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# A Classy Constitution: Classical Influences on the United States Constitution from Ancient Greek and Roman History and Political Thought

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## Introduction

The Constitution has been the flagship document of United States of America since 1787. After the short reign of the Articles of Confederation, the US Constitution has endured for well over two hundred years. The document that the Founding Fathers drafted in the late eighteenth century has survived after being amended with the Bill of Rights almost immediately after it was ratified by the states.<sup>1</sup> The long life of the United States' governing charter is a testament to the wisdom of the Founding Generation. The Founders were able to craft a constitution that established a system of government that has seen thirteen Atlantic colonies transform into a nation from sea to shining sea. When drafting the Constitution, the Founders are known to have been influenced by European philosophers such as John Locke, Jean-Jacques Rousseau, and the Baron de Montesquieu. The liberal, individual rights-focused nature of the Enlightenment has been viewed as the main historical impetus behind the American and French Revolutions of the late eighteenth century. The written and rhetorical flourishes of the Enlightenment helped to illuminate a new path of democratic idealism of the Founding Generation. Yet, when the surviving records of the Founding Generation are analyzed, the names of Athens and Rome are incredibly prominent. Modern scholars have uncovered a clear foundation from classical antiquity on the Constitution and the establishment of the United States. For good and for ill, the Founding Fathers looked to examples from antiquity when they embarked on America's bold, new experiment with democratic republicanism. This paper argues that notions from the Founders' knowledge of ancient history and politics helped form the foundation of the

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<sup>1</sup> The Constitution has been amended twenty-six times with the first ten amendments, the Bill of Rights, dealing with individual rights and protections against the national government. Other prominent amendments like the Civil War Amendments abolished slavery, gave African American men citizenship and the right to vote are the thirteenth, fourteenth, and fifteenth amendments. While the nineteenth gave women the right to vote, many of the amendments to the Constitution establish protections for the people from the government and against discrimination. Ernest Kohlmetz, *Encyclopedia of American History*, (Guilford, CT: Dushkin Publishing Group, 1973), 81-83.

Constitution. Through an education steeped in the classical tradition, the Founders created the Constitution, which called for the establishment of a modern republic in America that has clear foundations constructed from classical antiquity.

The Founding Fathers gathered in the summer of 1787 to draft a new constitution for the young United States after America's independence was won in the Revolutionary War. While Enlightenment ideals of many European political philosophers influenced the drafting of the Constitution, another key influence on the Founding Fathers came from classical antiquity. The large scopes of the Roman Republic and Empire as well as the Athenian Empire largely shaped the Europe that the Founding Fathers were born and reared in. While the ancient Greek and Roman civilizations fell thousands of years before the birth of America, their political ideas survived through texts of history and philosophy. These texts explored ideals of democracy, republicanism, and citizenship that not only endured, but also significantly influenced the formation of the Constitution. From Rome, my paper will cover political thought from the establishment of the Twelve Tables circa 450 B.C.E. to the fall of the Republic under Caesar by 46 B.C.E.<sup>2</sup> This paper will also cover ancient Greek political thought from Athens, with a focus on Plato (428-348 B.C.E) and Aristotle (384-322 B.C.E) who lived during and after the golden age of Athenian democracy in the fifth century B.C.E.<sup>3</sup> Of paramount importance to the development of the Constitution were classical ideas on the mixed constitutionalism, separation of powers, as well as protection of property and natural rights from the government.

While some readers may disagree with the notion that the Constitution is a living document, the academic arguments over the Constitution and what it means are very much alive. Understanding the Constitution should begin with how it was drafted and what influenced its

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<sup>2</sup> Robert Hughes. *Rome: A Cultural, Visual, and Personal History*. (New York: Alfred A. Knopf, 2011). 64

<sup>3</sup> Vincent Martin Bonventre, *A Classical Constitution: Ancient Roots of Our National Charter* (New York Bar Journal, 1987), 12.

creation. With this idea in mind, I flesh out a different source of ideological and historical influences on the Constitution in this paper. The paradigm of early American constitutional and political development, as articulated by Bernard Bailyn, asserts that eighteenth century political philosophers were the major influence on the US Constitution.<sup>4</sup> While contemporary political theory helped to establish the United States, contributions from classical antiquity should not be marginalized as superficial.

This paper analyzes a variety of primary and secondary sources. Some primary sources will include the records of the Constitutional Convention and writings of the Founding Fathers particularly John Adams, James Madison, and Thomas Jefferson. I will also analyze sources from antiquity like Plato, Aristotle, Cicero, and Polybius, that the Founding Generation would have studied.<sup>5</sup> Since the bicentennial of the United States Constitution, a proliferation in academic and popular writing that encompasses classical influences on the Constitution has provided a number of secondary sources for this paper. The main secondary sources will cover the Founders, their understanding of the classics, and what they wanted to incorporate into the Constitution. While I examine the Founders and the development of the Constitution, this paper will also delve into how classical thought was used by early Americans to oppose British tyranny.

#### Ancient Foundations

To begin, Western Civilization has been built around the concepts of democracy, liberty, justice, and the law stemming from ancient Athens and Rome.<sup>6</sup> From classical antiquity, Athens and Rome stand out as the two of the major societies of the ancient world. Ancient Athens has

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<sup>4</sup> Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Belknap of Harvard UP, 1992).

<sup>5</sup> Bonventre, *A Classical Constitution*, 12.

<sup>6</sup> Peter Green. *Ancient Greece: A Concise History*. (London. Thames and Hudson Ltd, 1973), 10.

been described as the zenith of Greek civilization in the fifth century BCE.<sup>7</sup> The concept of the *polis* is central to the understanding of ancient Greek political thinking and serves as an embodiment of the disciplined, collective ideals that the ancient Athenians had of themselves in antiquity.<sup>8</sup> The *polis* specifically refers to a centralized fortress on a hill that was surrounded the *asty*, or agricultural village.<sup>9</sup> Within the *polis*, there was the *agora*, which served as a gathering space in which men would congregate to exchange ideas and opinions and vote.<sup>10</sup> Another aspect of Athenian and ancient Greek sense of collective community was the innovation of the *phalanx*.<sup>11</sup> The *phalanx* helped to promote a sense of common defense and collective pride within the ancient city-states that helped provide the roots of the *polis* and, eventually, democracy.<sup>12</sup> In Athens, specifically throughout the fifth century, there was a voting population of fifty to sixty thousand men while in cities such as Thebes and Argos there was a voting population of around forty thousand.<sup>13</sup> Political unity and collective defense helped provide a common mooring of democracy in ancient Athens and served as a template, along with the Roman Republic, for the Founding Fathers as they attempted to establish a new nation after the Revolutionary War.

In many ways, early Roman history can be compared to American history. For example, Rome went from a monarchy to a republic after a revolution.<sup>14</sup> The beginning of the fifth century BCE saw the end of the Etruscan monarchy in Rome and the advent of the fabled Roman

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<sup>7</sup>W. G De Burgh, *The Legacy of the Ancient World*, (Baltimore: Penguins, 1963), 134.

<sup>8</sup> Green. *Ancient Greece*, 61.

<sup>9</sup> Ibid, 61.

<sup>10</sup> Ibid, 61.

<sup>11</sup> The Phalanx formation was an organized, dense grouping of warriors that protected each other by forming a crab-like body by connecting their individual shields and thrusting their spears out to attack the enemy. The formation was seen by ancient city-states of in present day Greece as the hallmark of the strengths of a well trained citizen army that is animated and motivated by loyalty to their free city-state. De Burgh, *The Legacy of the Ancient World*, 190.

<sup>12</sup>Green, *Ancient Greece*, 63.

<sup>13</sup> Ibid, 63.

<sup>14</sup> De Burgh, *The Legacy of the Ancient World*, 233-234.

