizens would in the long run be better off than under any
feasible alternative arrangements. Their defense of aristocracy was not in
any simple sense a cloak for the maintenance of class privilege; their in-
vocation of self-interest was not intended to obliterate the fact, or aware-
ness, of shared interest. The new American science of politics was poised

41. Pangle, *supra* note 6, at 595.
uneasily between the idealism of the classics and the cynicism of contemporary group theory.

The Federalists were ambivalent as well about the extent to which public virtue could be trusted. On the one side stand numerous invocations of leaders, executive and legislative, whose detachment from special interest and devotion to the common good rendered them the most reliable repositories of public power. (Indeed, as Professor Wood has argued, the structural differences between the state constitutions and the proposed federal constitution were relatively minor. The Federalists believed that the powers of the latter were safer primarily because better people would wield them.)

On the other side stand equally numerous expressions of the longstanding Whig mistrust of the oppressive and corrupting potentialities of power, whoever might hold it.

These opposing tendencies may be discerned in a passage quoted earlier. After insisting that good government must give power to those individuals with the wisdom to discern and virtue to pursue the common good, Madison adds that government must also “take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.”

From the standpoint of classical political philosophy, of course, this proviso would have made no sense whatever. To say that an individual is virtuous is to say that he has the inner disposition to behave rightly, even in situations that present opportunities for wrongdoing. Conversely, to insist as Madison does on “auxiliary precautions” would be to deny that the power-holders in question are, or ever were, virtuous in the full sense of that term.

How can we account for this obtrusive copresence of trust and mistrust? One possibility, which I can advance only as unproved hypothesis, is that the Federalists were tugged in one direction by theory and in another by experience. A century-old tradition had taught them to mistrust all power and to construct institutional bulwarks against its abuse. But they did not extend this mistrust to themselves. When they imagined themselves or their friends and associates in positions of federal power, they were drawn to the language of trustworthy virtue. But when they considered the issue less personally and more generally, the legacy—hence the vocabulary—of mistrust came to the fore. (Evidence for a version of this hypothesis may be found in occasional Federalist suggestions that the constitutional moment of the late 1780s offered a unique opportunity to institutionalize their own wisdom and virtue—that is, that

42. G. Wood, supra note 9, at 507-08.
43. The Federalist No. 57, supra note 36, at 350 (emphasis added).
subsequent generations of leaders were likely to be less reliably public-
spirited.)

Whatever may have been the case during the ratification period,
subsequent developments decisively disrupted the fragile Federalist equi-
librium between equality and inequality, citizenship and deference, natu-
ral aristocracy and republicanism. In a remarkable essay, Gordon Wood
has traced the "democratization of mind" that began during the Revolu-
tion and by the early nineteenth century had thoroughly transformed
American politics. As a political matter, the Federalists were not free
to disregard the republican "genius of the people." But by enshrining
the people as the sole source of political legitimacy, they inadvertently
broadened the role of public opinion and widened the range of public
participation. During the 1780s it was still possible to imagine that
wealthy and educated gentlemen would guide the emerging nation, in the
interest and with the deference of the common people. By the turn of the
century this dream had all but vanished. The Revolutionary leaders
were not the passive victims of this process. Indeed, they "helped create
the changes that led to their own undoing, to the breakup of the kind of
political and intellectual coherence they represented. Without intending
to, they eagerly destroyed the sources of their own sustenance and
greatness."

Wood is not content simply to tell a story; he also draws up a most
provocative balance sheet. "One of the prices we had to pay for democ-

dacy," he declares, "was a decline in the intellectual quality of American
political life and an eventual separation between ideas and power. As the
common man rose to power in the decades following the Revolution, the
inevitable consequence was the displacement from power of the uncom-
mon man, the man of ideas." I think he is entirely right about the
nature of this exchange. But his formulation inevitably raises some ques-
tions. Did we pay too high a price for "what we have come to value
most—our egalitarian culture and our democratic society?" And who
exactly is this evaluating "we," anyway?

