

A More Perfect Union? Liberty Versus Equality in American Construction and Reconstruction

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Introduction: The American Schism

The United States of America is founded on twin pillars that, in the colonists' view, justified their secession from Great Britain. These twin pillars are liberty and equality. Jefferson's hand in The Declaration of Independence famously proclaims: "We hold these truths to be self-evident, that all men are created *equal*, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, *Liberty*, and the pursuit of Happiness".¹ The fusion between these two notions comprise the framework of our Constitutional Republic; they are products of Enlightenment thinking pursuant to the ends of justice, representation, humane treatment, and dignity.

But there is also a broad tension between liberty and equality. There is a broad tension behind liberty—an idea that sweepingly suggests freedom from and to—and equality—an idea that sweepingly suggests patent congruity. Some questions that can immediately arise are: from whom are we free; what exactly are we free to do; how, or in what respects, should we be equal to each other; what is the extent to which we should be equal to each other? As we observe, these twin pillars can—and often have—run into conflict with one another. Since the founding, there has existed a tension between liberty and equality. Indeed, the tension between liberty and equality formed the United States; the tension between liberty and equality is also what collapsed the United States during the Civil War and the difficulty in resuscitating it during Reconstruction.²

¹ U.S. Declaration of Independence (1776).

² In this thesis, I explore Reconstruction both in the historical sense and in the figurative sense by ending with the Civil Rights Movement and how it, too, sought to "complete" the Reconstruction that some would argue is still unfinished.

The adverseness of this tension stretches back to the Revolutionary Era. When Patrick Henry delivered his famous speech to the Second Virginia Convention in 1775 with the alleged exclamation—“give me liberty, or give me death!”—he hardly would have considered the notion of liberty to be open to different interpretations. Henry was a staunch anti-federalist who wished to restrict the federal government’s power so as to secure maximum liberty for individual power.³ Generally speaking, liberty to him meant the protection of individual views, associations, and actions unmoored from government litigation; Henry allegedly said: “The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government—lest it come to dominate our lives and interests.”

Yet the other founding fathers on the whole did not hold a monolithic perception of liberty. On the one hand, John Adams was a federalist who wanted a larger central government than did a Democratic-Republican like Thomas Jefferson. Perhaps that is why Adams was fine with violating the first amendment of the Bill of Rights with the Alien and Sedition acts. On the other hand, Jefferson is difficult to interpret with respect to his perception of “Henrian” liberty.⁴ One could read some of Jefferson’s famous quotes as a call for restricting centralized government, thereby liberating the individual: “A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned.” Simultaneously, however, Jefferson as President authorized the Louisiana Purchase, thereby increasing the size of the federal government.

³ “Federal government” and “central government” mean the same in the Henrian context.

⁴ Hereafter I will use “Henrian” to always refer to the Henrian understanding of liberty.

The inherent conflict in these different perceptions of liberty rose to prominence among luminaries during the Founding, Antebellum, and Reconstruction eras. Reconstruction challenged the validity of the Henrian perception of liberty. That is, the Henrian sense would maintain that during the Civil War, black Americans were fighting a different war than the ones fought by the founders. The founders fought for independence from a hegemonic English state; blacks fought for freedom from a caste-based, governmentally imposed and sanctioned slavery system. In the abolitionist and later Reconstruction sense, nonetheless, there was a continuity: The revolutionary colonists were fighting against hereditary privileges or the inherited monarchy and aristocracy; likewise, the abolition movement and Reconstruction commitment to equality was a fight against the “hereditary privilege,” “monarchy,” and “aristocracy” of white skin. Each fight was one against a caste or state-sanctioned hierarchy that violated the founding creed purporting “all men are created equal.”

Reconstruction, then, was the attempt to broaden and fulfill the scope of our creed; it was an attempt to integrate non-white communities into the mainstream framework of American civilization and culture. As we know, the liberty in the Constitution did not extend to other groups or castes of people other than landed, white males. During Reconstruction, liberty would apply to blacks, and later in the twenty century to women and the working class. By consequence, this attempt to reconstruct the nation would manifest another notion that Jefferson adduced in the Declaration but whose meaning was now transmuted in the new age: equality. Equality demanded more government involvement. A stronger federal government would secure the equal treatment of minority groups who were not covered in the “original Constitution.”⁵

⁵ I refer here to the state of the Constitution before the Reconstruction amendments, sometimes known as the “Original Constitution.”

Integration and equal treatment did not go as planned. The issue was that those who subscribed to Henrian philosophy were not on board with the desire to “reconstruct” what they considered to be a government already constructed perfectly. To repeat old news, the most notable example was the south. There, a reactionary fury arose in the form of white supremacists, neo-confederates, and the Ku Klux Klan (KKK). Apart from racist motivations, these groups saw Reconstruction as an unwarranted impediment on their lives and values, and this impediment was deemed un-American in accordance with the liberty declared in the original Constitution. To those ideologically aligned with Jefferson Davis, for instance, a government strong enough to end slavery was strong enough to end liberty. As Jefferson Davis said:

We feel that our cause is just and holy; we protest solemnly in the face of mankind that we desire peace at any sacrifice save that of honor and independence; we seek no conquest, no aggrandizement, no concession of any kind from the States with which we were lately confederated; all we ask is to be let alone; that those who never held power over us shall not now attempt our subjugation by arms. This we will, this we must, resist to the direst extremity. The moment that this pretension is abandoned the sword will drop from our grasp, and we shall be ready to enter into treaties of amity and commerce that cannot but be mutually beneficial. So long as this pretension is maintained, with a firm reliance on that Divine Power which covers with its protection the just cause, we will continue to struggle for our inherent right to freedom, independence, and self-government.⁶

⁶ Jefferson Davis. “Confederate States of America - Message to Congress April 29, 1861 (Ratification of the Constitution).”

It was already a breach to free the slaves; the idea that they be integrated into white space was something strictly prohibited by the Bill of Rights—a bill guaranteeing individual freedoms, specifically, the freedom of association. In sum, this new “reconstructed” Constitution was a direct breach of the vision of America that Henry foresaw, so it was necessary to militate against such progressive action.

These competing views of the nature of the country have been rebelling and clashing against one another ever since. Many of the issues we as a people spar over in culture and politics boil down to a differentiation in the prioritization of liberty versus the prioritization of equality. To understand the polarization of culture and politics, we must understand the myriad contentions that pervaded the construction of the United States versus those that pervaded its Reconstruction. This paper argues that both eras were fraught with the partition between these twin pillars—liberty and equality—and Americans reified this partition. Writers gave voice to the underlying abstract issues that linger hitherto: How free do we want to be? How equal do we *truly* want to be to each other?⁷ Each answer to each question undermines the strength of an answer to the other question. If a society is to be unconditionally free, it cannot be unconditionally equal. If a society is to be unconditionally equal, it cannot be unconditionally free. The answers to those questions pinpoint precise areas along a spectrum, and each spot is distinct. Ultimately, then, this thesis argues that the competing views vis-à-vis liberty versus equality during American construction and Reconstruction—a Reconstruction that, some would argue, continues today—is a debate over what constitutes a *just* America.

⁷ Some of the texts I adduce and analyze may be considered anachronistic because they were written either before or after the Founding of Reconstruction; nonetheless, I include them in this thesis because I argue that the ideas prominent in these texts speak to the issues that pervaded these eras. In that respect, they are fitting for analysis.

Variants of Liberty and Equality

There are three distinct and broad conceptions of liberty that have circulated since the Enlightenment: negative liberty, positive liberty, and Republican liberty.⁸ In the sense of negative liberty, a citizen is free or liberated if he or she lives in an area or jurisdiction in which there is complete noninterference by any semblance of authority.⁹ It is synonymous with anarchy or the state of nature: a location in which any codified governance is absent.¹⁰ There are no laws, rules, or hindrances.¹¹ The characteristics of this domain, however, are not to say that the populace therein will necessarily devolve into primitive behavior; there is simply no moral or legal authority to obey.¹² Hence, the concept is termed “negative” because of the absence of any interference.¹³ In the sense of positive liberty, each citizen is entitled to a claim to the state’s assistance pursuant to securing access to a liberty, despite any other’s negative liberty interests in conflict.¹⁴ Hence, the concept is termed “positive” because it demands labor of another in order to manifest liberty.¹⁵ In the sense of Republican liberty, government is erected to secure freedom *from* primitive actions.¹⁶ In the Hobbesian view, people are willing to surrender some of their freedoms in order to preserve their safety and security.¹⁷ For instance, the desire not to be killed by another enables one to consent to the restriction forbidding murder; the desire to have punitive measures enforced on murderers overrides any animalistic desire to murder another.¹⁸

⁸ Elizabeth Anderson. “Freedom and Equality.” *Oxford Handbook of Political Philosophy*. 2016, 80-89.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ A. John Simmons. “Authority.” *Oxford Handbook of Political Philosophy*. 2016, 27.

¹⁸ Ibid.

Hence, the concept is termed “Republican” because it instills a supreme power to which everyone is subordinate.¹⁹

The distinctions between these variants of liberty are crucial to understanding the United States government. When the Declaration of Independence was drafted, the government erected thereon was predicated upon Republican liberty. The founders did not refuse to codify laws and structures that would govern others; at the same time, they did not create a system that demanded the labor of one to serve another by point of gun. As the 9th and 10th amendments make clear, the federal Constitution is the bedrock of our government but not the complete picture.²⁰ There may exist other rights not mentioned therein, and all other powers not reserved to the federal government are reserved to the states.²¹ Even more locally, all other powers not reserved to the States are delegated to American progeny themselves. The people themselves consent to this limited Constitution. It is, after all, truncated in comparison to Constitutions of other nations. The tripartite framework embedded by Jefferson enjoins that the government is constructed by the people to serve three—and to some, only these three—purposes: life, liberty, and the pursuit of happiness.²² Notably, there is no mention of equality in this tripartite function of governance.

In the Jeffersonian view, the government could only function and could only be just if it was predicated on the self-evident truism that all men are created equal.²³ To understand what Jefferson meant when he termed every man as “equal,” we must attend to the concept of equality itself. As was the general case with liberty, there are three variations of equality in relationship to egalitarianism that seeks to extirpate all forms of social stratification or hierarchy: standing,

¹⁹ Anderson, 82.

²⁰ U.S. Const. amends. IX, X.

²¹ *Ibid.*

²² U.S. Declaration of Independence (1776).

²³ *Ibid.*

esteem, and authority.²⁴ Equality of standing means every citizen is treated the same by the state and institutions of civil society.²⁵ Equality of esteem means every citizen is afforded the same amount of equal dignity and respect.²⁶ Equality of authority means every person is permitted equal voting rights and access to political participation in the Democratic body politic.²⁷ Starting at standing and ending at authority, we may note that with each subsequent variant, the equity grows more intense in scope.²⁸ Standing is the bare minimum localized level, while authority entails the need for federal governmental legislation and social activism to diminish barriers that privilege others.²⁹

On the one hand, the more free we become, the less equal we become. If we are to be let loose absent all restriction, some will inevitably rise to the top of the socio-political and socio-economic pyramid—while others are left struggling for scraps on the dirt. On the other hand, the less free we become, the more equal we become. The more restrictions that are imposed on us, the less we are free to pursue the specific happiness to which each individual is entitled. These conflicts invigorated the Civil War; they impeded Reconstruction with the question as to which is more just, and why one over the other affords a better or more perfect and just society. Every person argues differently, and each believes the other's prioritization of liberty versus equality will ruin the United States.

²⁴ Anderson, 43-53.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

The Genesis, Decline, and Death of Civilizations

The tension between liberty and equality can be fatal. In the past, civilizations have suffered tremendously owing to both of their influences or lack thereof. In Oswald Spengler's *The Decline of the West*, the author argues that each civilization—Babylonian, Egyptian, Chinese, Indian, Classical (Greek and Roman), Arabian, Western, and Mexican (Aztec/Mayan)—undergoes a life cycle.³⁰ That is, each civilization undergoes a birth, growth, decline, and death.³¹ A civilization begins its growth rate as a peasantry society, then develops into a culture, and starts to decline once it hits the civilized stage.³² According to Spengler, those civilizations declined because, once they evolved from the peasantry stage to that of culture and then to that of civilization, they began to forgo their moral and legal roots—while some play havoc with them altogether.³³

Bearing this template in mind, as well as Spengler's argument that each civilization should be evaluated on its own merits, it stands to reason that the United States, a part of the West or the Occidental, is undergoing the same life cycle. Although there is some recent debate over when the United States was founded (considering *The New York Times*' "1619 Project"), much of the primary debate focuses on when the United States first started to decline.³⁴ In Spengler's view, a civilization's decline inevitably leads to its death.³⁵ It is not a question of "if;" it is a question of "when."³⁶ But the United States did not literally perish once the Civil War concluded. Reconstruction occurred, and the nation still exists today. So, then, we will focus on

³⁰ Oswald Spengler. *The Decline of the West*. 1918. 24-27.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ "The 1619 Project." <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html>.

³⁵ Spengler, 25.

