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RECOVERING CITIZENSHIP AND GOVERNMENT FROM POLITICS: A RETURN TO THE FOUNDING

Forrest A. Nabors*

DANIELLE ALLEN, *OUR DECLARATION: A READING OF THE DECLARATION OF INDEPENDENCE IN DEFENSE OF EQUALITY* (W. W. NORTON & COMPANY 2014). PP. 315. PAPERBACK \$19.95.

SANFORD LEVINSON, *AN ARGUMENT OPEN TO ALL: READING THE FEDERALIST IN THE 21ST CENTURY* (YALE UNIVERSITY PRESS 2015). PP. 350. HARDCOVER \$38.00.

At this writing, just before Election Day in 2016, it is not too early to predict that this year will be remembered for uncommonly nasty partisanship, rivaling America's most degraded national political contests. We have witnessed revelations of appalling conduct behind closed doors, mob violence at political rallies all over the country, and jaw-dropping recriminations leveled by both presidential candidates against each other. Polls have revealed broad and unprecedented dissatisfaction among Americans for both presidential candidates. The general feeling of the electorate seems to be that regardless of who is chosen president on Election Day, the people will have selected the one judged least bad, not the one judged best. Yet, we know that clouds already hovered above national political life before the spectacular events of this year darkened them further. Entering 2016 low approval ratings of Congress were already customary, regularly bouncing around a range below the approval ratings of our last two presidents. Increasingly, the electorate has identified as independent and has withheld affiliating with the major parties. Americans seem well aware that the professionals in whom they have entrusted honest representation of their political views have failed them.

But here, we might pause to see hope in the storm. Popular revulsion may be a sign that partisanship has not cut into the electorate beyond the professionals and activists. The latter comprise the actors engaged in tawdry political theater and it might be a mistake to confound them with the repulsed audience. This separation could be explained by the thesis of Morris Fiorina, who argued that the American

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people are not so intensely polarized as the political class.¹ Americans of many political stripes are united in disgust. Aristotle observed that popular disgust for extremism is a sign of deeper political health, because it shows that the size of the middling element willing to obey reason is substantial.² Hopefully, conditions are ripening for cooler heads to cross discredited partisan lines and join in constructive discussion and debate that the American people would welcome.

Perhaps we can take comfort in the defensible observation that the seeds of renewal are sometimes found in declension, and perhaps decline itself plants those seeds. Our infamous year might loosen the ties that bind the American people to stale partisan creeds and policy agendas and open them to new ideas about our political life and government. If we take advantage of these conditions, thoughtful Americans can make good use of two new books, Danielle Allen's *Our Declaration: A Reading of the Declaration of Independence In Defense Of Equality*, and a study of the *Federalist* essays, Sanford Levinson's *An Argument Open to All: Reading The Federalist in the 21st Century*.³ Both return to our national origins in order to reflect on the present. In a political moment like ours, there is no better place to begin anew than at the beginning, to shore up our vandalized national edifice.

Purged of academic jargon, the highly readable *Our Declaration* would be a Jane Austen heroine at a dinner party, if books were people. Allen is an affable and deceptively modest writer, and she engages everyone at their level. Her book refers to the divorce between Prince Charles and Princess Diana, the poetry of Sylvia Plath, the indictment of Linda Tripp, and other examples drawn from ordinary life and popular culture in order to patiently explain complex concepts implicated by the Declaration.⁴ This is in keeping with her stated intention "to draw different circles of readers together."⁵ But, like a Jane Austen heroine, her book is full of erudition and runs deep. At many points, Allen's fellow travelers who also have studied and revere the Declaration will receive a jolt from a new revelation that she has uncovered. *Our Declaration* has vaulted Allen into the front ranks of the Declaration's defenders. As she notes, there are few studies like hers that treat the Declaration as a philosophical argument rather than as an historic episode.⁶ Her book should be paired with Carl Becker's *The Declaration of Independence: A Study in the History of Political Ideas* as a study of contrasts.⁷ For Allen, the Declaration is always relevant, and

1. See MORRIS P. FIORINA, *DISCONNECT: THE BREAKDOWN OF REPRESENTATION IN AMERICAN POLITICS* (2009).

2. ARISTOTLE, *POLITICS* bk. IV, 1295a34-1295b34 (Carnes Lord trans., Univ. of Chicago Press ed. 1984) (c. 384-322 BCE). Citations of Aristotle use the numbering system devised by Immanuel Bekker.