The latter question is somewhat easier to address than the former.
As Wood makes clear, his remarks are addressed to politically concerned
intellectuals—the sorts of people who are most acutely aware of today's
separation between ideas and power and of the contrast between our situ-

44. WOOD, The Democratization of Mind in the American Revolution, in The Moral Foun-
dations of the American Republic 102 (R. Horowitz ed. 1977).
45. Id.
46. Id. at 103.
47. Id.
ation and that of the Founders: 'They were intellectuals without being alienated and political leaders without being obsessed with votes. They lived mutually in the world of ideas and the world of politics, shared equally in both in a happy combination that fills us with envy and wonder.'

As for the former question—the relative costs and benefits of social democratization—let me venture to draw up my own balance sheet, guided by rough and ready versions of some categories drawn from classical political philosophy. Contemporary democratic society is fairly satisfactory for most ordinary citizens, whose generally moderate desires run toward a modicum of personal security, material prosperity, and social mobility. (Here I part company with Ronald Beiner, who appears to regard the lives of ordinary citizens in liberal democracies as not only boring and debased—a classic aristocratic stance, by the way—but also as stifling for them, a judgment with which average citizens conspicuously do not agree.) Contemporary democracy is also quite satisfactory for those unusual individuals—scientists, scholars, philosophers—who wish to devote their lives to inquiry, and especially for those whose speculations leads them to challenge the presuppositions of their society. (In today's America, Socrates no doubt would be criticized as a dangerously undemocratic elitist in the New York Review of Books, but he would be most unlikely to receive legal condemnation—let alone the severe punishment meted out by the Athenians.)

The difficulty—and here I rejoin Gordon Wood—is that contemporary democratic society is highly unsatisfactory for the would-be gentlemen, who lack both a stable social basis and a reliable route to political power. To put it more generally: what is missing is the spirit of natural aristocracy and a structure through which claims based on personal excellence might be rendered efficacious.

To be sure, there is a by no means incontrovertible movement in my argument from the idea of the "gentleman" to that of the individual of personal excellence, to say nothing of the "political intellectual." The gulf separating the socially and financially secure landed aristocracy of eighteenth century Virginia from the politically concerned but socially and financially insecure intellectuals of the present today is very wide. Nor do these two groups stand in the same relation to the broader political community. The Virginia aristocracy thought of itself, with some justification, as bringing to fuller self-consciousness and more articulate

48. Id.
expression the general public beliefs of the emerging Republic. By contrast, however vehemently today's political intellectuals may invoke "the people," they tend to be perceptibly alienated from the main currents of contemporary public opinion. But in spite of these and other differences, it proves useful for my purposes to treat them as aspects of a single broader issue: the role of intellectual elites in the American republic.

Now it might be argued that the progressive obliteration of the leading position of liberally educated elites in American politics is a fact, but hardly a problem: as the social basis for gentlemanship disappeared, so did the political need for their leadership, and so did the gentlemen themselves—without remainder, so to speak. But matters are not so simple, for two reasons. First, if the Federalists, in agreement with the classics, were right to suggest that inequality of gifts is natural rather than conventional, then the potential aristocrats have not—could not have—disappeared. They are present in every age; they are here among us today. The only question is whether they will find appropriate training to develop, and arenas to display their talents, or whether their gifts will surface in frustrated and distorted forms. Second, if the Federalists (again in agreement with the classics) were right to insist that natural aristocrats have a vital role to play in republican political institutions, all citizens of the republic—not just the frustrated aristocrats—will suffer from their political impotence.

Wood points us in the right direction when he characterizes our typical reaction to the Founders as "awe" mingled with an "acute sense of loss." While he urges us to cease "wallow[ing] in nostalgia," he recognizes that a sense of deficiency is a natural and spontaneous reaction. But what are we nostalgic about, or for? I am something of a connoisseur of this sentiment, having observed it very close up. Let me venture to describe it.

To begin with, the nostalgia is for a certain largeness of scope, for a field of important political possibilities, as opposed to the pettiness and insignificance of today's politics. This accounts in part for the envy many American scholars and intellectuals feel for their central European counterparts: while we are mired in trivia, they have an opportunity to do great deeds.