³⁶ Ibid.

the tension between the construction of the nation versus its Reconstruction because it occupies a position on Spengler's spectrum that is a mix of two: growth after a decline. In the case of construction, the nation grew from the ashes of the failed Articles of Confederation. In the case of Reconstruction, the nation grew from the ashes of the bloody Civil War.

More broadly, the Reconstruction attempt was not only to reintegrate the South but to reaffirm the country's identity. What that identity was—and still is—has been a subject of contention. Most people arguably believed they were making America a better place, however much we may today think to the contrary. These disagreements interminably kindle the reexamination of how to define a member of the civilization in question. Concurring in part with Spengler's thesis in his book, *A Study of History*, author Arnold Toynbee writes that during the disintegration of society, its citizens reevaluate not merely the principles on which it is based but also whether those principles are just for the current time.³⁷ Those who operate under the worldview that is “archaism”—a desire to return to the past—will want to return to an earlier form of governance.³⁸ Those who will operate under the worldview of “futurism”—a revolutionary mode in which old ideas are scrapped—will want new principles, beliefs, and/or modes of behavior deviant from the elderly forms of life and culture.³⁹ These contemporary notions will supplant the old.⁴⁰ Ultimately, firebrands will emerge from all aisles, well-equipped with white heat to defend their respective causes.⁴¹

To understand each cause and their respective justifications, we must attend to the history of each, whence these ideas derived, and why they flourished in their time. To extrapolate the

³⁷ Arnold Toynbee, *A Study of History*. 360-75.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

sentiments of the zeitgeist during American Construction and compare them to those of Reconstruction, we must attend to the writings of the time as much as the political theory that fomented it. To that end, we must return to the locus where these ideas were inimically viewed. For that, we must attend to martial law, absolute monarchy, centralized authority, the Constitutional Convention, Reconstruction, and the Civil Rights Movement, respectively.

“I Am the State!”

Imagine a world in peoples’ sole identity is reduced to cannon fodder. In this world, a person is nothing but a plaything of the State. They are only some of the many, used as means to achieve ends they are told are worth dying for. To preserve the State as a whole, they are told, sometimes sacrifices must be made for the “greater good.” Often enough, throughout human history, this characterization was apt. This characterization is not to say that each person felt happy with their compliance. The ideal approach is situating oneself to find that compliance should no longer be contested. Such behavior requires one to willingly render himself subservient to this centralized authority in the hope of currying favor and in the process avoiding punitive measures. The hope would be to both hold the stoic view, and much in keeping with determinism, learn to love the state. Learning to love the state would bring happiness.

In the Max Weber view, to learn to love the state means its subject must recognize its authority as legitimate.⁴² One of the ways in which one views authority as legitimate is believing it has the right to rule.⁴³ Thomas Hobbes operated in this mold when he spoke of authority: “By authority is always understood a right of doing any act; and *done by authority*, done by commission or license from him whose right it is.”⁴⁴ In other words, the way in which rulers

⁴² Max Weber. “Politics as a Vocation.” <http://www2.southeastern.edu/Academics/Faculty/jbell/weber.pdf>.

⁴³ Ibid.

⁴⁴ Thomas Hobbes. *The Leviathan*. 1660, 113-14.

proclaim their “God-given” authority is hardly rational; usually the approach is merely to proclaim it has the right.⁴⁵ Taking the pragmatic view, the state is erected because it was constructed by someone to force a worldview onto others.⁴⁶ Though that force does not always have to be materialized through physical violence—Walter Benjamin, for instance, claims that positive law, or the imposition of rule, could be violence so long as it is coercive action—often it is so.⁴⁷

Despite the consensual dubiousness surrounding what is essentially imposed rule, Hobbes maintains that this form of authority is consensual.⁴⁸ Even if one were forced by point of sword to consent, the consent nonetheless exists, he argues.⁴⁹ One could presumably argue that there was no freedom of choice, but technically there was: death⁵⁰. Though that is an undesirable choice, Hobbes contended, its existence is sufficient to prove that there is free will, defined by the agency theory approach as the “ability to do otherwise.”⁵¹ Given that the ability to do otherwise exists, making the choice to consent to authority, to Hobbes, levels it with affirmative consent.⁵² And since it is the innate desire of every human to stay alive, any arrangement made pursuant to that desire is more than likely to be embraced.⁵³

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Walter Benjamin. “Critique of Violence.” 1921, <https://criticaltheoryconsortium.org/wp-content/uploads/2018/05/Benjamin-Critique-of-Violence-1.pdf>.

⁴⁸ Hobbes, 124.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

John Locke disagreed with Hobbes's definition of authority.⁵⁴ He charged that it was too monolithic in view compared to his own, the more sophisticated and realistic picture.⁵⁵ Locke saw authority emanating first from parentage and the rearing of children.⁵⁶ Because children lack rational capacity to make informed and thoughtful decisions, they must first be controlled physically and mentally by their parents, who then make their decisions for them.⁵⁷ Locke spoke of the parent's role as "[governing] over [the children] for [their] good, till they come to the use of reason."⁵⁸ Under this umbrella, the authority exercised by parents is not an interminable right but a temporary authority generated for the sake of securing their children's safety.⁵⁹

If authority can only exist temporarily, the hope is that it one day dissipates as it is no longer needed. It is no longer needed when its subjects act the way they should: Once children become adults and act as adults do, there is no need for their parents to continue looking over their shoulder every minute. The task for authority, then, is to inculcate in its subjects the notion that not only is the authority that it instills *de jure* legitimate but for its constituents to mirror its actions and compliance. Authority relaxes its firm hold when the people are ideologized into a state wherein they dare not question or challenge the legitimacy of the state.

In Herman Melville's *Billy Budd, Sailor*, the *Bellipotent* is the model for the Hobbesian State of authority.⁶⁰ In this schema, Billy Budd is the epitome of the obedient soldier that authority—the martial law of the *Bellipotent*—both idealizes and demands. From the time he is summoned from his ship, *Rights-of-Man*, to engage in the war effort, he does not challenge the

⁵⁴ Simmons, 28.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Herman Melville. *Billy Budd Sailor*. 2017.

authority of the ordinance.⁶¹ In fact, the only emotional hesitancy he feels is directed toward leaving his shipmates⁶². Budd does not disparage the order; he readily complies with it⁶³. Once he is aboard the *Bellipotent* and bears witness to a brutal slashing done to his shipmate, he does everything he can to avoid trouble and receive acclaim: he follows orders uncontestably, mops the ship deck spot-clean, hobnobs with his new shipmates, obeys curfew, and feels moral outrage when awakened by a shipmate who deigns to offer him two guineas in exchange for his cooperation.⁶⁴

The alacrity with which Budd acts in disparaging the actions of this shipmate demonstrates that his moral compass is aligned with that of the ship's authority. Instead of entertaining for a moment the possibility of taking that money, Budd lambasts this person for even raising the suggestion:

But Billy broke in, and in his resentful eagerness to deliver himself his vocal infirmity somewhat intruded. "D—d—damme, I don't know what you are d—d—driving at, or what you mean, but you had better g—g—go where you belong!" For the moment the fellow, as confounded, did not stir; and Billy, springing to his feet, said "if you d—don't start, I'll t—toss you back over the r—rail!"⁶⁵

That Budd can barely bring himself to speak a complete sentence due to his stuttering betrays how inculcated he is to respect the law of the ship even during the nighttime and in a setting where no one else could presumably hear him. This is not a case in which Budd wants the money but must uphold the will of the ship. It is a case in which he must uphold the will of the ship—

⁶¹ Ibid., 5-6.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid., 21-24.

⁶⁵ Ibid., 33.

insofar as in public—but he exercises his own volition in so doing, thereby legitimating the pyramid under which he is placed.

It is precisely this volition in complying with the ship's authority—even as it demands he pay no mind to the halter they hang around his neck—that renders Budd aghast when he listens from his fellow shipmate, the foretopman, as he explains, “Billy Budd, *Jemmy Legs*” (meaning the master-at-arms) ‘is down on [him]’.”⁶⁶ Budd's disbelief is not illogical; he has, as far as he himself has interpreted, not done anything that runs afoul with what his orders are as a subject of the ship. There is, however, one caveat he misconstrues: his first meeting with the master-at-arms, John Claggart. It is this first meeting that gives rise to Claggart's disdain for Budd in perceiving him as a rebel.⁶⁷ When the latter is sitting at lunchtime, he accidentally spills his soup pan on the floor, and its liquid contents make contact with Claggart's feet, thus creating the radar he now places on Budd.⁶⁸ Budd believes their meeting concluded benevolently, but that is not so.⁶⁹ Thereupon, Claggart begins to view Budd as a hostile force.⁷⁰

Hostile forces are dangerous because they are unpredictable and thus more than potentially dangerous to an authority that seeks to maintain its place and legitimacy in perpetuity, an authority that will not brook anything to the contrary. When Claggart sees Budd make such a careless mistake—and the fervor it erupts among the crewmen—he knows it is hostile to the yoke of martial law.⁷¹ As the numbers suggest, if Budd can garner this much support from something as trivial as spilling soup, no wonder the numbers he could amass if he convinced

⁶⁶ Ibid., 24.

⁶⁷ Ibid., 24-25.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid., 25-28.

⁷¹ Ibid.

everyone to join in a revolution against the ship. And of course, revolutions are inimical to the lesser-numbered authority that is Claggart, Captain Vere, and the few others who occupy the higher echelons on board. Budd is arguably the most liked crewman on the ship, but this much eros directed toward one who is not a branch of the state diminishes the respect done to it. Because eros can often shroud the truth, the less eros directed toward authority, the greater the potential for awakening the people to the realization that that authority is illegitimate (given that they flimsily consented to it inasmuch as they sought to stay alive). If Claggart is to preclude the possibility of Budd instigating a mutiny on the bounty, he must eliminate Budd himself. That is why Claggart tasks his assistant with tempting Budd to take the two guineas; that is why Claggart reports Budd's alleged role in a mutiny to Vere.⁷² Either way, Budd will be court martialed, tried, and sentenced to death for daring to partake in actions contravening the authority of the ship.

Budd *will* be found guilty if we consider the implications of his stuttering while under pressure. If we think of stuttering not only as the repetition of sounds but also, more tellingly, the inability to express oneself, it stands to reason that Budd has trouble expressing individuality because he lacks it. Budd does concededly stand out among his crewmen, but his singled-out traits are directly tied to his being a phenomenal agent of the State. His other qualities, likewise, such as untempered brawn, are inextricably intertwined with the deference he holds for the ship. If he ever held any individuality, it ceased to exist when he was taken off the *Rights-of-Man* and suffused within the Rousseauian general will (as Rousseau famously proclaimed in *The Social Contract*: "Whoever refuses to obey the general will be forced to do so by the entire body . . .")

⁷² Ibid.

of the ship.⁷³ In the process, all individual rights Budd had were lost due to the necessity of rendering himself subordinate to the authority of the ship. On the ship, authority overrides subordinates; the subordinates are individually valueless but infinitely valuable once suffused within the greater yoke of authority. This is why he cannot attempt to assert his individuality in a martial law context. Claggart is aware of this fact when, standing face-to-face with Budd, he charges him with spearheading a mutiny.⁷⁴ We need not mince words in saying that our knowledge of Budd's recalcitrance about defying authority allows us to conclude he would never do such a thing. Therefore, Budd's difficulty in putting together a cohesive reply illustrates his inability to grapple with his own personage.

Budd, then, proclaims his individual value when he departs from upholding the will of the Hobbesian state at the end. After he stutters, he is unable to speak at all—until he does. When he strikes Claggart so forcefully that it knocks him down and murders him, he has, since departing the *Rights-of-Man*, asserted his individuality.⁷⁵ This action is not in keeping with the general will of the ship. There is to be order on the ship, not chaos in the form of murdering a fellow brother. Budd acts in his own interests, not in those of the ship. He asserts his individual right to a presumption of innocence in that he is appalled that this accusation is being charged to him:

Not at first did Billy take it in. When he did, the rose-tan of his cheek looked struck as by white leprosy. He stood like one impaled and gagged. Meanwhile the accuser's eyes, removing not as yet from the blue dilated ones, underwent a phenomenal change, their wonted rich violet color blurring into a muddy purple. Those lights of human

⁷³ Jean-Jacques Rousseau. *The Social Contract*. 1762, 12.

⁷⁴ Melville, 45-46.