3. DANIELLE ALLEN, *OUR DECLARATION: A READING OF THE DECLARATION OF INDEPENDENCE IN DEFENSE OF EQUALITY* (2014); SANFORD LEVINSON, *AN ARGUMENT OPEN TO ALL: READING THE FEDERALIST IN THE 21ST CENTURY* (2015).

4. ALLEN, *supra* note 3, at 94, 102, 207-08.

5. *Id.* at 43.

6. *Id.* at 34.

7. CARL BECKER, *THE DECLARATION OF INDEPENDENCE: A STUDY IN THE HISTORY OF POLITICAL IDEAS* (1922).

she seeks to re-animate it for the American people.⁸ Becker historicizes the Declaration. For him, its time is past; it is obsolete.

This is a welcome book to those of us who are warmed by the confession of Abraham Lincoln when he surveyed the scene of the Declaration's birth, that "all the political sentiments I entertain have been drawn . . . from the sentiments which originated, and were given to the world from this hall."⁹ That short, emotional address in Independence Hall on February 22, 1861 also reminds us that Allen's book is necessary. On the eve of Lincoln's inauguration, the threat of assassination hung over him precisely because of his filial devotion to our founding document. In a sense, the Civil War was fought to either raise our Declaration higher or tear it down.

We need Allen's book because formidable foes, ranging from bitter enemies to unconvinced critics, always have swelled the ranks arrayed against the Declaration. The Declaration has been, and sometimes still is, dismissed as a bundle of glittering generalities or as essentialist myth-making. The Declaration's assertion that "all men are created equal" has been assailed variously as erroneous, a self-evident lie and inclusive only of white males. The passive disparagement of the Declaration in our own day is evident even in scholarship that implicitly adopts the principles of the Declaration for its moral premise. One eminent study of past advances toward racial equality in America omits the Declaration among the decisive factors that the authors highlight. Their omission does not seem quite right when one considers those periods of racial progress and the rising popularity of the Declaration's language, which was weaponized by successful civil rights movements.¹⁰ An argument could be crafted from *Our Declaration* showing that the close historical coincidence between successful agitations for greater freedom in American political history and wider appeals to the Declaration was a causal relationship, and not accidental.

Allen argues that the Declaration "helps us see that we cannot have freedom *without* equality."¹¹ Political philosophy has erroneously taught "that equality and freedom are necessarily in tension with each other," and Americans "have swallowed this argument whole."¹² *Our Declaration* sets out to correct this malnourishment. In summary of her book, the Declaration shows that equality is the surest guarantor of freedom. It is an unusual document because although it consists of words like any other, its words are actions that are aligned to the precepts about equality that it contains. In other words, the Declaration marks a kind of genesis: a mysterious moment of self-enlightenment or spontaneous self-awakening to natural equality upon which a people composing a new nation stakes and maintains its claim to the right to be free. Further, it is unusually apt at inspiring new self-

8. ALLEN, *supra* note 3, at 42.

9. 4 THE COLLECTED WORKS OF ABRAHAM LINCOLN 240 (Roy P. Basler ed., Rutgers Univ. Press, 1953) [hereinafter COLLECTED WORKS OF LINCOLN].

10. PHILIP A. KLINKNER & ROGERS M. SMITH, THE UNSTEADY MARCH: THE RISE AND DECLINE OF RACIAL EQUALITY IN AMERICA 4 (1999).

11. ALLEN, *supra* note 3, at 21 (emphasis original).

12. *Id.* at 23.

awakenings across the ages by being read and studied. The Declaration is an active power for freedom, and equality is its foundation.

The brief Prologue unveils Allen's argument and its urgency. Part I relates chapters in her personal life in order to bear witness to the enduring importance of the Declaration. Parts II & III provide a concise history of the drafting process, proving that it would be mistaken to reflexively think of the Declaration as the product of Jefferson's isolated retreat into his study. In fact, its language passed through many hands and many conversations.¹³ This is important because the terms of justice found in the Declaration, which they wrote together, requires group writing.¹⁴ Part IV through most of Part VIII is where the heavy lifting of the book takes place. Allen walks the reader through a careful exegesis of the text of the Declaration.¹⁵ The goal of this section is to uncover five facets of equality in the Declaration's argument.¹⁶ The Epilogue connects the general argument of the book to the meaning of equality previously explained.¹⁷ Although her history of the drafting process is interesting and convincing, the parts that deserve most scrutiny are her personal reflections and the exegesis.