Republic.<sup>15</sup> In place of a king, the ancient Roman Republic separated power between two executive officers called the consuls.<sup>16</sup> The senate, which was an assembly of elders, was given legislative power.<sup>17</sup> Similarly, the early Roman and American republics had written constitutions. The earliest record of written law in Rome is the Twelve Tables.<sup>18</sup> As a result of clashes between patricians, the privileged class, and the plebeians, the common people, ten men called the *Decemviri*, were called to come to an agreement over the basic, customary law of early Rome.<sup>19</sup> The product of two different sets of commissions was the Twelve Tables, which defined court and trial procedures, the Roman patronage system, the role of the man as the *paterfamilias* or head of the Roman family, inheritance laws, land rights, and early personally injury torts.<sup>20</sup> The Twelve Tables served as the foundation from the Roman Republic to Empire as the basic foundation of civil law regulating the behavior of Roman citizens.<sup>21</sup> Livy, in *The History of Rome*, described the Twelve Tables as being engraved in brass and being publically exhibited.<sup>22</sup> Just as the American Constitution is the foundation of all federal laws and regulations, Livy remarked that the Twelve Tables served as, "...the fount from which all public and private law [flow]."<sup>23</sup> As all American laws flow from the fountain of the Constitution, the Twelve Tables was regarded, by Livy, as being the fountain from which the laws of the Roman Republic flowed.

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<sup>15</sup> Ibid, 234.

<sup>16</sup> Ibid, 234.

<sup>17</sup> Ibid, 233.

<sup>18</sup> Ibid, 236.

<sup>19</sup> Ibid, 237.

<sup>20</sup> Ibid, 238.

<sup>21</sup> De Burgh, *The Legacy of the Ancient World*, 237.

<sup>22</sup> Livy, *History of Rome* 3.57.

<sup>23</sup> De Burgh, *The Legacy of the Ancient World*, 237-238.

## Scholarly Conversation

The Founding Fathers displayed deep knowledge of classical antiquity well before the Constitutional Convention of 1787. In the lead up to the Revolutionary War, classical references were frequently used throughout the rhetoric of the American revolutionaries. Bernard Bailyn, in his landmark *The Ideological Origins of the American Revolution*, argued the importance of revolutionary pamphlets in the formation of the ideological, constitutional, and political struggle leading up to the American Revolution.<sup>24</sup> Within the pamphlets are scores of Enlightenment, common law, and classical ideas.<sup>25</sup> Bailyn explored the fact that the colonists' revolutionary rhetoric came from a wide variety sources such as Cicero, Vergil, Aristotle, Shakespeare, Swift and Rousseau. He also argues that knowledge of classical authors was universal among colonists with any degree of education as can be seen from the classical educational curriculum. Bailyn notes that grammar schools, colleges, and private tutors were all classics oriented in early America as argued by Winterer. According to Bailyn:

“Homer, Sophocles, Plato, Euripides, Herodotus, Thucydides, Xenophon, Aristotle, Strabo, Lucian, Dio, Polybius, Plutarch and Epictetus, among the Greeks; and Cicero, Horace, Vergil, Tacitus, Lucan, Seneca, Livy, Nepos, Sallust, Ovid, Lucretius, Cato, Pliny, Juvenal, Curtius, Marcus Aurelius, Petronius, Suetonius, Caesar, the lawyers Ulpian, and Gaius, and Justinian, among the Romans” – all are cited in the Revolutionary; many are directly quoted. It was an obscure pamphleteer indeed who could not muster at least one classical analogy or one ancient concept.<sup>26</sup>

For Bailyn, though, this array of classical knowledge is deceptive because these citations to the classics were more for window dressing. While Bailyn might say that pamphleteers' knowledge of eighteenth century European thought were at times superficial, he does not address the fact

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<sup>24</sup> Bailyn, *The Ideological Origins of the American Revolution*, 23

<sup>25</sup> Ibid, 23.

<sup>26</sup>The listing of ancient writers, philosophers, historians, etc is seen throughout scholarly sources as evidence of classical knowledge among members of the Founding Generation. While these lists show a wide assortment of references observable in the writing of the Founder, more study is necessary to flesh out individual influences from intellectuals from classical antiquity on the Founding Fathers. Ibid, 24.

that prominent Founding Fathers such as John Adams and Thomas Jefferson<sup>27</sup> had in-depth understandings of classical antiquity. Classical rhetoric, for Bailyn, was used to illustrate the revolutionary fervor of the American Revolution and was not determinative of the political thoughts of early Americans.<sup>28</sup> In other words, Bailyn believes that revolutionary pamphleteers mainly used classical words, names, and even so that their writing was flashier and more remarkable. Other scholars, in contrast, note the extensive classical education and conditioning of many of the Founding Fathers. For instance, David Bederman in *The Classical Foundations of the American Constitution* argues that the Framers were substantially influenced by ancient history and political theory because of their education, the availability of classical texts, and the classical and contemporary shared interest in republican and democratic values. Other scholars take a more nuanced viewpoint between Bailyn, who tends to negatively view the Founders' classical knowledge, and Bederman, who argues classical knowledge was a crucial part of the Founding Generations world.

From a different perspective, Gordon Wood, another prominent early American history scholar, argues that classical citation and allusions were a part of the American revolutionaries' radical Whig roots that believed that the best government was always a republican one.<sup>29</sup> For Whigs, the primary source of republicanism was classical antiquity.<sup>30</sup> Wood argues that classical references were deeply entrenched in early American society from the names that Whig patriots used, classical references in the colonists' pamphlets, Greek and Latin phrases, and the use of classical figures as signatures to revolutionary writing that were used to improve the arguments

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<sup>27</sup> Thomas Jefferson library is known to possess a copy of Livy's *History of Rome*, among other classical texts in their original language. The Thomas Jefferson Libraries.

<sup>28</sup> Ibid, 26.

<sup>29</sup> Gordon S. Wood, *The Creation of the American Republic: 1776-1787*, (Chapel Hill: U of North Carolina, 1998), 49

<sup>30</sup> Ibid, 50.

of the American patriots. In the classical vein, farming and rural life were seen as virtuous, natural, and simplistic. Classical heroic traits such as restraint, temperance, fortitude, dignity, and independence were used to promote George Washington to the height of American power before, during, and after the Revolution. Edmund Pendleton at the Convention of 1776 said that early Americans “treaded upon the republican grounds of Greece and Rome.”<sup>31</sup>

The world that the Founders would have seen in antiquity, though, would have been seen through the lens of the Renaissance and Enlightenment. This view of antiquity would have been glossier than the actual history and focused on the Golden Ages of both Rome and Athens. Early Americans looking at ancient Rome would have focused on Roman Golden Age from the fall of the Republic in the middle of the first century BCE to establishment of the Empire in the middle of the second century CE.<sup>32</sup> For early American, the Roman and Athenian golden ages would have been the focus of their classical education.<sup>33</sup> Using the value of history, the Founding Generation tried to use the republican example of ancient Rome and democratic example of ancient Athens to write the Constitution.<sup>34</sup> Wood correctly notes that the writings from antiquity that would have been filtered through the Age of Enlightenment would have exhibited a “melancholy truth” about the ancient world.<sup>35</sup> Romans like Cicero would have written fondly of the great and illustrious nature of the early Roman Republic.<sup>36</sup>

Marcus Tullius Cicero stands out, today and in the time of the Founders, as the lead Roman statesman of the ancient world.<sup>37</sup> His letters, epistles, speeches, and other writings contribute much, if not most, to contemporary understanding of the late Roman republic. In one

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<sup>31</sup> David J. Bederman, *The Classical Foundations of the American Constitution: Prevailing Wisdom*. (Cambridge, MA: Cambridge UP, 2008), 50

<sup>32</sup> *Ibid*, 50

<sup>33</sup> *Ibid*, 49-50

<sup>34</sup> *Ibid*, 51.

<sup>35</sup> *Ibid*, 51.

<sup>36</sup> *Ibid*, 51.