⁷⁵ *Ibid.*, 47.

intelligence, losing human expression, were gelidly protruding like the alien eyes of certain uncatalogued creatures of the deep. The first mesmerist glance was one of serpent fascination; the last was as the paralyzing lurch of the torpedo fish.⁷⁶

As Budd is arguably the most obedient soldier on the ship and is lauded by his shipmates as their leader, it makes sense that he would not take in the totality of this charge. And when he does take it in, it is evident from his physical reaction that the very thought that this charge is leveled against him sickens him to his core.⁷⁷ He has been singled out by authority, by Claggart, whose visceral transformation from lassitude to a sprightly “lurch” suggests Budd has become disbanded from the mainstay.⁷⁸

In fatally punching Claggart, Budd asserts his prioritization of individualism over that of the ship, and synonymously, that of the ship, though much to his detriment. If Budd sought to uphold the will of the ship, he would have presumably conceded to this crime even if he did not commit it. In fact, perhaps his sentence could have been commuted by Vere or the military tribunal he summons, given that Claggart would have remained alive to do so. We must remember that Budd was not sentenced to death for instigating a community. Although the story is clear about the historical context (it takes place shortly after the Nore mutiny during Great Britain's conflict with Napoleonic France, so the danger of a mutiny looms in the background during the plot) Budd is not seen as a danger to the Captain until the moment he murders Claggart (“Struck dead by an angel of God! Yet the angel must hang!”).⁷⁹ Claggart knew Budd was dangerous because he caught him in a moment of careless recklessness in the mess hall and

⁷⁶ Ibid., 46.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid., 48.

saw his ability to invigorate the people at large. Vere, watching Budd accidentally murder Claggart with one mere blow, knows Budd had to die because he has, now in truth, began a mutiny on the ship and its authority.

Vere himself makes clear that their adherence to martial law precludes any exceptions to the letter of the law:

For suppose condemnation to follow the present proceedings. Would it be so much we ourselves that would condemn as it would the martial law operating through us? For that law, and the rigour of it, we are not responsible. Our vowed responsibility is in this: that however pitilessly that law may operate in any instances, we nevertheless adhere to it and administer it.⁸⁰

In this domain, it is a truth universally acknowledged that any individual who cannot comply with the authoritative will is a life not worth living or sparing. It is an admittedly slippery slope: if Budd's ability to maintain composure, when leveled with an unfounded accusation, results in murdering a senior officer, there is no limit to the adverse opportunities that readily present themselves. Never mind any implications that may arise in sentencing Billy to death. The safer option is to dispense with the one who has challenged martial law's rift in the social fabric and then return to stability thereafter. The ideological insurance is to display the execution of Budd for all the crewmen to observe the consequences of daring to fail to comply with the legitimacy of the Hobbesian State.

Murdering Claggart, then, violates the sanctity of the Hobbesian state. The murder is an act of individuality because it violates the power hierarchy. By murdering a person of the upper echelons, Budd departs from the obeisance of the expected crewman through engendering

⁸⁰ Ibid., 55-56.

instability aboard the ship, for there will presumably be disputes over who is to take his place, if anyone, how that new person will govern, whether there will be penalties involved for the crewmen, and whether the crewmen will now seek to rebel in the face of potential oppression. The taking of Claggart's life removes the bedrock for the stability of the ship.

Although the murder is an act of the individual, Budd's last moments reveal to us that he has not dissented, in full, from the general will. To the contrary, Budd completely consents to and justifies the will of martial law. When the soon-to-be-executed proclaims "God bless Captain Vere!" Budd legitimates the authority of the Captain, despite the fact that he still dies.⁸¹ Budd understands that the authority must trump the individual if the harmony of the ship is to be sustained:

Without volition, as it were, as if indeed the ship's populace were but the vehicles of some vocal current electric, with one voice from aloft and aloft came a resonant sympathetic echo: "God bless Captain Vere!" And yet at that instant Billy alone must have been in their hearts, even as in their eyes.⁸²

Budd's death unites the crewmen. For the state to continually flourish is why Budd remains peaceful during the entirety of his execution, not fighting or shouting expletives but facing his punishment as he believes he rightly should.

By becoming one under the State again, Budd, in turn, upends the stereotype of a rebel, and in the process existentially challenges the legitimacy of Vere, the microcosm of the Hobbesian despot. After Billy is executed, the ship clashes with a rival ship entitled the *Athée* (the Atheist).⁸³ The name of the ship is telling, for it suggests a contrarian view to that of the

⁸¹ Ibid., 66.

⁸² Ibid.

⁸³ Ibid. 70.

masses. Given that atheists are proportionately small in number compared to those who proclaim a religious faith, they are a minority who hold a view that runs against the tenets of Christianity: that history and time progress forward; there is an order to the universe discoverable by human investigation; the will of the Almighty is just. If we think of Atheism in the less contemporary sense: that it harkens back to Pagan tenets that history is cyclical; the universe is a chaotic, inscrutable place; the will of the Almighty—or Sovereign Will—is not just, we may find that these notions precisely characterize the *Bellipotent*. Vere dies uttering his final words, “Billy Budd, Billy Budd,” because he remembers the one person who, in celebrating the person who pressed the military tribunal to safeguard martial law above one mere man, made him reevaluate his authority.⁸⁴

By the end, Budd was not one mere man, nor did he show himself to be mere fodder. The soldiers' reverence for Budd after his death, especially how they compose verse in which the subject is the eponymous character, inadvertently reveals their disdain with the ship. We know this because they are fully aware of Budd's hand in murdering Claggart, yet they venerate him by way of his spar. Much more, they venerate him as one would venerate The Savior, Jesus Christ: “The spar from which the foretopman was suspended was for some few years kept trace of by the bluejackets. Their knowledge followed it from ship to dockyard and again from dockyard ship, still pursuing it even when at last reduced to a mere dockyard boom. To them a chip of it was as a piece of the Cross.”⁸⁵ The smallest piece of the spar is as sacred to them as their Lord. By that same token, the crewmen have supplanted the Sovereign of the ship with the

⁸⁴ Ibid., 71.

⁸⁵ Ibid., 72.

Sovereign of Christ. Vere collapsed into Paganism, but the crewmen have discovered a new calling and order to follow: that of the individual, that of “Billy Budd, Billy Budd.”⁸⁶

The Awakening: Revolution Now

For the first time, the authority of the State of the *Bellipotent* has been supplanted. In lieu of worshipping at the altar of martial law and all its dubious implications heretofore considered necessary to the overall stability of the ship at large, the notion of safeguarding individual liberty against the yoke of the centralized State has come to the fore. No longer does communitarianism—“A theory or ideology which rejects as divisive both the market-led theories of political conservatives and the liberal concern for individual rights, advocating instead a recognition of common moral values, collective responsibility, and the social importance of the family unit”—flourish insomuch that it eclipses the sanctity of each component part, each individual subject of the State.⁸⁷ But there still remains the issue that people have yet to assert themselves as people rather than subjects of a higher power. To be a person implies sovereignty, agency, and the ability to make one’s own decisions through his or her volition and independent of external forces that may contest that ability. At that, the crewmens’ awakening is but a gray zone in the sense that they have demonstrated a reverence for Budd—and by virtue have acknowledged his righteousness over that of Vere and Claggart—but they do not, judging from the conclusion, make the effort to lead a mutiny.⁸⁸ The ending implies they will continue to live and serve for the State, running afoul with the notion that that monarchy is unjust:

But Donald he has promised to stand by the plank;

⁸⁶ Ibid.

⁸⁷ “Communitarianism, n.” *Oxford English Dictionary*. <https://www-oed-com.libproxy1.usc.edu/view/Entry/250708?re-directedFrom=communitarianism#eid>.

⁸⁸ Melville, 72.

So I'll shake a friendly hand ere I sink.
 But—no! It is dead then I'll be, come to think.
 I remember Taff the Welshman when he sank.
 And his cheek it was like the budding pink.
 But me they'll lash in hammock, drop me deep.
 Fathoms down, fathoms down, how I'll dream fast asleep.
 I feel it stealing now. Sentry, are you there?
 Just ease these darbies at the wrist,
 And roll me over fair!
 I am sleepy, and the oozy weeds about me twist.”⁸⁹

The repetition of the notion of “sleep” can call to mind two interpretations. Given the context of the scene, it can imply death. But if we consider the figurative aspect of death, we find that the poem suggests the crewmen's desire to quiet their mental capacities. The fact that the speaker requests the sentry, who is generally tasked with keeping guard over others, to put himself to sleep suggests the crewmen have opted for making peace with the establishment, though that establishment is unjust because it treats each of them as means to an end. Because of the injustice this establishment practices, it is just that the people themselves must be the ones to overthrow it.

To spearhead a revolution that advocates for these individual rights will require the commonweal to sanction and/or participate, for it requires a large-scale effort that must actuate from the ground as much as it does from the brain. Unfortunately, that is easier said than done. Many times throughout history, that revolution failed. Indeed, this desire to overthrow the establishment but failing to do so features in the Mark Twain novel, *A Connecticut Yankee in*

⁸⁹ Ibid., 73-74.

King Arthur's Court, in which the eponymous character, Hank Morgan, finds himself in what he perceives to be antiquated times of English people at the behest of the Roman Catholic Church.⁹⁰ Morgan, a 19th century product of his time, immediately notices that the issue with amassing a revolution is not that the people have yet to awaken to their subordinacy to the State; the issue is that they believe they are awakened when they are truly not so at all:

The most of King Arthur's British nation were slaves, pure and simple, and bore that name, and wore the iron collar on their necks; and the rest were slaves in fact, but without the name; they imagined themselves men and freedmen, and called themselves so. The truth was, the nation as a body was in the world for one object, and one only: to grovel before the king and Church and noble; to slave for them, sweat blood for them, starve that they might be fed, work that they might play, drink misery to the dregs that they might be happy, go naked that they might wear silks and jewels, pay taxes that they might be spared from paying them, be familiar all their lives with the degrading language and postures of adulation that they might walk in pride and think themselves gods of this world. And for all this, the thanks they got were cuffs and contempt; and so poor-spirited were they that they took even this sort of attention as honor."⁹¹

These citizens operate under agency, but the real picture could not be more different. Although Morgan and any rational person could decipher that they are virtually slaves, the subjects do not decipher this truth. All they know is that they are privileged by their standards, even though Morgan's standards and those of our own today prove quite the opposite.

⁹⁰ I will use "The Yankee" and "Morgan" interchangeably.

⁹¹ *Ibid.*, 54.

Thus, there is an evident difficulty in amassing a large-enough populace to get with progressive notions, considering that the notion of duty to the King and the Church are difficult to slacken. If the very idea is even proposed, dire punishment is immediately on the table. This obstinance is blatant in Camelot's perceptions of the characters King Arthur and Merlin. Whereas Arthur is feared because he is the monarch and viewed to be legitimate authority by virtue of his bloodline, Merlin is feared not because of his magical power in and of itself but for the capable harm it can afflict on the citizenry.⁹² When Clarence is first introduced, it is evident that he bears a heavy fear for the ramifications of disobeying authority:

“Oh, in sooth, there is need! I do want to tell you, but--”

“Come come, be brave, be a man--speak out, there's a good lad!”

He hesitated, pulled one way by desire, the other way by fear; then he stole to the door and peeped out, listening; and finally crept close to me and put his mouth to my ear and told me his fearful news in a whisper, and with all the cowering apprehension of one who was venturing upon awful ground and speaking of things whose very mention might be freighted with death.⁹³

One sentence later, Clarence begins talking about Merlin and the magical power he possesses over the dungeon.⁹⁴ That these two sentiments succeed each other allows us to infer that much of Clarence's angst is principally owing to Merlin. Clarence's concern is warranted, for Merlin's power is on another plateau compared to the resources available to Clarence and others of his socio-economic class.

⁹² Ibid., 33.

⁹³ Ibid.

⁹⁴ Ibid.

Consequently, Merlin is feared because of the power he holds over the citizenry. To free the populace, The Yankee must free Merlin's hold over them and himself. Arthur poses a danger to the citizenry at large, but only Merlin poses a direct danger to The Yankee. Because Morgan was able to convince Arthur that he would rob the sun should he be executed, it is clear how naive Arthur is for never stopping to question whether Morgan is bluffing.⁹⁵ Morgan is able to leverage Arthur's naivety to save his own life.⁹⁶ But Merlin, due to his magical prowess, does doubt Morgan's authenticity and knows him to be a danger to his own authority.⁹⁷ It is Merlin who does the job of convincing the citizenry that Morgan is a fraud, that he does not possess any magical powers.⁹⁸ The irony, of course, is that Morgan possesses the power of fooling everyone into believing his scheme of stealing the sun.⁹⁹ His superhuman power is the cognizance that an antiquated time begets antiquated thinking.

More important, that Arthur relies on superstition over empirical tests places him at loggerheads with Morgan. Barring the fact that Morgan comes from the 19th century and reaps the benefits of that time (chiefly with regard to the advancement of science), Morgan is at least Enlightened enough to first ponder the idea that not everything nor everyone should be believed. Morgan questions the basis for authority before he proceeds to comply with it. His proclivity for investigation derives from a long-stemming heritage of Enlightenment thought and values. More specifically, the notion that the Bible is not the sole basis for truth is nonexistent in King Arthur's Court; the notion that there are questions the Bible does not solve is a given in Morgan's time. Given the history of Aristotle, the theory of natural law, and the teleological

⁹⁵ Ibid., 18.

⁹⁶ Ibid.

⁹⁷ Ibid., 185.

⁹⁸ Ibid., 18.

⁹⁹ Ibid.

pursuits that fomented the Renaissance and Enlightenment, we observe that the inadequacy of the Bible in dealing with material phenomena was what gave rise to thinking outside of its box and cultivating the world in which Morgan lived.