In Part I, Allen discloses surprisingly intimate details about her personal life, but there is more to her meaning than might meet the hasty eye. This section demonstrates the power of the Declaration to teach its seminal lessons; to elevate and unify citizenship; to illustrate how each of us is strengthened by our individual recognition of natural equality; and to show why liberty is fleeting in political society unless that liberty is grounded in equality.¹⁸

She recounts how her "life-tested night students" at the University of Chicago engrossed the Declaration for the first time and read it closely with her.¹⁹ The working night students knew even less than the little that her more privileged day students knew about the Declaration, but at the end of their study, they were transformed.²⁰ The Declaration had taught them the profound meaning of who they and we all are – naturally equal human beings and inheritors of a nation founded upon the recognition that this is who we all are.²¹ Her students saw and grasped their patrimony.²² They gained a new vocabulary to speak about politics and their citizenship gained new life.²³ Allen witnessed this effect on her students, which transformed her, and gave her a new appreciation for the power of the Declaration.

13. *Id.* at 80-81.

14. *Id.* at 103.

15. *Id.* at 107-267.

16. ALLEN, *supra* note 3, at 108-09.

17. *Id.* at 275-82.

18. *Id.* at 36-44.

19. *Id.* at 33.

20. *Id.*

21. ALLEN, *supra* note 3, at 38.

22. *Id.* at 35.

23. *Id.*

Second, Allen relates her family history. She is a child of a biracial marriage.²⁴ Her African-American father left Florida because he tired of racial prejudice.²⁵ Her white mother descended from Michigan Progressives.²⁶ Around their dinner table, they discussed freedom and equality and the Declaration of Independence.²⁷ Then she shares a painful story. When her mentally ill maternal grandmother was undiagnosed and untreated, she subjected the youthful Allen to cruelty.²⁸ With the help of her family, she learned to ignore her grandmother's barbs and to quietly insist to herself that in an important and appropriate sense she was equal to her adult white grandmother.²⁹ This gave her the strength to bear the difficulty and left her with a lasting memory that later motivated her to teach others and give them similar strength.³⁰ She learned how to dismiss attempts to debase her by mentally embracing the meaning of natural equality, that none may be exalted above another nor debased below another with justice.³¹ At a young age, she knew that her grandmother had erred.

But in most political societies, we cannot secure our liberty by ignoring would-be tyrants. The book of Exodus in the Bible drove this lesson home for her.³² Although Joseph enjoyed liberty and prosperity under the pleased eye of Pharaoh, another Pharaoh succeeded to the throne who "knew not Joseph" and enslaved his descendants.³³ This taught her that only the establishment of equality as the standard for political life can assure the perpetuity of liberty. Without equality, the survival of liberty is subject to the caprice of rulers.

Taken together, Allen's personal reflections suggest how the Declaration solves the problem of division by identity and creates union among the citizenry, securing freedom for all. Defenders of the Declaration have long believed this. This is evident in another speech that Lincoln gave to an earlier generation of "life-tested" Chicagoans, 150 years before Allen's cohort. Lincoln estimated that perhaps as many as half of all Americans at that time were not descended by blood and flesh from the generation that was present during the American Revolution.³⁴ But

when they look through that old Declaration of Independence they find that those old men say that "We hold these truths to be self-evident, that all men are created equal," and then they feel that that moral sentiment taught in that day evidences their relation to those men, that it is the father of all moral principle in them, and that they have a right to claim it as though they were blood of the blood, and flesh of the flesh

24. *Id.* at 36-37.

25. *Id.* at 36.

26. ALLEN, *supra* note 3, at 37.

27. *Id.* at 36-38.

28. *Id.* at 39-40.

29. *Id.* at 40.

30. *Id.*

31. ALLEN, *supra* note 3, at 40.

32. *Id.* at 41.