<sup>37</sup> Neal Wood, *Cicero's Social and Political Thought*, (Berkeley: U of California, 1988), 1.

of his major political work, *De Re Publica*, Cicero wrote that patriotism was naturally within man and was necessary for the security of the state.<sup>38</sup> He argued that patriotism overcame the “blandishments of pleasure and repose” and “...the noblest use of virtue is the government of the Commonwealth, and the realization of all those patriotic theories which are discussed in the schools.” The patriotism of the early Roman republic was necessary for its success and the decline of patriotism to pleasure and repose was a direct contributor to the fall of the Roman republic to men like Cicero. Cicero wrote *De Re Publica* in reference to Rome after the Punic War. Rome emerged from the Punic Wars the major power in Mediterranean Sea, with sovereignty over much of the West.<sup>39</sup> Also, for Cicero, the importance of property ownership was a citizen’s ability to possess a small portion of the state.<sup>40</sup> The state was the property of the people that helped join together the Roman community under shared ownership and laws and rules to protect property.<sup>41</sup> Another consistent theme seen in Cicero’s writings is the Roman states responsibility to the people. Policy in support of the common good is another emphasis of Cicero’s in *De Re Publica*.<sup>42</sup> The law, for the Founders and Cicero, was important because of its protection of the agrarian farmer’s most important asset, which is their land.<sup>43</sup> Ownership of land anchored citizens to the community which was a critical republican value that the Framers wanted to take from the golden ages of classical antiquity. Natural law protected the citizenry’s property, rights, and liberty through a fair administration of the law in the courts.<sup>44</sup> While classical thought has been examined by early American scholars in reference to the development

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<sup>38</sup> Cicero, *De Re Publica* 1.1

<sup>39</sup> De Burgh, *Legacy of the Ancient World*, 247-249.

<sup>40</sup> *Ibid*, 125-126

<sup>41</sup> *Ibid*, 126

<sup>42</sup> *Ibid*, 127.

<sup>43</sup> M.N.S. Sellers, *American Republicanism: Roman Ideology in the United States Constitution*. (New York: New York UP, 1994), 94-95.

<sup>44</sup> *Ibid*, 95.

of the Constitution, scholars have also evaluated how classical rhetoric was used to foment the American Revolution.

Outside of the Constitution Convention, the Founders used classical rhetoric to foment the American Revolution. In *Empire Transformed*, Eran Shalev details how the early Americans used imagery from the corruption of the Roman Empire to portray the British Empire as dictatorial. Henry Laurens of South Carolina, who was imprisoned in London during the end of the American Revolution, said that "...the demise of the Roman Empire paralleled the impolicy and folly of Britain's conduct, as well as her injustice and cruelty of proceeding in the [Revolutionary] War."<sup>45</sup> From the 1760s until the Revolution, Americans would characterize the British as "the Rome of the corrupt tyranny of the most hated Caesars" in a process of Nerofication of the British Empire.<sup>46</sup> Early Americans were able to use their understanding of antiquity to only plan a republican future but also to launch an attack on the imperial excesses of Great Britain.<sup>47</sup> The British helped to create this Roman imperial characterization by boasting that they were the head of an empire of commerce as well as the guardian of the balance of power in Europe.<sup>48</sup> In the American press, George III and British ministers were portrayed as a new Caesar when Parliament passed revenue bills such as the Stamp Act.<sup>49</sup> By the Revolution, pushback against taxation without representation reached such a fervor that most Americans started to embrace the comparison of Great Britain to the tyranny of the Roman Empire.<sup>50</sup> Other than pamphlets and newspaper editorials, classical disparagement of the British Empire can be seen in the plays like *The Adulateur* by Mercy Warren. Warren wrote the play as an allegorical

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<sup>45</sup> Eran Shalev, "Empire Transformed: Britain in the American Classical Imagination, 1758—1783." *Early American Studies* 4.1 (2006): 112.

<sup>46</sup> *Ibid*, 114.

<sup>47</sup> *Ibid*, 114.

<sup>48</sup> *Ibid*, 115.

<sup>49</sup> *Ibid*, 125-126.

<sup>50</sup> *Ibid*, 127.

tragedy of Massachusetts to a fictional, classical Upper Servia.<sup>51</sup> As the American colonies transitioned from being a British colony to an independent nation, they disparaged Great Britain as the embodiment of the tyrannical shortcomings of the ancient world; this rhetorical approach was critical as they strived to establish America as a republic in the image of republican Rome and democratic Athens at their highest points. Thus, classical knowledge was used in the build up and execution of the American Revolution and would again prove a reliable intellectual foundation for the Constitution.

### Classical Education

A study of the Founders' education is necessary to account for Founders knowledge of classical history and politics. The main way that classicism influenced the Founding Fathers was through their education. Of the original fifty five delegates to the Constitutional Convention, twenty-four were college graduates.<sup>52</sup> Many of the Convention's lead intellectuals, such as James Madison and William Peterson, were educated at the College of New Jersey (Princeton). Alexander Hamilton and Gouverneur Morris were educated at King's College and delegates like Elbridge Gerry and Rufus King were educated at Harvard.<sup>53</sup> Beyond American education, some of the Founders were educated in Europe like John Dickinson, Charles Pinckney, and John Rutledge, who all read law at Middle Temple in London. James Wilson alone was educated at the University of St. Andrews, University of Glasgow, and University of Edinburgh in Scotland.<sup>54</sup> The foreign college education of Founders like Dickinson, Pinckney, Rutledge, and Wilson is notable because European colleges and universities were more advanced than early American universities and also heavily conditioned in the classics. Outside of the Convention,

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<sup>51</sup> Ibid, 138.

<sup>52</sup> Bonventre, *A Classical Constitution*, 13.

<sup>53</sup> Bonventre, *A Classical Constitution*, 13.

<sup>54</sup> Ibid, 13.

foreign ministers like John Adams and Thomas Jefferson were educated at Harvard and William and Mary, respectively.<sup>55</sup> Delegates who were self-educated were also heavily influenced through the classics such as Benjamin Franklin, George Mason, and Roger Sherman.<sup>56</sup> In one way or another, the men that helped to craft the United States Constitution were educated, professionally or individually, with classical texts. In contrast to arguments made by historians such as Bailyn, the Founders would have had an understanding of the political, economic, and social history of the ancient world when they were debating how the United States of America would be governed.

Another way of summing up the education of the Founding Father is that they were taught between the two “P’s,” Plato and Protestantism.<sup>57</sup> The Bible and the writings of classical antiquity were the main educational tools allotted to the men such as James Madison, John Adams, Thomas Jefferson, among others. James Madison knew Latin and Greek, as most educated men at the time did, but he also knew Hebrew. Outside of formal schooling, Adams and Jefferson read classical authors in the original Greek for pleasure.<sup>58</sup> Reading in the original Greek allowed both men to discuss the fine points of Greek pronunciation and accent. While Madison, Jefferson, and Adams were fluent in the tongue of the ancients, other Founding Fathers had to rely on translations and secondary surveys, leaving their interpretation of the classics perceptible to the Renaissance and radical Whig interpreters.<sup>59</sup> In particular, radical Whigs, such as Thomas Gordon’s *Sallust* and *Tacitus*, Basil Kennet’s *Roman Antiquities* and Edward Wortley’s *Reflections on the Rise and Fall of the Antient Republicks* [sic] were the edited texts that the Founding Fathers, who did not know ancient Greek or Latin, would have read. Benjamin

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<sup>55</sup> Ibid, 13.

<sup>56</sup> Ibid, 13.

<sup>57</sup> Saul K. Padover, “The World of the Founding Fathers” *Social Research*, Vol. 25, No. 2 (1958). Page 197.

<sup>58</sup> Ibid, Page 197.

<sup>59</sup> Wood, *Creation of the American Republic*. Page 50.

Franklin, a self-taught man, famously declared that he was fond of reading and his literary diet include a number of classical authors as seen throughout his writing.<sup>60</sup> George Washington, a man of few words and little schooling, showed a sophisticated viewpoint of the classics in letters to the Marquis de Lafayette. Washington wrote,

“Alexander the Great is said have been enraptured with the Poems of Homer, and to have lamented that he had not a rival muse to celebrate his actions. Julius Caesar is well known to have been a man of a highly cultivated understanding and taste. Augustus was the professed and magnificent rewarder of poetical merits nor did he lose the return of his atcheivments [sic] immortalized in song. The Augustan Age is proverbial for intellectual refinement and elegance in composition; in it the harvest of laurels and bays was wonderfully mingled together.”<sup>61</sup>

For Washington to show a relatively high amount of knowledge about ancient rulers, such as Alexander the Great, Julius Caesar, and Augustus shows that many of Founding Fathers would have known the great tales of the ancient world. Through schooling, the Founding Generation would have learned the redeeming and harsh realities of the ancient world.