To perform such deeds, of course, is to be remembered for having done them. Whatever the most precise understanding of this phenomenon may be, there can be little doubt about the essential correctness of Douglass Adair's thesis: that the Founders were steeped in a culture

50. Wood, supra note 44, at 102-03.
formed by Plutarch and Tacitus, which taught them that the greatest fame would accrue to the noblest political acts; that they seized their rare historical opportunity to act in the belief that by so doing they could win undying fame; and that their ardent desire to be remembered contributed mightily to the elan, skill, and all-out devotion they brought to the creation of a new nation. What American political intellectual today could possibly entertain such hopes? The elevation of Vaclav Havel to the presidency of Czechoslovakia reminds us—if reminder were needed—of the tremendous gulf between the reputational opportunities enjoyed by the Founders and the constricted possibilities available to American thinkers today.

The nostalgia is also for a sense of efficacy. James Madison could move straight from the study of ancient confederacies to the making of modern constitutions. But what can we do in this age of media politics, of thirty-second sound bites, of a manipulative populism that effortlessly discredits every appeal to excellence? The Founders could direct their persuasion to one another; we must operate in a sphere so wide and diverse as virtually to rule out the translation of ideas into practice.

This helps explain why in recent times so many intellectuals have been drawn toward the judiciary: the sphere of action is narrower, more comprehensible and controllable, more open to the exercise of the mind. Or—to put it more bluntly—it seemed that in the judicial arena there was no need to persuade the people. This belief, of course, was mistaken. The Federalists turned out to be righter than they knew: the Constitution would establish a government in which every branch was ultimately accountable to the people. In the American republic, there is no sustainable nonpublic route to political efficacy.

Questions of efficacy are linked to considerations of political style. The nostalgia I am explicating is also for a kind of public highmindedness, for the possibility of a political rhetoric of principle as opposed to interest, of elegance in place of the humdrum, of future-oriented sacrifice rather than momentary gratification. In equal measure, Adlai Stevenson's appeal and defeat revolved around these antique values, and John F. Kennedy encouraged the fleeting hope that democratic success might once again be rendered compatible with a higher-toned politics. But for nearly three decades, the ghostly echo of the anti-federalist Amos Single-tary's resentful diatribe against those who "talk so finely" has dominated our public life.

This brings me to my final point, about which it is necessary, but difficult, to be blunt. The nostalgia of which Professor Wood speaks is also, perhaps fundamentally, for a vanished deference, for a world in which excellence of talent and attainment conferred on their possessors some title to public authority, some ability to act on behalf of others for the public good. What we have today, by contrast, is a society in which the distinction between natural and conventional aristocracy has been obliterated, in which all hierarchy is attacked as the product of social oppression.

It must be confessed that the current wave of egalitarian populism, manifested on both the left and right ends of our political spectrum, is not wholly without justification. Starting in the 1960s, many American intellectuals departed, first from the common sense, then from the basic values, of the American people. To the extent that intellectuals enjoyed a measure of deferential power during that period, they were seen as using it either with disastrous lack of success, or in pursuit of ends increasingly rejected by popular majorities, or both. The result is a gulf between intellectuals and the public as wide as any this country has witnessed in at least six decades. A not inconsiderable argument can be—has been—made to the effect that given the current state of American intellectual life, the isolation of intellectuals from public life is a good thing for the public.

Still, as a more general matter, one cannot help wondering whether a republic in which ideas and power are set asunder can long remain healthy. Nor does it seem likely that a republic can flourish when deference and trust are so completely replaced by resentment and suspicion. The drafters of the Constitution built their institutions, and the authors of The Federalist erected their arguments, on the basis of the distinctions between the interests of the people and their will, and between their settled judgments and the passions of the moment. Today it seems virtually impossible to offer, or to act on, such distinctions. The result, in my judgment, is an orgy of bad government.