The citizens of England think much differently, as they are under the same peremptory worldview in which Arthur himself is caught. This thought disparity forecloses the idea of him succeeding at overthrowing the authority of the State. When news of Morgan's power spreads, people from all over flock to see with their own eyes the man who possesses powers above that of a mere human.¹⁰⁰ In elevating his significance to that of a superhuman, he is elevated to a higher power over the common citizen. The catch-22, though, is that Morgan himself disdains this aristocratic mold of governance. When Morgan becomes arguably the most powerful person in the kingdom, especially insofar as it is up to him to persuade the King to spare Merlin from execution, he feels this is unwarranted.¹⁰¹ Just because Morgan derives from a privileged time does not mean he should be worshipped at the altar by the commoners, nor anyone in general.¹⁰² It is not untoward that people admire him for his "gifts." It is untoward that people can *fear* him because his power suggests he can harm them at his whim. There is nothing that can stop him from doing so, not Merlin, Arthur, nor any codified law that protects individual human life and dignity. The issue is that he was not elected by the people to hold this authority; it was by happenstance that he found himself in this century inasmuch as it was by happenstance that the King himself was born entitled to the throne by virtue of his familial heritage. Morgan would be a just leader if he were chosen by the people—not bloodline nor the Church.

¹⁰⁰ Ibid., 166.

¹⁰¹ Ibid., 333.

¹⁰² Ibid., 340.

This demand for a consensual leadership is taken to its greatest extent when Morgan fails to realize that, in desiring to overthrow the State when the people themselves do not consent, he is running afoul with the same popular sovereignty he so dearly upholds. For instance, Morgan refuses the title that could be granted to him by the King, for the King is not England. Emmanuel Kant, Jean-Jacques Rousseau, Locke, and Hobbes all agreed that there was nothing naturally authoritative about democracy because it requires consent in the first place. In this schema, the people as a whole are England.¹⁰³ And a title should not be used to address him because the use of it presupposes he has earned a spot of reverential authority, even if he has not. Only after he has earned the acclaim of popular sovereignty does he find the title they grant him, “The Boss,” to be justified.¹⁰⁴ Yet at the same time, Morgan spurs the campaign to distinguish religious schools from secular schools.¹⁰⁵ We know his campaign is an example of upholding what would later be religious freedom. From this act, we can deduce the difference between what The Yankee believes is the instilment of progressivism into this dark-aged world but what is truly equivalent to the same autocracy of Arthur himself. By harboring an array of confidential agents, intended to undercut the authority of aristocracy and superstition, Morgan is amalgamating his power against institutions who do not see him as just. This act impugns for whom is he fighting: Are the church and all who adhere to it not included as part of the people? They may be part of the establishment, but the establishment here is sanctioned by some of Camelot, “Nothing could divert the citizens of Camelot.”¹⁰⁶ In disregarding some of the people, Morgan has become the

¹⁰³ Simmons, 31.

¹⁰⁴ *Yankee*, 302.

¹⁰⁵ *Ibid.*, 314.

¹⁰⁶ *Ibid.*, 115.

very thing he has always fought against: a monarch. The Lord Acton said it best: “Power corrupts, and absolute power corrupts absolutely.”¹⁰⁷

The Yankee, up to his point, hardly realizes his dualistic nature. In fact, as the novel progresses, he still clings to the idea that he is the liberator of the commoner. When he and Sandy travel across the countryside where they soon encounter a group of peasants working on the road, The Yankee hobnobs with them, as opposed to Sandy, who refuses to be proximally close to the lowest of the low.¹⁰⁸ While hobnobbing, The Yankee puts forward the conjecture of a world in which they are not heavily taxed, their freedoms not curtailed, and a system of leadership in which leaders are democratically elected.¹⁰⁹ When one man rails against such a notion—proclaiming that it is unjust to renew the creed of a nation or create a new form of government other than top-down rule—it inspires The Yankee to run against that wish, thus illustrating that what *he* considers to be just is what is truly just.¹¹⁰ We must remember that hardly anyone has yet to align with The Yankee’s wishes; there have hardly been any expressions by these citizens to do away with the current system and replace it. Due to this dearth of activism, if one is to try and instill a form of government that the people themselves as a whole have not sanctioned, they are not acting democratically. Even those who think they are doing good are truly not, for the absence of the consent of the people—no matter how good one may consider his or her ends—is immoral.

The Yankee’s disdain for Camelot thus evolves from one of the aristocracy to one of all hierarchy, featured in a bevy of instances. First, he convinces the knights-errant of the area to

¹⁰⁷ John Emerich Edward Dalberg-Acton. “Letter to Archbishop Mandell Creighton.” 1887. <https://history.hanover.edu/courses/excerpts/165acton.html>.

¹⁰⁸ Ibid., 212-17.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

wear sandwich-board advertisements.¹¹¹ Second, he equates the noblemen to jackasses, and he prides himself with ridiculing the very idea of knighthood.¹¹² Second, his plot to undermine the Church displays his disdain for the agents of the State as much as the State itself.¹¹³ Fourth, he ridicules the essence of chivalry when he instructs the missionary knights to force their products and advertisements on the knights they defeat in battle.¹¹⁴ Fifth, he exploits the soap missionaries in the hope of having their cleanliness disseminate broadly to all the citizenry, which will then allow for everyone to be on the same level, for all to be equal.¹¹⁵ He undergoes this mission even in the face of Arthur himself, whom Camelot knows to prefer noble defendants over the commoners.¹¹⁶ Sixth, to make Arthur realize the virtues of equality, Morgan suggests they replace the Knights of the Round Table with lower ranked regiment officers, and the higher ranks can be filled by Arthur's immediate family only after they renounce their ties to regalism.¹¹⁷

When this idea fails, The Yankee realizes that the principles held by the commoners are just as noxious and stratified as those shared by Arthur. The aristocracy, then, must be taken apart with ideas as much as with weapons if Camelot is to have the justice Morgan pursues. The Yankee's plan to disguise himself as a peasant betrays his inner feelings toward the push for egalitarianism.¹¹⁸ The King is simply unable to act and speak like a commoner because he has been so brainwashed by the class system that is inextricably intertwined with England.¹¹⁹ At

¹¹¹ Ibid., 87.

¹¹² Ibid., 105.

¹¹³ Ibid., 109.

¹¹⁴ Ibid., 111.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 318.

¹¹⁸ Ibid., 215-20.

¹¹⁹ Ibid., 193.

another point, The Yankee is about to excoriate someone lauding British liberty right as he and the King are manacled and about to be sold as slaves.¹²⁰

So, in order to prevent absolute monarchy and the ramifications of social stratification that gave rise to the aforementioned examples, the whole system needs to be revamped in the spirit that The Yankee sees fit, and that does not tolerate any room for treating some better than others. After he meets Marco, Morgan is disgusted that he engages in that behavior: He venerates monks, lays at the feet of the gentlemen, makes small talk with freemen, but then proceeds to excoriate slaves.¹²¹ The solution to this kind of intolerance, to The Yankee, is to first fix the issue of private property.¹²² Given that private property and money often go hand in hand, the conversation between Dowley and The Yankee about increasing wages for workers demonstrates the latter's commitment to securing justified pay for all plebeians alike.¹²³

When that task, too, fails, the need for the revolution materializes even when the ideological support is lacking. On the one hand, one of Morgan's chief aims while in this time was to make Arthur realize the immorality of the aristocracy, but he only succeeded in part. Arthur does not wind up changing his views on indenture; he continues to adhere to his dogma when he comments that the unjustly imprisoned sons who are taken in for killing the lord of their manor are to be executed righteously.¹²⁴ Because the lord ranks higher, according to Arthur, he has the full legal authority to punish them in the manner he sees best.¹²⁵ When Arthur grows upset with the level of the crowd's acclaim, they obsequiously kneel and beg his forgiveness,

¹²⁰ Ibid., 270.

¹²¹ Ibid., 242-270.

¹²² Ibid.

¹²³ Ibid., 263.

¹²⁴ Ibid., 232-41.

¹²⁵ Ibid.

illustrating how capricious they still are to authority.¹²⁶ To whomever holds the power in the moment is to whomever the people are subordinate.

The Yankee's defeat of all the five hundred knight errants at once solidifies the fact that he has destroyed the power hierarchy and relegated everyone to the same level. When Arthur is no longer in their mind, the defeat evokes a shift in the way Camelot views their system of governance. At this point, after the violence has already erupted, the people are now in the mold to form a new government, one without aristocracy and social-class distinctions. As the text suggests, The Yankee immediately issues an injunction to the people on the whole, an injunction declaring antiquated and forbidden all these terrible institutions of monarchy, aristocracy, and the established Catholic Church.¹²⁷ Now, he says, the opportunity for each person to assemble and elect their representatives to govern them in a new republic may come to fruition.¹²⁸

This ending is allegorical to the end of the American Revolutionary War. That was a war that proclaimed taxation without representation is unjust. That was a war that had the temerity to assert that the government must be sanctioned by, in the spirit of Sandy, the "lowest of the low." That was a war fighting against King Arthur's Court, against the establishment of a national Church, and magical notions that privileged some at the disfavor of others for no other reason than tradition. When the War ended, and the majority of the colonists (notwithstanding the Loyalists) endorsed the Enlightened notions of individual rights and thus divorced themselves from the antiquated practices of regalism, aristocracy, monarchy, and all that is hierarchical and stratified, colonists had to determine what the new government would look like—and what it would mean to be an American.

¹²⁶ Ibid., 313.

¹²⁷ Ibid., 340.

¹²⁸ Ibid.

The Onset of Classical Liberalism

The enslavement of martial law and untrammelled deference paid to the authority of the *Bellipotent* was precisely the kind of governance the Founders repugned; the capriciousness of the Camelot citizens and their compatibilist capitulation to King Arthur, Merlin, and The Yankee was precisely the kind of governance the Founders fulminated against in their writings and precisely the kind of system the patriots combated at Bunker Hill, Lexington and Concord, Saratoga, and Yorktown. Jefferson saw in the loyalist sentiment a baselessness because it did not genuinely mirror the will of the people at large; it favored the aristocracy.¹²⁹ At the same time, the minority was hardly if ever permitted dissent or the opportunity to combat the majority.¹³⁰ Instead, the English State was erected by monarchical authority that then crammed down its utopian vision on the citizenry.¹³¹ To Jefferson, writing in the Declaration of Independence, the moral arrow of causality runs thus: If a people congregate to erect the government, then this government then represents those same people.¹³² Reversing the arrow results in a lack of proper representation by the governed.¹³³ Devotees of the Enlightenment and the Magna Carta—the charter of individual rights to which the King of England himself agreed—Jefferson held that there was nothing moral in allowing authority to remain unchecked and act with its best interests in mind solely.¹³⁴ Adams, Madison, Monroe, and other patriot sympathizers charted in the Declaration a litany of grievances against then-King George III, lambasting him for his failure to meet the requirements of a just ruler and a proper elected representative for them in the

¹²⁹ U.S. Declaration of Independence (1776)

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

colonies.¹³⁵ Jefferson, then, advocated for a new form of government, away from absolute monarchy and centralized authority, away from martial law and the Camelot State. It was time to allow the minority and the individual his due deference. It was time to return to revamp Plato's Republic.

Jefferson's worldview formed the bedrock for classical liberalism, a departure from the traditionalism of autocratic rule and an embracement of the fusion of moral and just systems of the past. This bedrock was tripartite: the British liberalism of John Locke, classical Republicanism of Aristotle and Cicero, and reformed Protestant theology of Calvinism.¹³⁶ The Lockean component was infused to argue that we erect government to serve us as much as we serve government.¹³⁷ It is a symbiotic relationship.¹³⁸ Jefferson says it best when he famously declares: "government is derived from the consent of the governed."¹³⁹ The republican component was infused to represent each individual voting for representatives while avoiding the adverse effect of mob rule in the past under Direct Democracy.¹⁴⁰ Christianity infused the first ember of equality; under Christian dogma, every human being is made in the image of God, as the Latin phrase goes: *imago dei*. Because every man is made in the image of God, every man is endowed with sovereignty, free will, and the ability to build and cultivate both themselves and their possessions. And because no one is more supreme than God, man is the most sovereign creation relative to all other organisms. That means every man is equal to one another before God, for, in general, every man is "attendant with shared physical, rational, and spiritual

¹³⁵ Ibid.

¹³⁶ Garrett Ward Sheldon. *Thomas Jefferson and Philosophy: Essays on the Philosophical Cast of Jefferson's Writings*, 2014, 1.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ US.. Declaration of Independence (1776).