33. *Id.*

34. 2 THE COLLECTED WORKS OF ABRAHAM LINCOLN 499 (Roy P. Basler ed., Rutgers Univ. Press, 1953).

of the men who wrote that Declaration, (loud and long continued applause) and so they are.³⁵

That is, blood and flesh do not constitute our most important civic bond that, like an electric cord, vivifies the merely legal union of citizenship. Our common humanity is the only condition for eligibility to partake of that bond. Our devotion to those words constitutes that bond, and converts us all into the descendants of the Founding Fathers who wrote those words, much in the same way that belief in and devotion to the truths revealed by religion convert people into inheritors of the promises of their god, who becomes their common father. The votaries become one family, united and transformed by their faith. Likewise, all who believe and devote their way of life to the words in the Declaration can claim the founders as our common fathers, and can claim their work, the Declaration and its recognition of our equality, as a patrimony that belongs to all of us. We can all be their true inheritors. If our legal union is imbued with this character, we are impregnable against tyranny from any quarter because we will be prepared to spring to the defense of each other's liberty when danger comes.

This time, the teacher is not Lincoln but Allen, an African-American woman who insists on claiming her full share of our common patrimony given to us by the Declaration.³⁶ But how can she reconcile that inheritance and the bleaker inheritance, the nation's historic failings towards segments of our population, especially towards African-Americans? Her formal answer comes later in her book, arguing that the central idea of the Declaration gradually reformed illiberal habits that were inherited by the founding and contradictory to its founding ideal.³⁷ This is a sufficient answer, substantiated by Aristotle, who points out that habits cultivated by a pre-existing political regime can survive revolution and the establishment of a new regime.³⁸ Her better answer is the whole book, and it is signified by the figure of Joseph, to whom she alluded in her short account of the Israelites in Egypt.³⁹ Joseph is an appropriate model for Allen's project, which demonstrates and subtly explains how all members of historically oppressed groups can reconcile these contradictory inheritances and contribute to liberating all from the burden of history.

By their own treachery, Joseph's brothers had him dragged into slavery. When they see Joseph the next time and behold his prosperity and power at the court of Pharaoh, they go down on their faces and beg for forgiveness. But Joseph tells them, "Do not be afraid . . . you meant evil against me; but God meant it for good, in order to bring it about as it is this day, to save many people alive."⁴⁰ The hard path by which many kidnapped Africans found themselves in America became a hard residency, plagued by long affliction originating within the American family of

35. *Id.* at 499-500 (quoting THE DECLARATION OF INDEPENDENCE, ¶ 1 (1776)) [hereinafter THE DECLARATION].

36. ALLEN, *supra* note 3, at 36.

37. *Id.* at 240-45.

38. ARISTOTLE, *supra* note 2.

39. ALLEN, *supra* note 3, at 107.

40. *Genesis* 50:19-20 (New King James Version).

citizens. This mass kidnapping and oppression was an incalculable evil. But the intended evil put them in a position from which they eventually could rise and gain the right to claim an incalculable good, this patrimony. In *Our Declaration*, Allen summons her command of logic, etymology, history, and philosophy to teach this patrimony and “save many people alive.”⁴¹ Her detour into the personal burnishes the purpose of her project and prepares us to take it seriously.

The first facet of equality that Allen wrings from the Declaration is the condition of being free from domination, which we might say is her working definition of liberty.⁴² The Declaration begins by referencing the “course of human events,” which revealed a pattern, an intention on the part of the British Crown to dominate the colonies.⁴³ They were impelled, pushed “to assume among the powers of the earth” a “separate and equal station.”⁴⁴ But she disclaims equating this pushing with historicist inevitability.⁴⁵ The threat of domination did not foreordain that the colonists would draw the appropriate lesson, and Allen stops short of explaining why they did draw that lesson and choose their fork in the river of events, rather than another. Probably, there is no explanation. Like philosophical instruction provided by the teacher in Plato’s Seventh Letter, domination can teach, but it cannot guarantee the enlightenment of the student, which happens by some inexplicable miracle.⁴⁶ In their encounter with the threat of domination, the Americans might have accepted the yoke, as some nations have done, and abandoned their founding ideal. The Declaration itself acknowledges this contingency, stating that “a Tyrant . . . is unfit to be the ruler of a free people.”⁴⁷ That is, a people willing to be slaves is fitted for a tyrant. But as a nation, the Americans had awakened to their natural equality, shook off the tyrannical pretension of the British government, and insisted, “We are your equals!”⁴⁸ They chose the harder alternative, war, in order to escape domination and change the course of events.⁴⁹

But why did “the Laws of Nature and of Nature’s God entitle them” to their new station?⁵⁰ Allen answers, because the equal right to avoid domination and survive is fundamental.⁵¹ Here, and in many other places, the oldest strains of political philosophy are visible in her exegesis. Rebellion against domination is a justified second stroke in war, not the first stroke, Aquinas reminds us, because tyranny is

41. ALLEN, *supra* note 3, at 107.

42. *Id.* at 122, 129.