In an essay exploring the relevance of classical political philosophy for modern liberal democracy, Leo Strauss once said, "[W]e are not permitted to be flatterers of democracy precisely because we are friends and allies of democracy." But with the collapse of the idea, and reality, of republican aristocracy has disappeared the last bulwark against this vice. The reason is straightforward: if the people's approval is the sole source

of public power and personal self-regard, then would-be leaders will do almost anything to obtain it. As a result, flattering the people is now the sole operating principle of our public life. “You want it? You've got it” is the standard maxim, no matter how self-contradictory or self-destructive “it” may be. Health care that nobody pays for? Sure. Better education without longer school years and more homework? Why not. A more competitive economy with ever-rising consumption and ever-declining investment? Of course. A dollar's worth of government for eighty cents in taxes? No problem.

The basic problem is this: good government requires at least a modicum of truth-telling. But not all truth is pleasant. If no one in authority dares to tell the truth for fear of offending the public, wise deliberation and decision are rendered impossible. This conundrum is as old as Plato's Gorgias and as fresh as today's headlines. It cannot be wholly overcome. It can, however, be ameliorated, but only by leaders who are intellectually, morally, and emotionally self-sufficient enough to challenge the people on occasion. A democratic republic needs an admixture of republican aristocracy, and therefore, some mechanism for giving it a due measure of preferment. To this limited extent, at least, I cannot agree with Wood's judgment that we can indefinitely afford the costs of the relentless democratization of our public life. In this respect, at least, classical political philosophy is of enduring relevance for the understanding, and the practice, of American constitutionalism.

In the discussion thus far, I have been guided by four questions drawn from classical political philosophy: the relation between equality and inequality in republican government; the virtues required of rulers and ruled in such governments; the means whereby republican wisdom may be most efficaciously combined with republican consent; and the idea of modern republicanism as a “regime” whose leading principle, equality, tends to trump all others. My suggestion is that while classical political philosophy helps us pose these questions, American constitutionalism has offered its own distinctive answers to them. That these answers are not without internal tensions (between a regime of equality and a place for natural aristocracy, between a felt need for virtue and a novel reliance on institutions, and so forth) in no way detracts from the analytic power of this approach.

The appeal to classical theory, then, can be productive in illuminating some perennial problems of politics, in helping us to improve our own self-understanding, and in presenting an alternative against which the distinctive features of modern liberal constitutional democracy can emerge more clearly. For example, a central category of Aristotle's Poli-
tics is the notion of a kind of citizen virtue whose substance is relative to the specific principles and institutions of the regime in which it is to be practiced. Using this category as a guide, it is not too difficult to develop a description of liberal virtues—the kinds of dispositions required of governors and governed in modern constitutional democracies.53

I am arguing, in short, for the relevance of a structural appeal to the classics, and against what I will call a literal appeal, which urges us to carry over the content—not merely the questions—of classical theory or practice as a normative guide for the present day. At the core of the literal appeal is the proposition that in decisive respects, the form of life characteristic of the polis or small republic is superior to the life characteristic of modern liberal constitutionalism, and that we should therefore strive to restore as much as possible of the political structure of the polis—in particular, of direct political participation—as circumstances permit.

To this proposition, I would respond by expanding on what I said earlier. A strong case can be made that contemporary liberal democracy at its best is on balance superior to the classical polis at its best. It is better for ordinary citizens, who can lead their lives in far greater comfort and security.54 It is better for above-average individuals whose talents can only be developed through sustained education and training. It is better for artists, scientists, and philosophers, who can conduct their activities with far less fear of persecution. It is better for women, who tended to be marginalized by the martial politics and public culture of classical republicanism. It is most assuredly better for those who under the classical dispensation would have been slaves or material “conditions for” rather than public “parts of” the city. And yes, liberal democracy is worse for the natural aristocrats, and for those public activities and possibilities that depend on their leadership, for all the reasons adduced above. On balance, relative to classical politics, modern liberal democracy is a mixed blessing (is there any other kind?), but it is a blessing.