In early America, though, schooling was mainly centered in the New England area, in the mid to late seventeenth century, with most schools and educators using a standard curriculum.<sup>62</sup> Specifically, Latin was a major emphasis in early American education with Greek and Hebrew also being taught. In Boston, public grammar students learned Latin from books, called *accidence*, which explained how to decline nouns and adjectives and conjugate verbs.<sup>63</sup> Students learned Latin vocabulary from the *nomenclature*, which was the equivalent of a Latin-English dictionary. Further educational development was taught by reading fragments from books like *Sententiae Pueriles* (Sentences for Boys), *Disticha Catonis* (Sayings of Cato) and Aesop’s

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<sup>60</sup> Ibid, 50.

<sup>61</sup> Padover, “World of the Founding Father.” 198.

<sup>62</sup> Caroline Winterer, *The Culture of Classicism: Ancient Greece and Rome in American Intellectual Life, 1780-1910*. (Baltimore: Johns Hopkins UP, 2002), 11.

<sup>63</sup> Ibid, 12

*Fables* that not only helped teach grammar but also encourage ethical behavior.<sup>64</sup> In a student's fourth year of education, they would be reading classical texts like Ovid's *De Tristibus* and *Metamorphoses* and Cicero's *Orations*. As grammar schools proliferated throughout the North and South, schools and private tutors would use a similar curriculum of reading classical texts, translating Latin into English, and translating English back into Latin.<sup>65</sup> The availability of education was increased by the number of private tutors that would disperse throughout the nation after college and would be hired by families to educate their sons. Just as the classics were a main pillar of grammar school and private education, it was also the main foundation upon which the United States began building its early colleges and universities.

While American colleges were smaller and had less funding than the universities of Great Britain and Europe, they attempted to teach the curricula that were used in their former mother country.<sup>66</sup> For instance, the purpose of the educational curriculum at Cambridge University, in Great Britain, was a study of grammar, rhetoric, logic, arithmetic, astronomy, and music.<sup>67</sup> The curriculum also focused on natural, moral, and mental philosophy as well. Although, as interest in mathematics declined by 1700, the study of classical authors took up much more of the curriculum.<sup>68</sup> After 1700, the purpose of studies at Cambridge was to perfect a student's knowledge of Latin and Greek as well as instill a respect for the intellectual authority for classical writers.<sup>69</sup> Thus, in colleges in America such as Yale and Princeton, emphasized Latin and Greek composition, mathematics, natural philosophy, and classical studies for their students

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<sup>64</sup> Ibid, 12.

<sup>65</sup> Ibid, 12-13.

<sup>66</sup> Joe W. Kraus, "The Development of a Curriculum in the Early American Colleges." *History of Education Quarterly* (June 1961), 64.

<sup>67</sup> Ibid, 64.

<sup>68</sup> Ibid, 64.

<sup>69</sup> Ibid, 64

in the first and second years of their education in the model of Cambridge.<sup>70</sup> Thus, at the major institutions of higher learning in early America, one-third of the curriculum was devoted to the classics, one-third to math and sciences, and the last third to logic, ethics, and oratory.<sup>71</sup> The use and duration of classical education would differ by the university, but early American institutions of higher education like Yale, Princeton, and Harvard still had curriculums heavily weighted in the classics throughout the time of the Founding Fathers.

Interestingly enough, at Harvard, University President Henry Dunster experimented with the number of years of schooling by going from four to three years of education emphasizing logic, ethics, politics, Greek, Hebrew, math, and metaphysics to his students.<sup>72</sup> Harvard stressed knowledge of three learned tongues of Latin, Greek, and Hebrew like at Oxford and Cambridge in Great Britain.<sup>73</sup> Other subjects taught at Harvard were logic, mathematics, rhetoric, politics, divinity, and natural philosophy, all of which had extensive roots and background in ancient Greece and Rome. Admission was based on whether the applicants had the ability to read, as seen in College Book III, “Tully [Cicero], or such like classicall [classical] Latine [Latin] Author ex tempore and make and speak true lattin [Latin] in verse and prose, sou (ut aiunt) Marte [by his own exertions]; and decline perfectly the Paradigmes [paradigms] of Nouns and Verbs in the Greek Tongue.”<sup>74</sup> The final year at Harvard focused on natural and civil law as well as government.<sup>75</sup>

By the end of the eighteenth century, colleges like William and Mary (1692), Yale College (1701), and the College of New Jersey (Princeton, 1746) helped increase the number of

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<sup>70</sup> Ibid, 68.

<sup>71</sup> Ibid, 68.

<sup>72</sup> Ibid, 65.

<sup>73</sup> Winterer, *The Culture of Classicism*, 12.

<sup>74</sup> Ibid 12.

<sup>75</sup> Kraus, “The Development of a Curriculum” 68.

America's college facilities to twenty-five by 1800.<sup>76</sup> The admission requirements for Williams, Brown, King's College, Yale, and Harvard were identical from 1790 to 1800; students needed to read Cicero, Virgil and the New Testament in Greek.<sup>77</sup> A standard four year college experience at Princeton would have students studying Xenophon, Cicero, Horace, and Homer their first year and taking examinations by senior year on the New Testament, Homer, Cicero, and Horace.<sup>78</sup> It is clear that early American colleges and universities were repositories of classical education that helped to shape the men that would help settle, lead, and advance the United States.

The central intellectual foundation of education, before the late nineteenth century, was the study of classical antiquity.<sup>79</sup> Emphasis on classical learning helped to structure American in its national development by providing a clear template of democratic and republican governance for the Founders to strive for in the American Revolution and Constitution Convention.<sup>80</sup> Classical learning was the core of American college education from the founding of the nation's first universities and colleges until around 1880, when higher education started to drop Greek and Latin from their curriculums.<sup>81</sup> Outside of college education, classical learning was a central component of grammar schools where the select few that were taught to read and write in early American history received a classical orientation before advancing their studies at the nations fledgling colleges and universities.<sup>82</sup> A preponderance of educators, in early America, were classical scholars who spread classical knowledge and ideals from the lectern. Schools and universities served as cradles for classical learning until the late nineteenth century.<sup>83</sup> Outside of

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<sup>76</sup> Winterer, *The Culture of Classicism*, 12-13.

<sup>77</sup> *Ibid*, 12.

<sup>78</sup> *Ibid* 13.

<sup>79</sup> Winterer, *The Culture of Classicism*, 1.

<sup>80</sup> *Ibid*, 1-2.

<sup>81</sup> *Ibid*, 3.

<sup>82</sup> *Ibid*, 2.

<sup>83</sup> *Ibid*, 2.

reading classical history and plays, Werner Jaeger<sup>84</sup> argued that classical education attempted to realize full human potential through education in what the ancient Greeks called *paideia*.<sup>85</sup> In the aftermath of the Renaissance, studying the ancient Greeks and Romans was used to help fundamentally shape ethical human beings based off of the teachings of figures of antiquity.<sup>86</sup> Thus, the Founders, through an education seeped in the antiquity, were able to form a classically conditioned Constitution.

### Looking to the Past

Early American education supported a classical and republican sensibility among the Founding Generation.<sup>87</sup> Patrick Henry said that classical history and learning were used as a lamp of experience for the Revolutionary generation.<sup>88</sup> American readers in the late eighteenth century had a strong appreciation for history, ancient and medieval.<sup>89</sup> The Founders would have had to rely on the lessons recorded from antiquity since there was no precedent in eighteenth century Europe or Asia for true republican government.<sup>90</sup> While many city-states such as Venice, Florence, Pisa, and others in northern Italy were modeled after the Roman Republic, they were not political republics but economic oligarchies. The Founders also would have wanted to have a shared affinity with ancient republican and democratic governments of the past as they strived to create a brand new nation.<sup>91</sup> After breaking away from the tyranny of the British Crown, the Founders hoped that America would take a bold step in the direction of self-governance as well

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<sup>84</sup> Werner Jaeger (1888-1961) was prominent classicist of the early to mid twentieth century who worked as professor of Classics at Harvard University. His greatest work was *Paideia: The Ideals of Greek Culture* which was a landmark book for classical studies. "Werner Jaeger Dead at 73." *The Harvard Crimson*. Harvard University.

<sup>85</sup> Winterer, *The Culture of Classicism*, 2

<sup>86</sup> *Ibid*, 3

<sup>87</sup> *Ibid*, 18.

<sup>88</sup> *Ibid*, 18.