43. *Id.* at 114 (discussing THE DECLARATION, ¶ 1).

44. *Id.* at 114, 119.

45. *Id.* at 132, 185.

46. Plato writes, “Thus much at least, I can say about all writers, past or future, who say they know the things to which I devote myself . . . There neither is nor ever will be a treatise of mine on the subject. For it does not admit of exposition like other branches of knowledge; but after much converse about the matter itself and a life lived together, suddenly a light, as it were, is kindled in one soul by a flame that leaps to it from another, and thereafter sustains itself.” PLATO, THE PLATONIC EPISTLES 135 (J. Harward trans., Cambridge University Press, 1935).

47. ALLEN, *supra* note 3, at 30.

48. *Id.* at 119.

49. *Id.* at 111.

50. *Id.* at 130.

51. *Id.* at 134.

war already commenced.⁵² The proper purpose of war is peace, says Aristotle, and primarily should be undertaken to prevent becoming enslaved.⁵³ Threatened domination pushed the Americans out of their former political order and pushed them into a new political order—their union. Allen writes, “political order emerges from the human need to gather together peaceably,” but in the old political order domination broke the peace.⁵⁴ The colonists needed each other to restore peace. Their liberty and mutual recognition of their equal right to liberty became the basis of their new union.

In this context, Allen addresses the thorny issue of God, noting that non-believers in the present day are proliferating.⁵⁵ Must we be theists, believing in merely some creator, in order to accept the argument of the Declaration with respect to the natural right? Allen says no, and that we can set the question aside.⁵⁶ In this instance, she seems to want to avoid contending with the difficult implications of changing religious opinion in our times. However, it is hard to see why inequality is any less justifiable than equality, if you knock down even the thinnest conception of a divinity. In fact, Allen describes such a conception: Aristotle’s “divine force” that “set the universe in motion . . . by giving everything in nature its goals or ends.”⁵⁷ Of course, it is possible that support for equality can persist without rationally respectable justification. But is blind prejudice in support of equality a reliable pillar?

In one of the most striking stretches of the book, Allen carefully explains the famous second sentence beginning, “We hold these truths . . . that all men are created equal” and reveals something new.⁵⁸ She collapses the five claims beginning with the word “that,” into three categories: truths about human beings, truths about government, and the right of revolution.⁵⁹ Restated, the famous second sentence is a syllogism with two premises, concluding that “[a]ll people have a right to a properly constituted government.”⁶⁰ This is a valuable and persuasive analysis.

This leads to the second facet of equality: the equal right of access to the instrument of government.⁶¹ This teaching depends on the phrase that the people have the right to arrange government “in such form, as to them shall seem most likely to effect their Safety and Happiness.”⁶² In Aristotelian fashion, Allen recognizes that human beings are political by nature, because nature has given us the power to reason about self-protection and happiness.⁶³ The Aristotelian claim is the

52. SAINT THOMAS AQUINAS, ON KINGSHIP, TO THE KING OF CYPRUS 27 (Gerald B. Phelan trans., 1982).

53. ARISTOTLE, POLITICS bk VII, 1333b37-1333a30, 1333b35-1334a2.

54. ALLEN, *supra* note 3, at 117.

55. *Id.* at 134.

56. *Id.* at 138, 182.

57. *Id.* at 178-79.

58. *Id.* at 151-70 (quoting THE DECLARATION, ¶ 2).

59. ALLEN, *supra* note 3, at 153.

60. *Id.* at 166.

61. *Id.* at 176.

62. *Id.* at 184 (quoting THE DECLARATION, ¶ 2).