¹⁴⁰ Sheldon, 7.

faculties, and entitled to equal treatment by the State, non favored or given special benefits in their private conditions.”¹⁴¹

This bedrock tripartite framework sought to distinguish itself from the hedonism of past failed governments with the infusion of virtue.¹⁴² In so doing, it proclaimed that this new res publica would be rife with autonomous, rational citizens who could actualize the vision of Plato.¹⁴³ Jefferson knew that a liberated populace could quickly collapse into depravity should a moral fiber be absent.¹⁴⁴ With a wave of Christianity teaching citizens to be responsible, selfless, and spiritual beings, Jefferson believed they would act morally compared to the English elitists who feigned religious adherence but elevated themselves on a pedestal with their materialistic pursuits (especially Arthur himself)¹⁴⁵. In America the case would differ. America would satisfy the prerequisite for the ideal Republic: a moral, virtuous, and responsible people in keeping with the ethos of Christ.¹⁴⁶ After all, the Constitution, in Jefferson’s view, was catalyzed by the people themselves.¹⁴⁷ The freedom to associate and speak one’s mind could only function without vitriol if the beholder respected the rights of his compatriots to do so as well.¹⁴⁸ Likewise, only a populace well-versed in the politics of his time could make well-informed decisions.¹⁴⁹ Only a populace with a baseline familiarity in farming and cultivating could responsibly manage their private property.¹⁵⁰

¹⁴¹ Ibid., 11.

¹⁴² Ibid., James J. Carpenter, 137-38.

¹⁴³ Ibid. 138-39.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ U.S. Declaration of Independence (1776)

¹⁴⁸ Carpenter, 138-39.,

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

A Republic

The objective of this Republic would be installing more liberty in the general populace, thereby restraining the pernicious power of centralized authority. But like all who instigate a government anew, the framers disagreed on how to effectuate that aim. The aim was lessening centralized authority, but then the question turned to how much decentralization is proper. The Federalists believed a separation of powers was sufficient to ensure individual rights; the antifederalists believed separate provisions forbidding governmental intrusion were necessary.¹⁵¹ As we know, the Constitution was not the first form of governance for the United States. The first form of governance was the Articles of Confederation and Perpetual Union. It prioritized state sovereignty over federal sovereignty; it deprived the federal government of the power to levy taxes and regulate commerce.¹⁵² This deprivation proved to be fatal, as numerous rebellions such as Shay's and others demonstrated the inadequacy of the federal government to suppress insurrections and rule with strength.¹⁵³ In other words, the balance was tipped too much on the side of state power.

The goal, then, turned to delegating more power to the federal sphere. On the one hand, that idea itself was anathema to antifederalists, and later, Jeffersonian-Republicans.¹⁵⁴ They held to preservation of power within individuals and states religiously, so asking them to even consider returning to centralized authority was out of the question.¹⁵⁵ For them, the prioritization

¹⁵¹ Bill of Rights Institute. "Would You Have Been A Federalist Or An Anti-Federalist?" <https://billofrightsinstitute.org/would-you-have-been-a-federalist-or-an-anti-federalist/>.

¹⁵² Transcript of Articles of Confederation (1777). <https://www.ourdocuments.gov/doc.php?flash=false&doc=3&page=transcript>.

¹⁵³ Ted Brackemyre. "America's First Failure at Government: The Articles of Confederation." 2015. <https://ushistoryscene.com/article/articles-of-confederation/>.

¹⁵⁴ Bill of Rights Institute.

¹⁵⁵ Ibid.

of government was ensuring liberty of its citizens, which would best allow for the pursuit of happiness.¹⁵⁶ As James Madison put it in *Federalist Paper* no. 10: “Liberty is to faction what air is to fire, an ailment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.”¹⁵⁷

Federalists, on the other hand, maintained that, under this new Constitution, there existed avenues for which that centralized authority would be checked. The Executive was not the end all and be all, as was the *Bellipotent* and as Morgan perceived the Church. Legally speaking, the legislature could check the Executive; the Executive could check the Judiciary, and so on.¹⁵⁸ Nonetheless, the compromise was reached in the form of the Bill of Rights, which prescribed exactly what the federal government could not do: establish a national religion, censor speech, quarter troops, strip away arms, etc.¹⁵⁹ The Ninth Amendment elucidated the fact that there exist other liberties not contained in this one document; the Tenth Amendment was adopted to ensure that any rights not therein expressly delegated to the Federal Government would be reserved to the States.¹⁶⁰ By addending these provisions, it is clear that the Framers did not think this Constitution would exist unchanged in perpetuity. The Federal Constitution was but a framework; the state constitutions were afforded arguably a wide latitude of operation so long as they ran their governments in a Republican form and were, at the end of the day, in adherence to the supremacy of the Federal Government.

¹⁵⁶ Ibid.

¹⁵⁷ James Madison. *Federalist* no. 10., in *The Federalist Papers* (Dover Thrift Editions).

¹⁵⁸ U.S. Const. amends. I-X.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

Under this Constitution, the ideal Republic would flourish. The Federal Government would govern all the states but with checks and balances, and the states had the ability also to check their federal government. The Federal Government had power, but so did the states, and so did individuals. To put it another way, power was equally distributed among an array of institutions and peoples. Power was only centralized inasmuch as it was necessary. A strong federal government would secure Republican liberty, protecting each individual's entitlement to life, liberty, and the pursuit of happiness while also stopping him from trespassing on another's entitlement. Returning to the three variants of liberty, this third variant—this Republican form of government—would try to teeter as close to negative liberty as possible in allowing maximum liberty for individuals and states while simultaneously protecting them from anarchy and the harm in the state of nature as well as precluding forced labor of others found in positive liberty.¹⁶¹ as Hamilton put it in *Federalist Paper* no. 15: “Why has government been instituted at all? Because the passions of man will not conform to the dictates of reason and justice without constraint.”¹⁶² This Republican government would accomplish all of that—or so it was said.¹⁶³

If You Can Keep It

The Founding Fathers believed this new government of the United States was just because it is a Republic and thus it represents the people at-large.¹⁶⁴ At the same time, however, the Madisonian dilemma—the doctrine that if a government sides with the majority, it is majority rule, but if it sides with the minority, it is now minority rule (as Hamilton described in a speech at the Constitutional Convention: “Give all the power to the many, they will oppress the

¹⁶¹ Anderson, 120-21.

¹⁶² Alexander Hamilton. *Federalist* no. 15.

¹⁶³ U.S. Const. Preamble.

¹⁶⁴ Ibid.

few. Give all the power to the few, they will oppress the many”)—was said to be mitigated by allowing for the minority the opportunity to challenge the majority.¹⁶⁵ Additionally, because individual rights are now codified and safeguarded, individual rights are guaranteed. Yet in matters of rudimentary government protection, the common good is to override individual animalistic desires. That is, if one wishes to harm another, he cannot do so. Republican government provides a baseline framework that protects citizens from harming each other through legislative and penal measures.¹⁶⁶ Striving to be as close to negative liberty as possible, Jeffersonian-Republicans would hold “that government is best which governs least.”¹⁶⁷ Yet Federalists believed a stronger federal government was necessary so as not to repeat the errors of the Articles of Confederation.¹⁶⁸ To them, creating a strong central government would equate it with King Arthur’s Court or the Catholic Church.

This division over when and how the individual should override the collective was not strictly endemic to the Founding Fathers. In fact, it trickled its way among the states and the localities; it percolated among differing opinions of the body politic. In another Twain novel, *The Adventures of Huckleberry Finn*, the protagonist sees himself in the fray over the justness of the government. On the one hand, he does believe the government is just, most evident when he observes that he “[feels] good and all washed clean of sin for the first time I had ever felt so in my life, and [he] knowed [he] could pray now”¹⁶⁹ only for him to follow some lines later: ““All

¹⁶⁵ Alexander Hamilton. “Madison Debates: June 18th.” https://avalon.law.yale.edu/18th_century/debates_618.asp.

¹⁶⁶ Anderson, 212.

¹⁶⁷ Henry David Thoreau. “Resistance to Civil Government.” 1849, <https://www.walden.org/web/viewer.html?file=ht tps://www.walden.org/wp-content/uploads/2016/03/CivilDisobedience.pdf>.

Often erroneously linked to Jefferson himself but still nonetheless encapsulates his political party’s platform.

¹⁶⁸ Bill of Rights Institute.

¹⁶⁹ Mark Twain. *The Adventures of Huckleberry Finn*. 1994, 161.

right, then, I'll go to hell'—and tore it up".¹⁷⁰ In accepting hell, Huck accepts punishment, and by extension accepts who lays the punishment on him. Yet Huck is torn about his pursuit to free Jim from imprisonment.¹⁷¹ He feels as if he is a fugitive from the law in helping Jim escape, but this does not preclude him from still feeling the morality to do so:

It was awful thoughts, and awful words, but they was said. And I let them stay said; and never thought no more about reforming. I shoved the whole thing out of my head; and said I would take up wickedness again, which was in my line, being brung up to it, and the other warn't. And for a starter, I would go to work and steal Jim out of slavery again; and if I could think up anything worse, I would do that too; because as long as I was in, and in for good, I might as well go the whole hog.¹⁷²

During his epiphany, the fact that he invokes the idea of him burning in hell suggests he has, through his own volition, neglected the injunction of the higher power, i.e., the government, in favor of his individual pursuit.

In doing so, Huck declares his independence from the reputedly common good. Much like Kant who said Enlightenment was "man's emergence from his self-incurred immaturity," Huck chooses the radical over the traditional.¹⁷³ Although some critics have argued that Huck sees the fugitive slave law as just, the extent to which he views it as just is impugnable. When Huck invokes Providence ("Providence to put the words in my mouth") he displaces the entity to which he is subservient.¹⁷⁴ In a secularized world, it is a truth universally acknowledged that

¹⁷⁰ Ibid., 162.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Immanuel Kant. "An Answer to the Question: 'What is Enlightenment?'" 1784, https://web.cn.edu/kwheeler/documents/What_is_Enlightenment.pdf.

¹⁷⁴ *Finn*, 160.

citizens ought to obey government first and their religion second. If religions could supplant government, it would be impossible for one to erect a government in the first place; God would be the higher power. But here, as in every case with a government and subordinate masses, religion demands Huck to follow suit with its creed. In invoking the higher power of Providence, Huck is adhering to the being that transcends government, not the moral compass of his government.

Huck's issue with the injunction is that he knows Jim as a person, not a piece of property. Indeed, the question of property rights cannot be overstated in its significance at the time. Property rights were synonymous with African slavery in the Antebellum period.¹⁷⁵ Slavery was the chief instigator of divide between the North and the South.¹⁷⁶ For decades the question was dodged through piles of legislation seeking to find compromise but only worsening matters. The Northwest Ordinance, Missouri Compromise, Wilmot Proviso, Compromise of 1850, Fugitive Slave Act of 1850, and Kansas-Nebraska Act all resulted in strife, and the last of which resulted in violence at Harper's Ferry at the hands of abolitionist John Brown.¹⁷⁷ At the other ideological end, Southern reactionary fury was considered justified because these measures curtailed the ability of Southern landowners to freely alienate their labor—that is, their African slaves, leading ultimately to the Fugitive Slave Act of 1850.¹⁷⁸ The reasoning behind these legislations in the first place was to find an equipoise between the Northerners who sought to enfranchise blacks and the Southerners who sought to maintain their slaves.¹⁷⁹ But the issue was that finding the

¹⁷⁵ See *Dred Scott v. Sandford*, 60 U.S. 393.

¹⁷⁶ See Lincoln-Douglas Debates.

¹⁷⁷ "John Brown's raid on Harpers Ferry." HISTORY. <https://www.history.com/this-day-in-history/john-browns-raid-on-harpers-ferry>.

¹⁷⁸ Ross Drake. "The Law that Ripped America in Two." *Smithsonian Magazine*, 2004. <https://www.smithsonianmag.com/history/the-law-that-ripped-america-in-two-99723670/>.

¹⁷⁹ Ibid.

equipoise was inherently a violation of both spheres. If the government says someone can only practice slavery under certain conditions, that upsets both the abolitionist and the slaveholder. It upsets the abolitionist because slavery is still sanctioned, in part; it upsets the slaveholder because he should be able to freely alienate his labor in a free society.

Huck's infamous father, Pap Finn, falls under the umbrella of a Southerner seeking to maintain the institution of slavery, and when he finds out that the government does not share his desire, he sees it as unjust. After Pap keeps Huck locked in the cabin for months, one night when he is drinking, he speaks a lengthy diatribe excoriating the government for overstepping its prescriptive boundaries: "Thinks I, what is this country a-coming to? It was 'lection day, and I was just about to go and vote, myself, if I warn't too drunk to get there; but when they told me there was a State in this country where they'd let that nigger vote, I drew out. I says I'll never vote agin".¹⁸⁰ In Pap's view, the government has overstepped its tripartite boundary in endowing Blacks—whom he views as private property, not people—with human civil liberties. By enfranchising property with human rights, the government is depriving people of their private property. The government has violated the second tenet of Jefferson's prescription that government duties are to protect "life, liberty, and the pursuit of happiness." In Jefferson's view, too, when the government fails to fulfill these prongs, it is the duty of the people to abolish and replace it.¹⁸¹ Of course, Pap is but one person lacking the means (and perhaps the impetus) to overthrow the government. Nevertheless, the fact that the thought crosses his mind—"I drew out. I says I'll never vote agin"—demonstrates the weight of his dissatisfaction with the current government. Subscribing much more to the negative liberty notion, Pap believes his individual

¹⁸⁰ *Finn*, 20.