<sup>89</sup> H. Trevor Colbourn, *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution*, Institute of Early American History and Culture, (The University of North Carolina Press, 1965), 21.

<sup>90</sup> Bonventre, *A Classical Constitution*, 13.

<sup>91</sup> Winterer, *The Culture of Classicism*, 19.

as rule by consent of the governed. The history that the Founders made in the Revolution, and would continue to make at the Convention, would be a product of their own understanding of history.<sup>92</sup>

In particular, early Americans had an affinity for ancient Rome and the ancient senate as the guardian of liberty and stability, virtuous Ciceronian orators, and an agricultural based economy to maintain civic virtue.<sup>93</sup> The senate of the Roman Republic was seen as a great deliberative body that had taken power from the Roman monarchs after the Rape of Lucretia.<sup>94</sup> Cicero's orations on politics and the waning days of the Roman Republic educated readers on what the Republic meant to men like him and served a guide point for the Founders when they were helping to develop the political structure of the United States. Finally, the agrarian nature of ancient Athens and Rome was seen as the bedrock of a successful nation. Farmers held a stake in their city or town based off the land they needed to protect in order to provide for their livelihood. Democracy and republicanism function effectively when citizens have an interest in society. For instance, John Locke noted that humanity exited a chaotic state of nature because there was no protection of the individual or their property from the excesses of others. They established a political society, which took away their complete freedom in order to protect their property.<sup>95</sup> The Roman Republic has been represented to show that with farmers owning the land, the average citizen had a direct interest in the protection of their community and in its affairs.

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<sup>92</sup> Colbourn, *Lamp of Experience*, 192-93.

<sup>93</sup> Ibid, Page 19.

<sup>94</sup> Lucretia was the wife a nobleman in the last years that Rome was ruled by the Etruscan kings. She was kidnapped and raped by the last king of Rome Sextus Tarquinius and committed suicide soon afterwards. Her father and husband promised to avenge her and successfully ousted Sextus Tarquinius. The Rape of Lucretia is regarded by famed Roman historian Livy as marking the foundation of the Roman Republic. Livy, *History of Rome* 1.57-1.60.

<sup>95</sup> John Locke, *Second Treatise of Government*, Chapter V, Sections 25-51.

The Founding Fathers would have been familiar with a wide variety of classical writers, historians, and philosophers, depending on their availability. The very idea of constitutionalism with established rule of law, limitations on the power of the government in relation to the people found in the Constitution are direct descendents from the works and thoughts of philosophers.<sup>96</sup> The Founders were able use their knowledge of classical texts to establish a government with a separation of power and responsibilities as well as checks and balances based off of ancient history.<sup>97</sup> The notion of equal treatment under the law that was so important to the Founding Fathers when they were establishing the Constitution can be seen in the Greek concept of *isonomia*<sup>98</sup>, which Vincent Martin Bonventre notes, said that laws were applicable to the rich and the poor, the powerful and the powerless, the rulers and the ruled.<sup>99</sup> The ancient writings not only have served as a fountain of knowledge for the Founders' contemporary society but also served as critical intellectual whetstones in grammar and college education before, during, and after the Founding Generation.

In the hot summer of 1787, the mostly college educated and classically trained delegates to the Constitutional Convention gathered for the supposed purpose of reforming the Article of Confederation. Of course, the Founding Fathers completely did away with the Articles and created the Constitution. In the debates between May 25 and September 17, the Founders invoked Roman heroes, history, and institutions as they debated the new constitutional order of America.<sup>100</sup> Some delegates raised concern about looking to the Roman Republic because it had collapsed and became an empire, but the Golden Age of the Republic remained the model for

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<sup>96</sup> Bonventre, *A Classical Constitution*, 14.

<sup>97</sup> Ibid, 14.

<sup>98</sup> The term *isonomia* has had many different meanings throughout Greek History. By the close of the seventh century BCE, the term would have meant "equal law" or "equality of speech." In Athens, *isonomia* was the pride of the citizenry. De Burgh, *The Legacy of the Ancient World*, 135.

<sup>99</sup> Bonventre, *A Classical Constitution*, 14.

<sup>100</sup> Peter Bondanella, *The Eternal City*, Page 131.

what the Founders wanted to establish.<sup>101</sup> America's Cincinnatus, George Washington, was elected the president of the convention and somberly presided over the convention.<sup>102</sup> Lucius Quinctius Cincinnatus was called to save Rome from its enemies in times of great peril for the Eternal City.<sup>103</sup> Cincinnatus was given the title of "dictator" which gave him emergency power to rule outside of the republican nature of the Rome, but he would voluntarily give up his power and return to his three acres of farm land until his country called for his assistance again.<sup>104</sup> The concept of Cincinnatus was highly cultivated in early American history and showed an unfavorable view of lengthy political tenure and executive power by many early Americans.<sup>105</sup>

The classics were important to the Founders because they were looking for a lamp of experience in ancient history and political thought to validate the political conclusion that they had from contemporary thought and reason.<sup>106</sup> With their selective reading of the classics, the Founders looked for the foundation of the concepts of liberty and republicanism in the pages of history. William Livingston sums up nicely the feeling towards ancient Rome and Greece by saying, "those free governments of old, whose History we so much admire, and whose example we think it an Honour to imitate."<sup>107</sup> As early as 1765, John Adams asked other revolutionaries to look to the laws of nature, the spirit of the British Constitution, read the histories of the ancient ages, and follow the great examples of Greece and Rome in his call for greater liberty in the colonies from Great Britain.<sup>108</sup> For Adams, what the Founders needed to glean from ancient history was the "knowledge of the principles and construction of free governments... [in] the

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<sup>101</sup> Ibid, 131-132.

<sup>102</sup> Ibid, 136.

<sup>103</sup> Livy, *History of Rome* 3.26-3.30.

<sup>104</sup> Livy, *History of Rome* 3.29.

<sup>105</sup> Meyer Reinhold, *Classica Americana: The Greek and Roman Heritage in the United States*, (Detroit: Wayne State UP, 1984), 98-99.

<sup>106</sup> Ibid, 95.

<sup>107</sup> Ibid, 95.

<sup>108</sup> Ibid, 96.

ancient seats of liberty, the Republics of Greece and Rome.”<sup>109</sup> For the future of America, Adams’ papers are dotted with references to the, “great example of Rome and Greece.”<sup>110</sup>

### Antiquity and the Founders

Among the classical notions inscribed into the Constitution are the doctrines of mixed constitutional governance and separation of powers.<sup>111</sup> The mixed constitution would have referred to the combination of democratic, monarchical, and aristocratic elements that coexisted in ancient Rome and Greece. John Adams personally applauded the concept of mixed governments in ancient Rome and Greece, as well as ancient Carthage, in his *Defense of the Constitutions of Governments of the United States of America*.<sup>112</sup> Adams asserted that all the best governments of the ancient world had a combination of monarchial, democratic, and aristocratic governance and personally applauded Cicero for his advocacy of mixed government in his *Defense*.<sup>113</sup> Other ancient sources that were scoured by the Founding Fathers were Plato, Aristotle, and Polybius.<sup>114</sup>

The Roman constitution of the late third to early second century BCE was of primary importance to the Founding Fathers for understanding mixed constitutionalism. One of the sources for John Adams and other Founders on the Roman constitution was Polybius in Book 6 of *Politics*. Polybius (203-120 B.C.E.) was a Greek historian who wrote extensively and reverentially on the Roman Republic.<sup>115</sup> Polybius described the three blends of government that incorporated the Romans state as aristocratic, democratic, and monarchical.<sup>116</sup> Polybius said that

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<sup>109</sup> John Adams, “Papers of John Adams,” (Massachusetts Historical Society 1977), 117.

<sup>110</sup> Ibid, 117.

<sup>111</sup> Ibid, 100.

<sup>112</sup> John Adams, “Defense of the Constitutions of Governments of the United States of America,” (Budd and Bartam, 1797), 187.

<sup>113</sup> Ibid, 188.

<sup>114</sup> Ibid, 100.

<sup>115</sup> Bonventre, *A Classical Constitution*, 16.