This is not to minimize the costs to the polity of the natural aristocrats’ decline. A strong case can be made for those educational and political reforms feasible within liberal democratic society that might restore some measure of legitimacy and efficacy to their leadership. A reawakened understanding, promulgated through public education, of

53. See generally Galston, supra note 8.
54. I do not mean to deny, or to denigrate the significance of, those individuals and groups who do not enjoy a full measure of comfort and security in contemporary liberal societies. One of the great challenges facing such societies is to become more fully inclusive in these (and other) respects. In spite of this, the broad comparative point made in the text remains valid.
the individual virtues and excellences a well-ordered liberal democracy requires would be a good start. But our expectations must be modest. With, at best, gradual modifications, the current mix of advantages and disadvantages will characterize our public life for the foreseeable future.

I would offer an equally negative response to the now-fashionable invocation of "civic republicanism." Who could possibly object to a regime of virtuous citizens jointly and severally oriented toward the common good? But (setting to one side the privatization and self-interest characteristic of so much modern politics), very little of classical politics in practice measured up to this lofty ideal. What was true then is true today: effective public spirit tends to emerge when shared interests—the freedom and security of the state chief among them—are threatened. In particular, war induces us to submerge our differences and to make sacrifices for the common good. There is no evidence that citizens of modern liberal democracies are less able to serve the common good in wartime than were the citizens of the classical polis. What is characteristic of modern liberal citizenship is its determined refusal to carry over into peacetime the wartime norms of public-regarding behavior. Not surprising, from time to time during the past century democratic scholars and politicians alike have sought some "moral equivalent of war" that would induce liberal citizens to behave as selflessly in peace as they do in war. But they have searched in vain: there is no moral equivalent of war.

This is not to say that modern civic republicanism is without point. It is hard to be satisfied with the balance between self-interest and public interest typically struck in the daily life of liberal democracy. Nor do the processes of political discussion frequently measure up to even moderately demanding deliberative standards. But even with the goad of such reasonable dissatisfactions (and they could be multiplied), it is important to remember what brought us to this point. Modern liberal democracy emerged in response to the experience of tyranny and civil strife. Its characteristic principles and institutions were designed above all to safeguard individuals against repression and to ensure domestic tranquility. American constitutionalism faithfully reflects these core concerns. It may be true, as Cass Sunstein suggests, that civic republicanism understands rights as either the "preconditions for or the outcome of an undistorted deliberative process." But this merely emphasizes the gulf between republicanism and the American constitutional tradition—emphasizes, that is, the potential costs of surrendering our ancestral under-

standing of rights as bulwarks against potentially abusive government, not just as guarantees of access to public-spirited deliberation.

What I have called the literal appeal to the classics has been a pervasive feature of Western political life for the past two centuries. This appeal is perennially potent, for it touches on deep longings: for total community and citizen solidarity; for a larger, nobler politics offering the constant possibility of peak experiences; for the chance of psychological unity in the face of the centrifugal tendencies of modern existence; and for a greater measure of aristocracy, or equality, than is typically offered by modern politics.\(^6\)

The literal appeal is not simply in the service of the Left or, for that matter, of the Right. It can be both, or neither. But it is always antiliberal and anti-bourgeois. Therein lies its danger. Liberal-constitutional democracy is the best practicable government, now and for the foreseeable future. It is pluralistic and diverse, but not fully comprehensive. As is the case with all other regimes, there is a range of important desires it leaves unsatisfied, and ways of life against which it is biased. There is no way of overcoming these limitations, though their consequences can be mitigated to some extent. To accept liberal constitutional democracy as the best possible is to accept its necessary incompleteness and to acknowledge that improvements are possible only within liberal bounds.

What liberalism leaves out is of considerable human importance. The revolt against liberalism in the name of the classics is therefore theoretically serious. In practice, however, what I have called the literal appeal to the classics can only lead to a politics inferior to that which it seeks to supersede. There is simply no politically responsible way of requiting the longing that life in liberal polities will inevitably engender. American constitutionalism may reasonably seek to determine the manner in which classical insights can serve the cause of liberal reform. It ought not go farther.

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