¹⁸¹ U.S. Declaration of Independence (1776).

right to act freely should triumph over that of the common good. Regardless of how many people support Black suffrage, his individual right to blacks, commonly perceived as private property and not human beings endowed with agency and civil liberties, was not subject to review by that majority. To claim otherwise would be to reverse the polarity. Taking an antifederalist and Jeffersonian view, Pap's views suggest that this government has lost its authority to govern legally by virtue of its enfranchising blacks with voting.

Pap's view aligns with the John Stuart Mill argument. Mill is famous for arguing that whenever individual liberty and the common good are at an impasse, individual liberty ought to predominate.¹⁸² It ought to predominate because the common good throughout history has invariably developed into the greater good.¹⁸³ Whenever the government informs its people that they must sacrifice themselves and their interests for the greater good, it tends to revert to King Arthur's Court; it tends to treat each person as a means to an end rather than an end in and of themselves.¹⁸⁴ If the collective deems some lives must be lost in order to preserve the nation on the whole, nobody is to stop it from doing so.¹⁸⁵ But by ensuring the individual reigns over the collective, the individual is always of humane status.¹⁸⁶

Herbert Cowell, however, has issues with Mill's argument, and these issues materialize in analyzing Pap Finn.¹⁸⁷ When freedom of and prioritization of the individual becomes the

¹⁸² Cowell, Herbert. "Liberty, Equality, Fraternity: Mr. John Stuart Mill." *Nineteenth-Century Literature Criticism*, edited by Russel Whitaker and Kathy D. Darrow, vol. 179, Gale, 2007. *Gale Literature Resource Center*, https://link-gale-com.libproxy2.usc.edu/apps/doc/H1420075753/LitRC?u=usocal_main&sid=LitRC&xid=8ddffe98. Accessed 30 Jan. 2020. Originally published in *Blackwood's Edinburgh Magazine*, vol. 114, no. 695, Sept. 1873, pp. 347-362.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

ultimate aim of a society, vice will inevitably meet.¹⁸⁸ Once that occurs, the body politic tends to lose their interest in acting morally or virtuously.¹⁸⁹ Without virtue and behavior in accord with that virtue, the pursuit of happiness devolves into a free-for-all.¹⁹⁰ In other words, liberty at its utmost will ultimately dissolve into anarchy—abolition of government and a reversion to the state of nature.¹⁹¹ Applying Cowell’s argument to Pap Finn, it is blatant that he is a product of a virtue-less life: He is drunk; cusses often; emotionally and physically abuses his son; he doubled down on this lifestyle after making a seeming comeback but then reverted to his drinking and expletives.¹⁹² He lacks religion and education, and he sees no reason why beating Huck is unjust. In fact, not only does he lack education, he disparages it altogether:

Well, I’ll learn her how to meddle. And looky here—you drop that school, you hear? I’ll learn people to bring up a boy to put on airs over his own father and let on to be better’n what *he* is. You lemme catch you fooling around that school again, you hear? Your mother couldn’t read, and she couldn’t write, nuther, before she died. None of the family couldn’t, before *they* died. *I* can’t; and here you’re a-swelling yourself up like this. I ain’t the man to stand it—you hear? Say—lemme hear you read.¹⁹³

Whereas the idea of school is to improve children’s learning, Pap sees it as an affront to himself as Huck’s father. Because Pap himself is not educated, he desires the same for his son. Seeing as how Pap does not uphold any form of morality, at least not genuinely so, he becomes the precise archetype the Founders characterized: liberated and challenging his government, yet at the same

¹⁸⁸ Ibid.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² *Finn*, 14-27.

¹⁹³ Ibid., 15.

time, fraught with vice, intolerant, and hedonistic. In prioritizing himself over the welfare of another, in this case, his son, he epitomizes the view of Southerners precipitating and coinciding the Civil War. This same view that said his ability to treat his son as private property is the same as treating human beings as private property in the practice of slavery.

Pap's view, held in general by Southerners of the time and prioritizing the individual over the collective, ultimately led the South to secede. Aside from the blatantly racist arguments, Pap's views contends that any measures rooted in morality that curtailed slavery were an infringement on both state and individual sovereignty.¹⁹⁴ By making moral arguments, his championing of local and state supremacy believes it is wrong to use the government to cram down and inculcate virtue in people.¹⁹⁵ From his perspective, inculcating what the public deems to be virtue is not a job of the government.¹⁹⁶ Rather, in the Jeffersonian view, it is a job of religion and culture.¹⁹⁷ If government were the arbiter of virtue, it would have to select and then establish a religion, thereby violating the Democratic spirit and engendering a theocracy. The state sovereignty position was that the less government, the freer we are. But this stance was not held by all.

More Intrusion, More Equality

Returning to our variants of liberty, we posited three competing types: negative liberty, positive liberty, and Republican liberty.¹⁹⁸ We held that negative liberty was the absence of government interference in every facet of society; it is equivalent to the Hobbesian State of

¹⁹⁴ Ibid., 14-27.

¹⁹⁵ Ibid.

¹⁹⁶ Sheldon, 7.

¹⁹⁷ Ibid.

¹⁹⁸ Anderson, 80-89.

Nature.¹⁹⁹ Positive liberty, we described, as proactive government interference in ensuring, through the labor of agents of the State, to guarantee freedom of the overall populace. Finally, we argued that Republican liberty is the balance between staying as close to a liberated populace as possible, i.e., ideally minimum government interference, while a baseline level of positive liberty, i.e., individuals who cannot engage in certain dire actions because they infringe on another's negative liberty.²⁰⁰ It infuses this mixture with a Republican form of government.²⁰¹

These three variants of liberty, at the beginning of Reconstruction were at loggerheads. When the slaves were freed, the question was promptly posed: what do we do with them? Once they are free, they can no longer lawfully be held in bondage. On the surface, blacks were free in that it was illegal, on the books à la the 13th Amendment, to be enslaved.²⁰² But the issue was that they were not free in the same vein as their white counterparts. Whites could enjoy more rights, in the form of entitlement to due process and voting. As Eric Foner writes in his book, *Reconstruction: The Second Founding*, Blacks were also subject to sharecropping practices, grandfather clauses, and poll taxes that further denigrated them in the face of the agency afforded to whites.²⁰³ Because blacks could not enjoy these rights before the passage of the 14th and 15th amendments, they were unequal to whites not only through the racism of the South and the spirit of the law but also in the eyes of the law on the books.

To make them free, then, was the task of the law. The 14th amendment granted blacks the ability to uphold their protection from racialized violence.²⁰⁴ The 15th amendment granted

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² U.S. Const. amend. XIII.

²⁰³ Eric Foner. *A Short History of Reconstruction: Updated Edition*. 2014, 46-48, 79-80, 96.

²⁰⁴ U.S. Const. amend. XIV.

blacks the ability to maintain their freedom by voting to keep it, for before this amendment it was wholly the discretion of whites to vote away blacks' freedom.²⁰⁵ The purpose behind the 14th and 15th amendments was to equate black rights with white rights. But this was not merely an amendment one could construe as, say, the 11th amendment, speaking about the logistics of state lawsuit immunity. If we are to strictly construe both amendments in tandem, we find that they each yield an unwavering tone. Section 5 of the 14th amendment makes clear: "The Congress shall have the power to enforce, by appropriate legislation, the provisions of the article;" Section 2 of the 15th amendment makes clear: "The Congress shall have the power to enforce this article by appropriate legislation." Paying particular heed to the terms "shall" and "power," and "enforce," we find that they denote sweeping conclusiveness. The federal government has the ultimate power in these arenas, and that is that.

However, the conclusiveness of the Reconstruction amendments is not to say that the construction of the Bill of Rights amendments does not yield the same. The difference among the two sets is in the prescription of in what regard can the government carry this power. A majority of the Bill of Rights amendments invoke the term "shall," and the last amendment invokes the term "power," though in the plural form. The 1st Amendment declares that "Congress *shall* make no law respecting . . .;" the 2nd Amendment declares the right to keep and bear arms "*shall* not be infringed;" the 10th Amendment declares "The *powers* not delegated . . ." (emphasis added).²⁰⁶ Despite the shared inclusion of the terms "shall," and "power," we may note that the term "enforce" does not feature in the Bill of Rights. The implications of this deficiency abound. "Enforce" is defined, in its first sense, by the *Oxford English Dictionary* as "compel[ing] the

²⁰⁵ U.S. Const. amend. XV.

²⁰⁶ U.S. Const. amend. I.

observance of (a law); to support by force (a claim, demand, obligation).”²⁰⁷ Both senses denotatively presuppose an authority figure to be the entity enforcing this observance, compliance, and force. That authority figure is the central government, which is preempted from intruding in the lives of individual citizens in the Bill of Rights. The “shall” therein is framed in what the government *cannot* do.

The “shall” in the Reconstruction amendments, on the other hand, certify prescriptive powers the government *can* do under the guidelines of the text. While the Articles of Confederation and Bill of Rights were spearheaded by antifederalist, Jeffersonian-Republican fears of a powerful, centralized, and thus intrusive government, the “New Constitution” (with the Reconstruction amendments) was spearheaded by Federalist-rooted concern for a stronger central government to quash insurrections and guarantee that the South was complying with the new change in culture as well as law. In doing so, the zeitgeist shifted from the Jeffersonian ideal to the Adamsian ideal. Yet, to many blacks, the central government was, in truth, not strong enough to guarantee black equality in the chief facets of life. With the return to pleading for state sovereignty and nullification, the onset of the KKK, and frequent lynchings, the government was not strong enough to impede these reactionary responses.

Tyrant Power, Tyrant Rule

Aside from depriving Southerners of slaves, Southerners contended the government had also deprived many of their actual physical property in which they reside, and the responses to this deprivation is telling of a much broader endemic problem to the South. For instance, in both W.E.B. DuBois’s *Of the Dawn of Freedom*, the author describes the Reconstruction Radical

²⁰⁷ “Enforce, v.” *Oxford English Dictionary*. <https://www-oed-com.libproxy1.usc.edu/view/Entry/62160?rskey=f7Cq xW&result=2#eid>.

Republic-dominated Congress's quest to bolster black integration by punishing the South.²⁰⁸ This was achieved through depriving ex-Confederates of their land, specifically land bases, which were then delegated to freedmen.²⁰⁹ Interestingly enough, this deprivation of private property—the third component which the government is supposed to protect à la Jefferson's tripartite system—did not upset Northerners-immigrating-to-the-South nearly as much as it upset Southerners by birth.²¹⁰ This disparity betrays the fact that the South's culture was rife with the aristocracy. The plantation, writes French writer, Alexis De Toqueville, is the new aristocracy, albeit a racial one; the whites are the kings and the blacks are the new plebeians of King Arthur's Court.²¹¹ Given the fact that the South sanctioned slavery but the North did not, De Toqueville saw a clear partition of the nation, even as early as the beginning of the 19th century, with a Republican, liberated, and virtuous North diametrically opposite to the negative liberty, slavery-happy, and vice-ridden South.²¹² While America's north is blossoming with productivity, its South is no different than every other country that treats men as fodder, writes De Toqueville.²¹³ The South's practice and sanctioning of slavery is not only antithetical to the constitutional doctrines of freedom, it is also antithetical to constitutional doctrine of "all men are created equal."²¹⁴ Slavery creates a racial hierarchy no different than the class hierarchies in Europe.²¹⁵ So much for American exceptionalism in the South, writes De Toqueville.²¹⁶

²⁰⁸ W.E.B. DuBois. *The Souls of Black Folk*. "Of the Dawn of Freedom." 2016.

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ Alexis De Tocqueville. *Democracy in America*. 1835, <http://seas3.elte.hu/coursematerial/LojkoMiklos/Alexis-de-Tocqueville-Democracy-in-America.pdf>.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

Criticism of the South went further still. The ideals of America are that a nation is to be liberated from the yoke of a centralized government; that is certain. But that central government also treated its subjects as slaves in and of themselves. No different, then, was the South. Frederick Douglass expressed precisely this view in his essay, "The Composite Nation," even going as far as to say that the South is un-American.²¹⁷ It is un-American, according to him, because it has never relented in its sanctioning of a racial caste system.²¹⁸ Even though slavery ended, as we know, it continued in the form of sharecropping and the dearth of land and marriage rights afforded to blacks.²¹⁹ These deprivations equated blacks with slaves; as the French-American writer J. Hector St. John de Crèvecoeur writes in Letter III: "What is an American" in his book, *Letters from an American Farmer*:

I had rather attend on the shore to welcome the poor European when he arrives, I observe him in his first moments of embarrassment, trace him throughout his primary difficulties, follow him step by step, until he pitches his tent on some piece of land, and realises that energetic wish which has made him quit his native land, his kindred, and induced him to traverse a boisterous ocean. It is there I want to observe his first thoughts and feelings, the first essays of an industry, which hitherto has been suppressed. I wish to see men cut down the first trees, erect their new buildings, till their first fields, reap their first crops, and say for the first time in their lives, "This is our own grain, raised from American soil-on it we shall feed and grow fat, and convert the rest into gold and silver." I want to see how the happy effects of their sobriety, honesty, and industry are first displayed: and who

²¹⁷ Frederick Douglass. "The Composite Nation." 1869, <https://www.blackpast.org/african-american-history/1869-frederick-douglass-describes-composite-nation/>.