<sup>116</sup> Polybius, *The Histories* 7.11.

when observing the power of the consuls, Rome seemed like a monarchy, but seemed aristocratic when looking at the senate of Rome, and democratic when noting the power of the masses.<sup>117</sup>

The Roman consuls were noted for their leadership of all public affairs in Rome and their leadership of the legions abroad. The consuls' powers were restrained by the division of responsibility between other Roman magistrates such as the praetors, quaestors and the senate. Polybius notes as well that the senate was in control of controlling revenue and expenditures while the consuls controlled armaments and field operations. The people of Rome are left with the power to confer honors and inflict punishments. Honors and punishments in Rome were considered essential bonds that helped keep society together.<sup>118</sup> The people, though, are guaranteed greatest share of power in the government because the people would be the ones who would vote to approve or disapprove of alliances, peace terms, and other major societal decisions.<sup>119</sup>

The main lesson that the Founders gleaned from reading Polybius' *Histories* was the Roman Republic's distribution of power across different political offices.<sup>120</sup> From the Roman constitution, the Founders hoped to form a system that would either prevent or slow down the potential deterioration of the newly established American republic.<sup>121</sup> Like the aristocratic senate, the original US Senate was not elected by the people but by the state legislators. The concept behind this was to have an upper legislative body that would cool the tumultuous public fervor in the House of Representatives.<sup>122</sup> Adams knew that the Roman Republic that Polybius analyzed only survived for another century after the death of the famous historian, which is why

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<sup>117</sup> Polybius, *The Histories* 7.11.

<sup>118</sup> Polybius, *The Histories* 7.12.

<sup>119</sup> Polybius, *The Histories* 7.13.

<sup>120</sup> Bonventre, *A Classical Constitution*, 13

<sup>121</sup> Reinhold. *Classica Americana*, 101.

<sup>122</sup> Bederman, *The Classical Foundations of the American Constitution*, 144.

in the final version of the Constitution a system of strong checks and balances was established. For many observers, a central cause of the fall of the Roman republic was an ineffective balance of power in the government. From ancient Greece, many of the Founders were concerned about the power of direct assembly voting in government. Even at thirteen colonies, the Founders viewed direct participation of citizens on governmental issues as incompatible with the new America. To address this shortcoming, the Founders established representative government for the United States.

Mixed government theory has had a long history in the West. Even though the concept of democracy can be traced back to ancient Athens there was often competition between democracy and the aristocratic families of the city-state.<sup>123</sup> These families resented the dilution of their political power by the irrational, unstable, and fickle public masses that were trying to control the rich. After the death of Pericles, leadership of Athens fell into the hands of lesser men and demagogues, which eventually led to the fall of democracy.<sup>124</sup> The antidemocrat, aristocratic forces that eventually restrained and diluted democracy helped lay the foundation for the historic accounts of democracy that the Founders would read about thousands of years later. Others, like Plato, Aristotle, and Xenophon were aghast at the public execution of Socrates. Aristotle equated democracy to mob rule, a sentiment echoed directly by the Founders thousands of years later.<sup>125</sup> A central limitation on the common people's participation in government were the property requirements that the Founders placed upon voting, similar to the need to serve in the military to vote in ancient Athens.<sup>126</sup> The Founding Generation felt that having property ownership

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<sup>123</sup> Carl J. Richard, *The Founders and the Classics: Greece, Rome, and the American Enlightenment*, (Cambridge, MA: Harvard UP, 1994), 123-124.

<sup>124</sup> *Ibid*, 124-125.

<sup>125</sup> Bederman, *The Classical Foundations of the American Constitution*, 99-100.

<sup>126</sup> Bederman, *The Classical Foundations of the American Constitution*, 99-100.

requirements on voting and holding elective office would provide a bulwark against the defilement of republican virtues by the common people.<sup>127</sup>

For the Founders, King George III had usurped the mixed but balanced constitutional order of the British political system by buying off the House of Commons and appointing his loyalists to the House of Lords, directly unbalancing the mixed constitutional nature of the Empire.<sup>128</sup> The source of tyranny for the Founding Generation was the integrity of each branch of democracy, monarchy, and aristocracy.<sup>129</sup> Although Thomas Jefferson was later associated with agrarian democratic expansion in the early nineteenth century, he and John Adams embraced balanced and mixed constitutional governance from antiquity. Jefferson argued that only the wisest men should be elected to the Virginia, and eventually, the US Senate.<sup>130</sup> For Jefferson "...a choice by the people themselves is not generally distinguished for its wisdom."<sup>131</sup> The elite Founding Order of America was concerned about the unrestrained power of the people to make decisions and directly established checks against democratic excesses in the Constitution. Jefferson, like Adams, was learned in the classics, noted that in Rome: "I am immersed in antiquities from morning to night. For me the city of Rome is actually existing in all the splendor of its empire. I am filled with alarms for the event of the irruptions daily making on us by the Goths, the Visigoths, Ostrogoths, and Vandals, lest they should re-conquer us to our original barbarism."<sup>132</sup> Jefferson, while in Europe on diplomatic business, saw Rome hundreds of years after the fall of the Republic and Empire. He notes in this quotation that Rome fell after foreign invasions; the quote also reminds readers that internal divisions among the Roman people

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<sup>127</sup> Ibid, 101.

<sup>128</sup> Ibid, 130.

<sup>129</sup> Ibid, 130.

<sup>130</sup> Ibid, 131

<sup>131</sup> Ibid, 132

<sup>132</sup> Thomas Jefferson, "Memoirs, Correspondences, and Miscellanies"

significantly contributed to the fall of the Roman Republic and Empire. John Adams was one of the strongest proponents of mixed constitutional governance in America. As early as 1763, Adams wrote in “An Essay on Man’s Lust for Power” that having only a monarchy would lead to despotism, an aristocracy would lead to oligarchy, and democracy would denigrate into anarchy.<sup>133</sup> Alluding to John Locke’s state of nature, Adams noted that political society could cease to exist in a democracy since men would feel that they had the prerogative to do whatever they wanted, up to and including violating other’s life, liberty, and property.<sup>134</sup> The best governments, according to Adams, were the mixed governments of Greece and Rome. Adams attributed the fall of Athenian Democracy and the Roman Republic to a lack of balance of the orders of aristocrats, the rulers, and the people.

For Adams and the Convention, updating the balance of power between aristocracy, democracy, and monarchy was a key goal.<sup>135</sup> To address the concerns that the people would have too much power and would cause anarchy, Adams, Jefferson, and the Founders in the Constitution removed the people from much of a direct role in national government. The House of Representatives would be the only portion that was, originally, directly elected by the people under the Constitution. The US Senate and president would be indirectly elected with senators being elected by the state legislature and the president being elected by the Electoral College, which was also selected by the state legislature. In place of an aristocracy and monarchy, the founders established an elected “monarch” in the presidency and an assembly of wealthy landowners in the Congress.<sup>136</sup> Clearly, the concept of mixed constitutional governance expounded upon by classical historians such as Polybius influenced the intellectual foundation of

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<sup>133</sup> John Adams, “Papers of John Adams,” 81.

<sup>134</sup> Ibid, 81.

<sup>135</sup> Ibid, 82.

<sup>136</sup> Ibid, 138-129.

the Constitution's balance of democracy with the natural aristocracy unique to America.<sup>137</sup> The Founders established a political system taken from antiquity that they placed their own spin on or, as Alexander Hamilton noted was, "neither Greek nor Trojan"<sup>138</sup>, but purely American."<sup>139</sup> With such a strong federal government, the Founders also established a check to the power of the national government by the state governments.

The Constitution provides a system that built upon the ancient notion of mixed constitutionalism between monarchical, aristocratic, and democratic components that translated in America to the natural aristocracy of the landed gentry and the common people. Within government, the lines of separation of powers between the three branches were sharpened to ensure a successful balance of power. Another central component of the Constitution are limitations of the government's authority over the people. The protection of individual liberty has deep roots within classical antiquity. Throughout Plato's works, there are discussions and arguments over effective governance, personal rights and liberties, and what is justice or what is right and what is wrong. In *Laws*, Plato provides a fictional discussion over the purpose and nature of laws and their effects on society.<sup>140</sup> Plato said that it is vital that men lay down laws for themselves and live in obedience to them. Without respect for the rule of law, Plato said that men would be nothing more than savage animals.<sup>141</sup> He argued that political skills need to be used to promote laws and policies that are in the interest of the common good not individual, private

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<sup>137</sup> Ibid, 168.