63. *Id.* at 173, 184.

implied premise of the Declaration, from which is derived this right of equal access, or, by the terms of our political society, equal civil and political rights. However, she seems to slightly err when she imputes the view to the Declaration that “None can judge better than I whether I am happy.”⁶⁴ It would be closer to the truth to say that the Declaration recognizes that each of us are in the best position to judge our own happiness. It surely does not teach the view that each one’s opinion of his or her pursuit of happiness is unerringly true opinion. Politically, this slight difference in meaning is significant, for it cuts short debate about the good life, sanctifying every chosen activity as equally good. She is more convincing when she identifies a feature of the Declaration that is the most beautiful to her, its optimism that the people are capable of judging well.⁶⁵

Next comes the third facet of equality, the collective capacity of a people to acquire knowledge, specifically recognition of good and evil, or the exercise of “political judgment.”⁶⁶ The sentence beginning, “Prudence, indeed, will dictate . . . ,” shows that the good judgment of the political community depends upon the ability of people to exercise prudence, distinguishing between sufferable and insufferable evils.⁶⁷ That is the standard that a self-governing people must meet. The list of grievances, Allen convincingly argues, is not a formal indictment.⁶⁸ It is “a model of political judgment. . . . in action,” that shows how a people should distinguish good and bad government.⁶⁹ If the people can read and understand this model, then this proves the Declaration’s hypothesis, “that all people are created equal.”⁷⁰ Allen’s night class proved the hypothesis no less than the Americans in 1776.

The fourth facet of equality is the expectation of reciprocity or “a certain symmetry or equality between . . . actions.”⁷¹ This is modeled by the sentence, “In every stage of these Oppressions We have Petitioned for Redress”⁷² Once again, she reveals something striking, that the respective word counts of the recollected petition and reply are precisely equal—ten words.⁷³ This models reciprocity, the test of justice in civil relations among free and equal people.

The fifth and last facet of equality is “co-creation and co-ownership of our shared world.”⁷⁴ The British failed the test of reciprocity; therefore, the Americans declared to them, as their equals, that their political bands are abolished.⁷⁵ Allen again surprises, recasting the entire document as a series of actions constituting another syllogism. The Declaration says that a people may rebel against growing tyr-

64. ALLEN, *supra* note 3, at 184.

65. *Id.* at 183, 186.

66. *Id.* at 191, 228, 233.

67. *Id.* at 194 (quoting THE DECLARATION, ¶ 2).

68. *Id.* at 207-209.

69. ALLEN, *supra* note 3, at 228.

70. *Id.*

71. *Id.* at 249.

72. *Id.* at 246 (quoting THE DECLARATION, ¶ 3).

73. *Id.* at 249.

74. ALLEN, *supra* note 3, at 258.

75. *Id.* at 261.

anny; that King George was becoming a tyrant; and therefore, it is their right and duty to declare independence.⁷⁶ They appeal to “a candid world” to publicly show the justice of their cause and they mutually stake their lives on the truth of what they say.⁷⁷ Their joint actions demonstrated mutual responsibility for their actions, modeling how a political order based upon equality should conduct itself in the presence of humanity.⁷⁸

In closing, Allen writes, “the achievement of equality is the sole foundation on which we can build lasting and meaningful freedom”⁷⁹ Surely, it is easy to accept the position that natural equality is the only firm basis of liberty. Tyrants of all kinds who have robbed freedom from others have always found refuge in the self-serving assertion of natural inequality. But, Allen unconvincingly continues, this “is a fundamentally anti-libertarian argument,” made more urgent because liberty has drubbed equality in our public life.⁸⁰ Is it true that liberty has soared while equality (at least in the sense that she means it) has taken a beating? Allen offers little proof to support this observation. More importantly, she isolates and criticizes the defense of greater liberty as a threat to equality, as if liberty and equality are competitors in a zero-sum game.⁸¹ She maintains that liberty is not possible without equality, which is well-taken, but seems to find that equality is possible, perhaps even preferable, without the broadest liberty.⁸² It could be argued that liberty and equality are mutually dependent in the Declaration, and that the diminution of one necessarily diminishes the other. Although Allen’s argument justifying the urgency of the book is exposed to criticism of this kind, it consumes only a small part of the book.

The only other problem worth notice is her assimilation of the “separate but equal” doctrine and the “separate and equal station” passage of the Declaration.⁸³ Allen argues the passage from the Declaration provided grounds for segregationists to oppress others.⁸⁴ However, these ideas are incommensurable. Self-segregation to vindicate liberty and equality is very different from forced segregation, for the purpose of oppression, justified by the false claim that the segregated were equal. Tyranny always borrows and perverts the language of liberty to hide its designs. This brief passage should have been cut.