²¹⁸ Ibid.

²¹⁹ Foner, 46-48, 79-80, 96.

would not take a pleasure in seeing these strangers settling as new countrymen, struggling with arduous difficulties, overcoming them, and becoming happy.²²⁰

This expressed sentiment is the very cornerstone of Jeffersonian democracy—that a European becomes an American by betaking himself to the port in pursuit of private property, which grants him autonomy—all directed to the end of happiness. Given that Crèvecoeur characterizes an American inasmuch as one who desires change as one who cultivates land, it follows that blacks are not considered American in this paradigm, for they have no land to cultivate. Returning to the Lockean view, if private property is what transforms a subject of the Crown to an autonomous American, then blacks are still treated as fodder of the State. Blacks are Billy Budd, collectively necessary for the preservation of the State but in and of themselves fully dispensable.

The new job of the Reconstruction government, according to Douglass, is to abolish the new monarchy in the South in the same vein the Founders abolished the monarchy at the Declaration's signing.²²¹ The people must transform the South into the American ideal.²²² The South's recalcitrant attitude toward claiming an innate white superiority is nothing short of antithetical to the freedom enshrined in the Declaration of Independence and the Constitution.²²³ If the United States is to act as a free country to each person, as our credo explicates, it is just that we open our borders to all immigrants who desire freedom and a new life to the same extent that the Mayflower Pilgrims did when they landed at Plymouth Rock.²²⁴

²²⁰ J. Hector St. John de Crèvecoeur. *Letters from an American Farmer*. Letter III - "What is an American," 1782, https://avalon.law.yale.edu/18th_century/letter_03.asp.

²²¹ Douglass.

²²² Douglass.

²²³ Douglass.

²²⁴ Douglass.

But this white superiority was not strictly confined to a harsh attitude toward blacks. Douglass is writing his essay and delivering it orally at the time the United States was imposing anti-Chinese immigration measures. In “The Laws” section of Maxine Hong Kingston’s novel, *China Men*, the author itemizes each law passed since the end of the Civil War curtailing Chinese immigration, civil liberties, and freedoms.²²⁵ These laws enjoin that free immigration, civil liberties, and freedoms are only enjoyed by those of the Nordic or Anglo-Saxon stock.²²⁶ In codifying what was only prior a feeling of the zeitgeist, legislators and justices rewrote the Constitution in their view: because the nation was founded by those chiefly of that aforementioned racial stock, it was never meant to apply to all races. It was only to apply to those who shared the same race or pure skin color as the Founders, meaning the only citizens who could live in the United States as full citizens, enjoyed with all individual rights and civil liberties, were whites. Though Douglass concedes that the men who crafted the Constitution were of the Anglo-Saxon mold, these ideas are universally applicable to all races and sexes.²²⁷ And though Douglass had hopeful ideas about integrating the Chinese—lauding their work ethic and mirroring it to productive peoples in the U.S. and saying it is the creed not the race that defines nature—the majority, as history elucidates, thought differently. Although it is the job of the government to ensure that is the case always, these laws demonstrate that Douglass’ ideas were moot; even if the creed was for all, it was forcibly ensured only some would enjoy its benefits.

²²⁵ Maxine Hong Kingston. *China Men*. 1989, 152-59.

²²⁶ Ibid.

²²⁷ Douglass.

The New Empire

Pseudoscience pervading the late 19th century and early 20th century allowed a supposedly empirical justification for treating other races in a draconian manner. It sought to justify the prioritization of liberty over equality. Racial bigotry was no longer rooted chiefly in unsound Bible adducing, tradition, or socio-cultural constructions of white superiority. The onset of phrenology, physiognomy, cultural anthropology, and linguistics lent credence to an objective superiority in whiteness.²²⁸ White skulls were bigger—substantiating their higher intelligence capacity; their IQs attested to their ability to hold better jobs; their language dominated the globe; the ideas enshrined in law that made for a better world were said to be conjured first by whites.²²⁹

As a result, the Jeffersonian notion of every person possessing equal capacity to vote, run for office, and constitute an equal part of the body politic—rooted in Enlightenment ideals and the Judeo-Christian notion of *imago dei*—was forewent and in its stead was an empire: the strongest race, in every sense of the word, rules all. Constituting a significant portion of the undercurrents, Social Darwinism extended bigotry to heightened, and deadly, extents in the form of scientific racism. The product was that the Jeffersonian ideal was subsequently rewritten. If the premise goes that each person is fit to be equal under the law, the new ideal would hold that this only extended within the white populace. Only someone who is white could represent a white person, in other words. A black person representing a white person would be inappropriate because he does not hold the same intellect and civilization as a white man does. Whiteness became cardinal to the United States.

²²⁸ Sharon Gillerman. “The Development of Racial Thought.” Lecture, University of Southern California, Los Angeles, Sep. 5, 2019.

²²⁹ Ibid.

This friction gave rise to the “quality versus equality” binary. Writer of the acclaimed novel, *The Virginian*, Owen Wister was a self-proclaimed white supremacist.²³⁰ He was a college-educated man: he attended Harvard University for his undergraduate studies, studying the alleged differences, and by extension, distinctions of the races. His novel presents his views in material form. His Social Darwinist schema, largely promulgated by Herbert Spencer in his text, *Principles of Biology* (1864), supplants the notion of equality in the Declaration of Independence.²³¹ Returning to the natural law and negative liberty construct, the most just government is now that which allows for the strongest race to survive; it is what permits the strongest victors to comprise the citizenry of the body politic. Wister himself subscribes to this worldview when he interposes his perspective in the text, right after the Virginian and Molly’s exchange:

There can be no doubt of this:—

All America is divided into two classes,—the quality and the equality. The latter will always recognize the former when mistaken for it. Both will be with us until our women bear nothing but kings.

It was through the Declaration of Independence that we Americans acknowledged the *eternal inequality* of man. For by it we abolished a cut-and-dried aristocracy. We had seen little men artificially held up in high places, and great men artificially held down in low places, and our own justice-loving hearts abhorred this violence to human nature. Therefore, we decreed that every man should thenceforth have equal liberty to find his own level. By this very decree we acknowledged and gave freedom to true aristocracy,

²³⁰ Owen Wister. *The Virginian*. 1902, 9-12.

²³¹ Herbert Spencer. *The Principles of Biology*. 1864.

saying “let the best man win, whatever he is.” Let the best man win! That is America’s word. That is true democracy. And true democracy and true aristocracy are one and the same thing. If anybody cannot see this, so much the worse for his eyesight.”²³²

According to the author, the democracy of the Enlightenment context must be foregone if the new highest race is to flourish.²³³ In effect, that former democracy was but a means to an end, a mechanism whereby the strongest, most fit, intellectual survive. As was with the aristocracy, only the best are fit to rule. And being fit to rule means, among other things, masculine strength in every sense of the term.

The character of the Virginian himself is the archetype of masculinity; he commands respect of the lesser people around him in multiple instances, ranging from lofty Northerners, to college-educated Midwesterners, to “Injuns” reeling in toward him in order to better hear his story while aboard a train.²³⁴ But this superiority was not taught; it is innate. At one point, the Virginian is wooing Wood, a Northern and educated girl, who dismisses the plea of another lover, Sam Bennet.²³⁵ When the Virginian walks in the room, the narrator observes:

And his roughness was a pleasure to her, yet it made her afraid of herself. When he was absent from her, and she could sit in her cabin and look at Grandmother Stark, and read home letters, then in imagination she found it easy to play the part which she had arranged to play regarding him—the part of the guide, and separator, and indulgent companion. But when he was by her side, that part became a difficult one. Her woman’s fortress was shaken by a force unknown to her before. Sam Bennett did not have it in him

²³² Ibid., 91.

²³³ Ibid.

²³⁴ Ibid., 117.

²³⁵ Ibid., 88.

to look as this man could look, when the cold lustre of his eyes grew hot with internal fire.²³⁶

That her imagination of the Virginian and the figure in reality are in discord suggests that the Virginian is beyond the abstract. He is objectively existent, and no abstract notion can pigeonhole his superiority. That he has such a potent effect on Wood's "fortress," who, heretofore it was "unknown to her before," suggests that he has the capability to do what no man, including Sam Bennet—forever pining for her hand—has ever done before. The paradoxical notion of the "cold lustre of his eyes [growing] hot with internal fire" suggests that the Virginian is indecipherable; he is beyond logic, beyond epistemological inquiry. Sam Bennett is not a Virginian, and only the Virginian—that aristocratic potentate—could conquer the Northern girl and the North.

Wister is, in effect, rewriting who should have been the true victor of the American Civil War. That is, the Virginian is a stand-in for the Old South. He is the Southerner going West to reestablish nature and dominate all who stand in his way. Branching from the Mexican *vaquero*, this cowpuncher is the product of the white race taking what is foreign and thereon improving it. Just as the white man took the "Injun's" land and cultivated it, in the process creating a better society, so too does the white man do for everything else. Because of the white man's innate superiority, women no longer, if ever they were, are a part of the protected people under the Constitution. In a key exchange between the eponymous character and his girlfriend, Molly Stark Wood, this abstract binary is concretized through dialogue. That is, they discuss the Declaration of Independence and whether women are "created equal:"

"All men are created equal," he now remarked slowly.

²³⁶ Ibid.

“Yes,” she quickly answered, with a combative flesh. “Well?”

“Maybe that don’t include women?” he suggested.

“I think it does.”

“Do yu’tell the kids so?”

“Of course I teach them what I believe!”

He pondered. “I used to have to learn about the Declaration of Independence. I hated books and truck when I was a kid . . . ”²³⁷

On the one hand, Wood seems to imply that the “all men” in “all men are created equal,” to mean mankind in general, thus including women. On the other hand, the Virginian strictly construes “men” to mean only “males.” In this Social Darwinian bent, the logic goes that men, with regard to historiography, are the guardians of chivalry, the creators of civilization, the protectorates of women. They generally possess greater physical strength, and their natural instincts are wholly determinative of our culture and the masculine role they ought to play therein.

This indisputable superiority of the Anglo-Saxon, male southerner leaves no room on the highest echelon for other races or the other sex. Instead, all those other categories of people are related to what Wister deems the “equality” bottom line: those who are the lowest common denominator compared relatively to the Virginian.²³⁸ Rewriting the words of Jefferson that “all men are created equal,” and speaking vicariously through the Virginian, Wister proclaims:

²³⁷ Ibid., 88.

²³⁸ Ibid., 90.

“Well it is mighty confusin’. George Taylor, he’s your best scholar, and poor Bob, he’s your worst, and there’s a lot in the middle—and you tell me we’re all born equal!”

Molly could only sit giggling in this trap he had so ingeniously laid for her.

“I’ll tell you what,” pursued the cow-puncher, with slow and growing intensity, “equality is a great big bluff. It’s easy called . . . I know a man that mostly wins at cyards. I know a man that mostly loses. He says it is his luck. All right. Call it his luck. I know a man that works hard and he’s gettin’ rich, and I know another that works hard and is gettin’ poor. He says it is his luck. All right call it his luck. I look around and I see folks movin’ up or movin’ down, winners or losers everywhere. All luck, of course. But since folks can be born that different in their luck, where’s your equality? No, seh! call your failure luck, or call it laziness, wander around the words, prospect all yu’ mind to, and yu’ll come out the same old trail of inequality.” He paused a moment and looked at her. “Some holds four acres,” he went on, “and some holds nothin’ and some poor fello’ gets the acres and no show to play ‘em; but a man has got to prove himself my equal before I’ll believe him.”²³⁹

The Virginian suggests that, because Bob and George Taylor are not levelled with regard to intellect, they can never be truly equal. Laying claim to the negative liberty view, all government can do to rectify this disparity is allow for the intellectuals to fully constitute the totality of the body politic. If we bring Jefferson into the equation, we find that both share the belief that there is an innate inferiority of other races; one of Jefferson’s more dubious writings says: “I advance it therefore [...] that the blacks [...] are inferior to the whites in the endowments both of body and

²³⁹ Ibid., 89.

mind.”²⁴⁰ However, where the Virginian and Jefferson differ is how they seek to rectify this purported dilemma. Returning to our tripartite framework for equality, we posited three types: of coverage, opportunity, and strict egalitarianism. As I stated prior:

. . . there are three variations of equality with regard to egalitarianism that seeks to extirpate all forms of social stratification or hierarchy: standing, esteem, and authority. Equality of standing means every citizen is treated the same by the state and institutions of civil society. Equality of esteem means every citizen is afforded the same amount of equal dignity and respect. Equality of authority means every person is permitted equal voting rights and access to political participation in the Democratic body politic. Starting at standing and ending at authority, we may note that with each subsequent variant, the equity grows more intense in scope. Standing is the bare minimum localized level, while authority entails the need for governmental legislation to diminish barriers that privilege others.²⁴¹

While Jefferson subscribed to the belief that the aim of the government was to provide universal education and conceive a culture that uplifts everyone to the same standard—allowing us to place him in the category of opportunity—the Virginian subscribes to the belief that the idea is absurd because intelligence is predetermined according to genetics, and there is nothing that can be done to improve an inferior race’s intellectual lot—allowing us to place him in hardly any category of equality at all.²⁴² This inability is because, in his view, there is no equal capacity for

²⁴⁰ Thomas Jefferson. “To Thomas Jefferson from Benjamin Banneker, 19 August 1791.” <https://founders.archives.gov/documents/Jefferson/01-22-02-0049>.