<sup>138</sup> Hamilton could mean Rome when he references Trojan influences on government dating back to the story of the founding of Rome in the epic poem, the Aeneid. In the Aeneid, Aeneas, a Trojan warrior flees his beloved city after it was sacked by the forces of Agamemnon, with the assistance of the hero Achilles. After a long fraught journey, the remaining Trojans from Aeneas' journey established the future site of the city of Rome as their new home.

<sup>139</sup> John Adams, "Papers of John Adams," 168

<sup>140</sup> Plato, *Laws* Book IV 715a.

<sup>141</sup> Plato, *Laws* Book IV 715b.

interests.<sup>142</sup> Plato structures laws and regulations as the embodiments of general principles that govern society and allow courts to adjudicate individual disputes that occur under the law.

Moreover, Plato envisions legislatures writing laws and regulations reflecting the general principles of the commonwealth and allowing judges and juries to apply the law under specific disputes.<sup>143</sup> While discussing the political system of a new city on the island of Crete, Plato discusses how political office would be rewarded to the man who was viewed by the community as being able to obey established law and not based of wealth, strength, stature, or birth.<sup>144</sup> Plato says that instead the rulers would be servants of the law because when the law is subject to the ruler and the ruler is not subject to the law, Plato argues that the state cannot survive.<sup>145</sup> While societal rule of law is the second option for Plato, who preferred the idea of the philosopher king ruling, his ideas on laws and regulations have helped guide the development of Western Civilization for thousands of years.

Another luminary in ancient Greek philosophy that the founding generation would have been well acquainted with would have been Plato's former student Aristotle. In *Politics*, Aristotle argues that when men are equals, then everyone is ruled just as much as they rule over themselves and others.<sup>146</sup> The rule of law allows men to rule and be ruled at the same time by establishing a uniform set of regulations for society. Elected magistrates and officials can then be the guardians and administrators of the law and ensure that no one man is given too much power and autonomy over others.<sup>147</sup> One of the benefits that Aristotle saw in the law was the ability to make amendments to it as well as have officers who expressed purpose would be to issues of

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<sup>142</sup> Plato, *Book IV* 715c-d

<sup>143</sup> Plato, *Book IV* 716a.

<sup>144</sup> Plato, *Book IX* 874d-e.

<sup>145</sup> Plato, *Book IX* 875e.

<sup>146</sup> Aristotle, *Politics* 3.1

<sup>147</sup> Aristotle, *Politics* 3.1

where the law is unclear. Aristotle condemns monarchies such as Lacedaemonian monarchy that was a generalship for life with some hereditary and elective offices and dictatorships in Asia as having characters of tyranny since despotic power is held by the king or dictator over the people.<sup>148</sup> Instead, Aristotle discusses democratic governance in ancient Greece by stating:

According to our present practice, assemblies meet, sit in judgment, deliberate, and decide, and their judgments [c]an relate to the individuals cases. Now any member of the assembly, taken separately, is certainly inferior to the wise man. But the state is made up of any individuals. And as a feast to which all the guests contribute is better than a banquet furnished by a single man, so a multitude is a better judge of many things than any individual. Again, the many are more incorruptible than the few; they are like the greater quantity of water which is less easily corrupted than a little. The individual is liable to overcome by anger or by some other passion, and then his judgment is necessarily perverted; but it is hardly to be supposed that a great number of persons would all get into a passion and go wrong at the same moment.<sup>149</sup>

A significant point that is recorded from Aristotle is that justice is the binding agent of men in a political society. The administration of justice is what binds men to what is just which goes a long way in defining the principles of Western Civilization.

John Adams wrote a letter to the *Boston Gazette*, in September of 1763, arguing for revolutionary freedoms such as of speech, press, and liberty of conscious.<sup>150</sup> Adams wrote that the preservation of the human self and property as indisputable right of nature that the social compact protected. He argued that he did not surrender his rights not could he surrender them. He further argued that the dogmas of Plato, the maxims of the Law, and the precepts of Christianity also supported his view on liberty and freedom.<sup>151</sup> Adams' understanding of the classic instructed his view that governments were instituted to protect the rights of the people against the excesses of others.<sup>152</sup>

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<sup>148</sup> Aristotle, *Politics* 3.1.

<sup>149</sup> Aristotle, *Politics* 3.1.

<sup>150</sup> Aristotle, *Politics* 3.3.

<sup>151</sup> Aristotle, *Politics* 3.3.

<sup>152</sup> *Ibid*, 84

Another Founding Father, James Madison, is known as the Father of the Constitution because of his extensive contributions to the formation of America's constitutional framework in 1787. As one of the most prepared and studied of his colleagues in everything from the classics to contemporary political thought, Madison held a particularly influential role in the beginning of the Constitutional Convention.<sup>153</sup> He discussed his plans to establish a new, national government to replace the weak central government of the Articles of Confederation to his friend Thomas Jefferson, the Father of the Declaration of Independence, while he was serving as minister to France.<sup>154</sup> The Father of the Constitution related to Jefferson that republics would not only operate in small geographical area but could flourish in America.<sup>155</sup> He argued that having a large number of interests, groups, parties, and factions could actually help form coalitional majorities across the new country.<sup>156</sup> His logical thinking helped him to analyze the basic principles of republican governments and the history of confederations from antiquity to the present helped him to develop the framework for the federal government established by the Constitution.<sup>157</sup> For Madison, his reading and studies of the classics and contemporary political thought led him to believe that republican governments were the best form of government to protect liberty and justice as compared to monarchy.<sup>158</sup> Throughout Madison's record of the Convention, he addresses the weaknesses that he sees in the classical history of Rome and Greece as well as the strengths.<sup>159</sup> Madison directly looked to the Romans when arguing for a smaller number of members in the US Senate,

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<sup>153</sup>Thomas Jefferson, and James Madison. *The Republic of Letters: The Correspondence Between Thomas Jefferson and James Madison, 1776-1826*. Ed. James Morton Smith. (New York: Norton, 1995), 443.

<sup>154</sup> Ibid, 443.

<sup>155</sup> Ibid, 448.

<sup>156</sup> Ibid, 448.

<sup>157</sup> Ibid, 449.

<sup>158</sup> Ibid, 448.

<sup>159</sup> James Madison, "The Journal of the Debates in the Convention Which Framed The Constitution of the United States May-September, 1787." Ed. Gaillard Hunt, 88, 97, 149.

“The use of the Senate is to consist in its proceeding with more coolness, with more system, & with more wisdom, than the popular branch. Enlarge their number and you communicate to them the vices which they are meant to correct. He differed from [Mr. Dickinson] who thought that the additional number would give additional weight to the body. On the contrary it appeared to him that their weight would be in an inverse ratio to their number. The example of the Roman Tribunes, was applicable. They lost their influence and power, in proportion as their number was augmented. The reason seemed to be obvious: They were appointed to take care of the popular interests & pretensions at Rome, because the people by reason of their numbers could not act in concert; were liable to fall into factions among themselves, and to become a prey to their aristocratic adversaries.”<sup>160</sup>

Washington, America’s Cincinnatus famously noted that the US Senate served as a cool station for actions of the House of Representatives. Since the US Senate was not directly elected by the people originally, it did not have to represent the popular viewpoints of the people. Instead, the Senate was meant to represent the states and their interests in the federal government in support of the federalist system the Founders’ constructed. The concept of federalism, and its basis in classical antiquity, would also be debated in the Convention of 1787.

### Separation of Power

A unique aspect of separation of powers that the Founders established in the Constitution was federalism. Federalism is not only separated power within the national and the state governments but also within between levels of governments. Particular attention from the founders when researching federalism was paid to ancient Greece.<sup>161</sup> In particular, the successes and failures of the ancient Greek leagues were accessed by the Convention.<sup>162</sup> Among the Founders well-versed in Greek history were John Adams, James Madison, and James Wilson, but Adams’ and Wilson’s knowledge was largely based off of secondary texts available to them.<sup>163</sup> Of the most noted Greek league, the Amphictyonic Council was the most readily referred to in the materials available at the time. James Wilson, in a lecture to the Convention,

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<sup>160</sup> Madison, “The Journal” 97.

<sup>161</sup> De Burgh, *The Legacy of the Ancient World*, 103

<sup>162</sup> Ibid, 103.