Nevertheless, these minor defects hardly detract from the great value of the whole. Allen’s ringing final appeal for wider studies of the Declaration is a good ending, given all that she has explained so beautifully about its power, which she witnessed in her personal life.⁸⁵ We learn that a citizenry well-versed in the Declaration naturally will grow in affection for equality, liberty, and humanity. Then they

76. *Id.* at 260-65.

77. *Id.* at 266.

78. *Id.* at 269.

79. ALLEN, *supra* note 3, at 276.

80. *Id.* at 21-22, 276.

81. *Id.* at 22-23, 275.

82. *Id.* at 23.

83. *Id.* at 123-25.

84. ALLEN, *supra* note 3, at 124-125.

85. *Id.* at 275-282.

can smoothly move to inquiring into the form and structure of our government, which is endued with the responsibility to preserve American equality and liberty, and to respect the equality and liberty belonging to others.

The form and structure of our government in actual operation is taken up by Levinson. *An Argument Open To All* consists of commentary on each of all eighty-five *Federalist* essays.⁸⁶ Typically, studies of the *Federalist* use the essays to better understand the political theory of Publius or scour them for evidence establishing the original meaning of the Constitution. The task that Levinson assigns to himself is different. He informs the reader that his “presentist” study attempts to address political questions in our day.⁸⁷ Levinson identifies vexing problems foreseen and not foreseen by Publius, problems the Constitution failed to foreclose. The book brims with illustrative examples from early to recent history of the republic. His commentary is provocative by design, which is immediately evident.

Federalist 1 addresses the character and capacity of the American people to govern themselves.⁸⁸ Publius famously predicted that their conduct would decide “the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.”⁸⁹ Levinson doubts that Americans have proven that they can be trusted to discuss and decide “absolutely basic questions at the heart of governance.”⁹⁰ He asks, “Do we think that is possible today, or is it a quixotic, even potentially dangerous fantasy?”⁹¹ Regarding the claim that Americans were “one united people” in Federalist 2, Levinson demonstrates its “utter fatuity” as an empirical fact when it was written, and instead interprets Publius to be emphasizing the importance of homogeneity.⁹² Due to the nation’s moderate success at maintaining stability despite our heterogeneity, he asks whether the “belief about the significance of homogeneity was completely without merit?”⁹³ But he also poses an alternative view, that our heterogeneity has undermined our bonds, that the idea we are one united citizenry is a fiction, and that “our political system is so wholly committed to interest-group politics that it is completely legitimate for a voter . . . to be concerned exclusively with his or her private interests,” especially the partial interests of identity groups.⁹⁴ Federalist 9 and 10 argue that the extended republic curbs faction.⁹⁵ Levinson approvingly points out that religion is cited by Publius as a catalyst of faction, and he suggests adding another to the list of catalysts, patriotism, which “can easily lead to the deni-

86. LEVINSON, *supra* note 3.

87. *Id.* at 3.

88. *See* THE FEDERALIST NO. 1 (Alexander Hamilton) (The Gideon ed. 2001) [hereinafter FEDERALIST].

89. LEVINSON, *supra* note 3, at 9 (quoting FEDERALIST, *supra* note 88, No. 1 (Alexander Hamilton), at 1).

90. *Id.* at 12.

91. *Id.*

92. *Id.* at 12-13 (quoting FEDERALIST, *supra* note 88, No. 2 (John Jay), at 6.

93. *Id.* at 17.

94. LEVINSON, *supra* note 3, at 17.

95. FEDERALIST, *supra* note 88, Nos. 9 (Alexander Hamilton) & 10 (James Madison), at 37-49.

gration of those who are not members of that community. . . .”⁹⁶ Hence, Levinson is suspicious of moral, religious, and certain kinds of civic education, and he suggests that the extended republic created by the Constitution only “provides some marginal protection.”⁹⁷ He hints that the expansion of secularism and the ebb or redefinition of patriotism will improve our odds against factionalism.