²⁴¹ Michael Neely. “A More Perfect Union? Liberty Versus Equality in American Construction and Reconstruction.” 2020, 9.

²⁴² Ibid.

mobility. The only one who possesses the capacity to rise to the top is the titular character himself. In his own words, the Virginian is “the kind that moves up.”²⁴³

Due to this unequal intellectual capacity, it is unjust to allow other races into government: the vocation of arguably the highest intellectual lot, elected representation, is to be reserved for the most intellectual. To do otherwise—to elect any other person who was not a white male—would result in those who were considered to be animals to represent human beings. More particularly, the purported immorality of blacks elected to Congress is most evident in D.W. Griffith’s film, *The Birth of a Nation*, wherein scenes displaying black Congressmen acting like wild apes resonate with the organicist notion undergirding the negative liberty in *The Virginian*.²⁴⁴ This comparison of a black American to a primate betrays two ideas: first, the idea that those animals are characteristic of a lack of civilization, a state in which each organism is out to fend for itself and not embrace the greater good that leads to the formation of a nation in the first place; second, the idea of an animal acting on impulses rather than rationality. In this latter vein, the film sees black Americans’ push for universal suffrage and equality as a push for unchecked liberty. A mulatto in the film, Silas Lynch, lusts after a white woman, Elsie. Because Lynch is proven to be inferior to his white constituents by acting like a hedonistic ape, he is disparaged by Griffith and the other filmmakers. If the being who is tasked to represent cannot appropriately represent, it should not be within his power to occupy that spot.

Whites who deign to campaign for equal suffrage and electability of whites, then, are betraying the representation of their own race. A chief reason why the KKK emerged when it did was because it was at the time when blacks were beginning to hold public office, and, as the film

²⁴³ Ibid., 89.

²⁴⁴ D.W. Griffith. *Birth of a Nation*. 1915.

shows, white racists would never allow blacks to occupy a place of authority over them.²⁴⁵

Because white champions of black equality such as Radical Republican, Thaddeus Stevens, would not yield, they became as despised as blacks themselves.²⁴⁶ While pursuing Elsie, Lynch is hailed into public service by Austin Stoneman (a stand-in for Stevens).²⁴⁷ In effect, Stoneman is allowing for the sanctity of his race to be defamed. Indeed, one title card in the film, quoting President Woodrow Wilson, states: “. . . Adventurers swarmed out of the North, as much the enemies of one race as of the other, to cozen, to beguile and use the negroes . . . In the villages the negroes were the office holders, men who knew none of the uses of authority, except its insolences.”²⁴⁸ When Wilson speaks about “as much the enemies of one race as the other,” he demarcates between the Virginian archetype—the kind who accepts the innate inferiority of the races—with the Sam Bennett archetype, the carpetbagger who longs for the impossible, because in the end, all that is possible is what Nature ordains, and Nature has ordained the white man to rule all. Another title graphic in the film expresses this preoccupation with a hegemonic state as necessary for white society to flourish: “The result. The Ku Klux Klan, the organization that saved the South from the anarchy of black rule, but not without the shedding of more blood than at Gettysburg, according to Judge Tourgee of the carpet-baggers.”²⁴⁹

The Return to Virtue

The text there is referencing Albion W. Tourgée, noted “radical” of the time who compiled a litany of essays disparaging the racism of his white counterparts. Tourgée could not find himself to be a racist because he invoked Judeo-Christian principles of virtue to offset the

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

racial bigotry. Tourgée believed that whatever purported racial science said, it was not sufficient to override the equal dignity of each person before the eyes of the Lord.²⁵⁰ Adducing *imago dei*, Tourgée saw each person, irrespective of skin color, equal to each one another.²⁵¹ As long as a person is human, whether lesser in physicality or strength, they are to be treated not as slaves but as humans, with all agency, autonomy, and tolerance granted:

To the newly enfranchised “brother of the African persuasion,” in North Carolina, the Republican Party must stand forth still as the champion of “Liberty and Equality,” the sanctified agency through which freedom came to those in bondage, while to the jaundiced negrophobist in Ohio, it must be represented as only having given a little to the colored man from necessity, and as very willing to revoke that little upon a reasonable opportunity.²⁵²

The disparity between the author’s diction, “brother,” relative to that of the “jaundiced negrophobist” suggests that he does not see blacks on the basis of skin color but on the basis of their human relationship before God. In doing so, Tourgée harkened back to the Jeffersonian ideal of the virtuous citizen on which our Republic is predicated. Without virtue, as Jefferson proclaimed, a Republic cannot stand; everyone quickly collapses into animalistic and hedonist behavior.²⁵³

This animalism and hedonism is the exact behavior on the part of Southern reactionaries who championed violence against blacks. In this view, they sanctioned fury against blacks in the negative liberty ideal—the government ought to step aside in the face of animalistic violence. Of

²⁵⁰ Albion W. Tourgée. “The Reaction.” 1868, 30.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Carpenter, 137-39.

course, this was in conflict with the Republican liberty ideal, which forecloses the notion of animalistic violence used toward the means of justice. Instead, as we discussed, people surrender some of their behavior in favor of protective government; that is, one surrenders his or her ability to murder another in favor of being protected from being murdered.²⁵⁴

Yet such behavior harkens back further still, harkening all the way back to Morgan in King Arthur's Court. Morgan, a majority of the time, feigns love for Democracy, but his love for it is certainly questionable. Morgan, more often than not, enjoys the superiority he holds over the commoners in relation to their lack of empirical understanding and religious adherence to mysticism. Yet he comes from an age where slaveholding still occurs and is often championed by a good number of Americans. He begins to understand that Southerners and the plantation are as aristocratic as Arthur and his court. And these slaveholders invariably see themselves as superior to their human property. As a result, the interminable vying for power begs the question: how much has America progressed since the Founding? Do Americans prioritize liberty or equality more?

The Death of Civilization

This ongoing friction traces to a lack of identity around what it means to be an American. Other than the predominantly white race of the colonists, there is not much to define an American other than someone living in America. After all, principles can only be disseminated by those who are aware of them in the first place. Undeniably, according to Walt Whitman, in his encomium of literature, *Democratic Vistas, and Other Papers*, this lack of a binding, homogenous skeleton on which citizens should rest speaks to the pervasiveness of vice.²⁵⁵ All

²⁵⁴ Hobbes, 124.

²⁵⁵ Walt Whitman. *Democratic Vistas, and Other Papers*. 1871, 11.

across the states, Americans treat others disparagingly, owing to the “othering” of what is different.²⁵⁶ American separatism released the citizenry from their prescribed civic duties to treat each other with tolerance equally.²⁵⁷ To rectify this dilemma, Whitman champions a new kind of unity around something other than broad principles or skin color.²⁵⁸ He suggests that Americans discover and explore their roots in an effort to determine what it means to be an American.²⁵⁹ The way they do this is through educating themselves, through producing literature and crafting an identity to be shared by all.²⁶⁰

The consequences of failing to locate the American identity means that the “United” States will lose its unity. It will no longer fulfill John Winthrop’s conception of a “city on a hill.” In his seminal speech, “A Modell of Christian Charity,” Winthrop advocates for setting aside individualistic pursuits in order to execute the will of the group as a whole.²⁶¹ In doing so, Winthrop famously proclaimed, “For wee must consider that wee shall be a citty upon a hill. The eyes of all people are uppon us.”²⁶² Indeed, De Tocqueville argues that the central identity of American citizens and politics should be—albeit it has not always been—the push for egalitarianism.²⁶³ Returning to the hallmark of Jeffersonian Democracy—equal opportunity for climbing the socioeconomic ladder in an agrarian context—the idea of America is to band together for a common cause, particularly to the end of the overthrow of an unjust government. In other words, citizens are more able to band together when the cause is a grievance applicable

²⁵⁶ Ibid., 12.

²⁵⁷ Ibid., 16.

²⁵⁸ Ibid., 26.

²⁵⁹ Ibid., 39.

²⁶⁰ Ibid., 50-52.

²⁶¹ John Winthrop. “A Modell of Christian Charity.” 1630, https://liberalarts.utexas.edu/coretexts/_files/resources/texts/1630%20Model%20of%20Christian%20Charity.pdf.

²⁶² Ibid., 9.

²⁶³ De Tocqueville.

toward all. In the absence of this system, though, the revolution lacks leaders to spearhead the cause. Without equality of opinion, absolute freedom of immoral behavior and treatment reign.

Yet, in doing nothing more than adducing the words and ideas of the Founders, obsequiousness can displace the new will of the people at-large. Daniel Levin, in his article, “Federalists in the Attic: Original Intent, the Heritage Movement, and Democratic Theory,” sees a dangerously elitist mindset in total deference toward the Founders, deference that overrides any desire to push new ideas or legislation counter to theirs, though they may be more in keeping with the desires of the new populace. Levin believes such deference engenders a quasi-monarchical state when people adhere too much to their visions for America to the extent that they forget the Constitution is designed for a changing society. Jefferson himself proclaims that when their government does not adequately represent the people at large and their views, it is the duty of the people to abolish that government and replace it with a better one.²⁶⁴ In that same vein, it is this kind of deference that white Southerners clung to in their attempts to prevent progressive reform during Reconstruction.

Admittedly, then, there is a catch-22 in a democratic society, and in *The Democratic Paradox*, Chantal Mouffe expounds on it. The left and the right are so increasingly polarized precisely because their frontiers have become increasingly blurred.²⁶⁵ Rather than trying to find common ground, they continue to branch off from one another. Taking the opposite view to Devin, because the United States is a Republic, yet some of its citizens continually push for more progressive legislation, can be viewed as pernicious to conservatives for the reason that the less we adhere to rigid, classical republican structure, the more prone we become to tyranny.

²⁶⁴ U.S. Declaration of Independence (1776).

²⁶⁵ Chantal Mouffe. *The Democratic Paradox*. 2000, 2-3, 7.

Conservatives may argue that it was specific Enlightenment and Judeo-Christian ideals and centuries of human suffering that erected this Republic; anything that even deigns to challenge those notions could easily revert us to those less than subsistent conditions. A departure from those principles could lead us back to the hedonism of Pap Finn, to the romanticized yet noxious West featured in *The Virginian*.

Conclusion: The Quest for Equipoise

Twentieth century black civil rights leaders found an equipoise between venerating the liberty of the Founding Fathers and the push for equality in Reconstruction. Reverend Martin Luther King Jr. venerated many key American figureheads, whether white or black, who pushed for egalitarianism, yet he was careful enough to insist that their aim to make a more perfect union and a just society is far from complete. In “Letter from Birmingham Jail,” King, unexpectedly, invokes liberty in the name of equality:

We will reach the goal of freedom in Birmingham and all over the nation, because the goal of America is freedom. Abused and scorned though we may be, our destiny is tied up with the destiny of America. Before the Pilgrims landed at Plymouth, we were here. Before the pen of Jefferson scratched across the pages of history the majestic word of the Declaration of Independence, we were here. For more than two centuries our foreparents labored here without wages; they made cotton king; and they built the homes of their masters in the midst of brutal injustice and shameful humiliation -- and yet out of a bottomless vitality our people continue to thrive and develop. If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will

win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands.²⁶⁶

Echoing the Jeffersonian notion of a virtuous, Christian citizen, King's freeing blacks from the fetters of Jim Crow segregation would place them on equal terms with whites. Much like freeing the landed white gentry placed them on equal terms with each other after the Revolution, freeing the blacks to pursue their own happiness and make them American.

The debate over what constitutes an American—that is, what constitutes a just America—continues today. As we have observed, the debate has existed since the nation's genesis. Since the *Bellipotent*, Camelot, Runnymede, Yorktown, and a jail in Birmingham, America has been fighting a battle between liberty and equality. At each time, Americans have prioritized one over the other. Varying prioritizations have resulted in variegated outcomes: at times, the nation was more concerned with states' rights and local liberty of individuals more than it was in pursuing egalitarianism. But after the Civil War, the aim turned to ensuring equal treatment of peoples based on new amendments and legislation in the Reconstruction period. In the mid-twentieth century and continuing today, the struggle for locating the equipoise, as King managed to do, continues.

That struggle is palpable in our current political climate. The disparity between conservatives who will do anything to abstain more governmental power and a reversion to the *Bellipotent* and King Arthur's Court versus liberals who will do anything to prevent a return to unbridled negative liberty; between the Republican and Democratic party; between staunch defenders of Henrian liberty versus staunch defenders of Tourgéeian equality, the conflict

²⁶⁶ Martin Luther King, Jr. "Letter from Birmingham Jail." 1963.
http://web.cn.edu/kwheeler/documents/letter_birmingham_jail.pdf.

inevitably circles back to the tension between liberty and equality, the tension between which to prioritize, the tension ultimately, of what constitutes a *just* government.

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