<sup>163</sup> Ibid, 103.

called the Council, “the Congress of the United States of Greece... [with] the general intention and invariable aim of all its modelers and directors was to form a complete representation of all Greece.”<sup>164</sup> That Wilson would call the Amphictyonic Council a “Congress of the United States of Greece” shows his clear misunderstanding of leagues in ancient history. Councils and leagues in ancient Greece, like the Amphictyonic Council, Achaean and Aetolian Leagues were associations of city-states for the purpose of religion and defense.<sup>165</sup> Yet Leagues had potential problems. For Wilson and the other Founders, there were concerns that one tribe or entity within a league would dominate over the others. Likewise, leagues, such as the Achaean, Aetolian, and Lycian had relatively short lengths of existence. The Founders attempted to rectify this by having equal membership in the US Senate. The primary fault of ancient leagues and confederations was the fact that one state would dominate over the other member states.<sup>166</sup> In the United States Senate, the states would have equal representation in a national assembly. While Founders like Wilson may have had a limited and a narrow view of Greek confederations, what was thought or known about the Greek federations had an impact on their views of federalism. Fearing a tyranny of the national government over the states, the Founders established a central but limited government and would after the approval of the Constitution directly empower the states over the federal government.<sup>167</sup>

For many scholars, the concept of separation of power within the federal government was established for the founders by the Baron de Montesquieu. As Forest MacDonald asserts, Montesquieu taught Americans about the separation of legislative, executive, and judicial power. Montesquieu argued that when two or more branches of government are focused in a single

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<sup>164</sup> Ibid, 103.

<sup>165</sup> Ibid, 107.

<sup>166</sup> Bederman, *The Classical Foundations of the American Constitution*, 144.

<sup>167</sup> The tenth amendment reserves all powers not given to the federal government to the states and the people. Kohlmetz, *Encyclopedia of American History*, 81.

person or entity, then there could be no liberty.<sup>168</sup> Furthermore, Montesquieu argued that the legislative branch should be separated into two houses with one representing the affluent and one house representing the common people.<sup>169</sup> The legislature needed to be able to impeach the president and control the purse strings if there was going to be a legitimate separation of power.<sup>170</sup> The foundation for Montesquieu's separation of power principle can be found in classical antiquity as well. An important source for eighteenth century political theorists such as Montesquieu, John Locke, and James Harrington about separation of power came from Aristotle in *Politics*.<sup>171</sup> Aristotle describes divisions of power as "Of these three factors one is, what is to be the body that deliberates about common interests, [the legislature] second the one connected with the magistracies, [the executive]...and a third is, what is to be the judiciary."<sup>172</sup> In Greece, there was limited separation of power in Athens and Sparta. In Athens, which was unicameral and unitary, there were limits on the exercise of authority in their political institutions to check the popular excesses of authority or abuse of power by the masses.<sup>173</sup> In the Roman republic, the Founders knew that the senate held broad legislative powers while the consuls led the elected magistrates.<sup>174</sup> Another check in the Roman system within the magistracy was the diffusion of power between the two consuls, two censors, and multiple lower officials below that helped divide up power and provided checks to individual officeholders.<sup>175</sup> The Roman constitution of the third and second century BCE, as recorded by Cicero and Polybius, shows an antiquated foundation for the principles of separation of power and checks and balances between various

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<sup>168</sup>Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution*, (Lawrence, Kan.: U of Kansas, 1985), 81.

<sup>169</sup> Ibid, 82.

<sup>170</sup> Ibid, 82.

<sup>171</sup> Bederman, *The Classical Foundations of the American Constitution*, 77.

<sup>172</sup> Aristotle, *Politics* 3.4

<sup>173</sup> Bederman, *The Classical Foundations of the American Constitution*, 77.

<sup>174</sup> Ibid, 78-79.

<sup>175</sup> Ibid, 78.

institutions of government that later eighteenth-century political theorists articulated and were read and used by the Founding Fathers.<sup>176</sup>

While there was a diffusion of power and responsibilities in Athens and the Roman Republic, separation of powers within the traditional three branches was not seen in ancient Rome and Greece. Legislative power, in the Roman Republic, while mainly exercised by the senate was also shared with the tribunate which represented the non-senatorial class *plebes* and the popular assemblies.<sup>177</sup> While executive power was more centralized in the magistrates in ancient Athens and Rome, the number of officials also diffused authority in both civilizations. Finally, judicial power was used by the magistrates like the praetors and the assemblies with no clear or independent judiciary in ancient Rome. To rectify these shortcomings from antiquity, the Founders wrote the Constitution so that each of the first three articles vested the legislative, executive, and judicial into each of the separate but equal branches of government.<sup>178</sup> The Founders specifically spelled out the bounds of official interactions between the branches like having executive and judicial nominees receiving the advice and consent of the US Senate, the executive veto, and legislative override of the veto for example.<sup>179</sup> When a Council of Revisions was proposed at the Convention, which would have had executive and legislative official examine Congressional acts, it was rejected for fear of blurring constitutional boundaries like in ancient times.<sup>180</sup> For the Founding Generation, the modern delineation of separation of power was a practical innovation from the concept of diffusion of power and mixed constitutionalism from classical antiquity.<sup>181</sup>

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<sup>176</sup> Ibid, 81.

<sup>177</sup> Bederman, *The Classical Foundations of the Constitution*, 80-81.

<sup>178</sup> Ibid, 83.

<sup>179</sup> Ibid, 83

<sup>180</sup> Ibid, 83.

<sup>181</sup> Ibid, 84.

## The Presidency and Judiciary

Control of governmental power was important to the Founding Generation after living under the colonization of the British Empire. The main body of the Constitution specifically outlines broad actions the national government can undertake but also restrains the power of the government.<sup>182</sup> The Founders were particularly cautious when they wrote Article Two on the office of the presidency. After revolting against the King George III, the Framers did not want to have a Caesar-like figure take control of the new American republic. Instead, the delegates envisioned a chief or first magistrate in the mode of the Roman republic when the crafting Article II.<sup>183</sup> Wilson eloquently told the Convention that the way to control the legislative branch was to divide it and to control the executive branch the Framers had to unite it. Wilson noted that when the executive power, at the end of the Roman Republic, was split into a triumvirate under Julius Caesar and Augustus, one man rule prevailed.<sup>184</sup>

Article III, on the federal judiciary branch, is relatively less defined when compared to Articles I and II. With the Framers putting more attention on the legislative and executive branches, Article III simply named the Supreme Court as the highest court in the land and allowed Congress to establish new courts and define the Court's appellate jurisdiction and the jurisdictions for the rest of the federal court system. Classical judicial systems were not as highly studied as their legislative and executive brethren because of the Framers' acceptance of the English Common Law system but natural law was a classical influence that the Framers approved of.<sup>185</sup>

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<sup>182</sup> Bederman, *The Classical Foundations of the American Constitution*, 95.

<sup>183</sup> *Ibid*, 148.

<sup>184</sup> *Ibid*, 150.

<sup>185</sup> *Ibid*, 154.

## Conclusion

Today, the coins of the United States of America are inscribed with the Latin phrase *E Pluribus Unum* which translates to, “From Many, One.” This Latin phrase, that is on every coin and dollar bill, is a fitting reflection of the United States’ deep history and fascination with classical antiquity. In the beginning of the American Republic, those affluent or determined enough in the Founding Generation received an education emphasizing classical languages, history, ethic, philosophy, and culture. Living in the aftermath of the Renaissance, education gave the men who wrote the Constitution insight into the golden ages of ancient Rome and Athens. While the Founders’ perspective of antiquity was narrow, they learned of about some humanity’s earliest recorded attempts at democratic and republican governance. When the Founders congregated in Freedom Hall in the sweltering summer of 1787, they used their knowledge of mixed constitutional governments, separation and diffusion of power, as well as protection of the rights of the people from the governments as they developed the Constitution. The result of their work is a Constitution with significant classical influences. While eighteenth-century political theory from Locke, Rousseau, and Montesquieu also influenced the Founders, classical influences can also be seen upon many of the great thinkers of the Enlightenment as well. As today’s American coins suggest, the Founders’ influences came from many places, including ancient Athens and Rome, to help form the Constitution. One of the most significant influences upon the Founding Fathers, though, was classical antiquity.

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