Regarding the interior or institutional structure of the government, Levinson is equally critical. National elections are insufficiently democratic, even after major reforms. The right to vote “remains an extraordinary volatile political issue.”⁹⁸ Most congressional elections are not competitive.⁹⁹ Because our population has increased so much, the proportionately smaller House of Representatives inadequately represents constituents.¹⁰⁰ Regardless of widely diverging populations, all states send exactly two Senators to Washington, and therefore, the Senate is malapportioned.¹⁰¹ The secondary consequence is that the Electoral College malapportions voting power in presidential elections.¹⁰²

The theory of the separation of powers outlined in Federalist 51 has failed, Levinson argues, because although Publius soberly recognized that partisanship is an eternal fact of political life, he fatally missed foreseeing the rise and strength of organized parties, which reward loyalty and punish disloyalty in public service.¹⁰³ Advancement is impossible without party support, which has strengthened the role of partisanship in government.¹⁰⁴ Because party discipline aligns public servants against each other, the separation of powers has “yielded endless gridlock and ineffective government.”¹⁰⁵ The Senate and the presidents have increasingly clashed over foreign policy and nominations.¹⁰⁶ Presidents have resorted to using the denomination “agreements” for treaties in substance, in order to skirt the duty to seek ratification by the Senate.¹⁰⁷ Publius did not foresee this, although he recognized “unsettling implications” if a president were to settle foreign policy without Senate participation.¹⁰⁸ He did foresee the possibility that the Senate and president might reach impasse over a nomination.¹⁰⁹ But he predicted that the rules would favor the president because the Senate would have to fear that after the rejection of one nominee, the president would nominate another candidate even more distasteful.¹¹⁰ Levinson acknowledges that despite increasingly contentious nomination battles,

96. LEVINSON, *supra* note 3, at 43-44.

97. *Id.* at 44.

98. *Id.* at 198.

99. *Id.* at 202.

100. *See id.* at 206-220.

101. LEVINSON, *supra* note 3, at 236-37.

102. *Id.* at 260-61.

103. *See id.* at 191-196 (discussing FEDERALIST, *supra* note 88, No. 51. (James Madison), at 267-72).

104. *Id.* at 196.

105. *Id.* at 195.

106. LEVINSON, *supra* note 3, at 241-245.

107. *Id.* at 242-43.

108. *Id.* at 286-87.

109. *Id.* at 288-92 (discussing FEDERALIST, *supra* note 88, No. 76 (Alexander Hamilton), at 391-95).

110. *Id.* at 291 (discussing FEDERALIST, *supra* note 88, No. 51 (James Madison) at 391-95).

experience has vindicated the sagacity of Publius on this point, and presidents have held serve.¹¹¹ However, Levinson prophetically wonders whether increased polarization might eventually encourage the Senate to withhold its concurrence indefinitely, an idea recently advanced by Republican Senators with respect to the current vacancy on the Supreme Court.¹¹²

Under the pressure of partisanship, the presidency arguably has become monarchical, which worries Levinson.¹¹³ Presidents have exceeded their authority and arrogated legislative powers.¹¹⁴ To avoid nomination battles with the Senate, presidents increasingly have used recess appointments, and to accommodate themselves, have stretched the definition of “recess.”¹¹⁵ A president could not declare war as monarchs could, Publius says, but Levinson reminds us that repeatedly presidents have exercised war powers since World War II, never with a congressional declaration of war and sometimes without even the concurrence of the Congress.¹¹⁶

By measuring the handiwork and arguments of Publius against present day problems, Levinson wants to spur our own “reflection and choice,” so that we can be our own Publius, and advance our own bold solutions.¹¹⁷ In this vein, he finds “the most truly inspiring passage” in all of the essays in Federalist 14, where Publius rejects, “‘the unnatural voice’ that ‘petulantly tells you that the form of government recommended for your adoption is a novelty in the political world . . . that it rashly attempts what it is impossible to accomplish.’”¹¹⁸ Levinson also believes we also should not fear innovation.¹¹⁹ We should inquire into “what improvements are necessary in our own time.”¹²⁰ He asks, does not Publius say that the chains of the Constitution “are made to be broken when circumstances demand it?”¹²¹ In short, he uses Publius against Publius.

However, Levinson respects the constitutionally prescribed means by which we modify government. Although he objects to parts of our present Constitution, he is a constitutionalist; nowhere does he endorse end-runs around the Constitution, and he shares the concern of Publius in Federalist 50 that “parchment barriers” will not prevent partisan encroachments against, and usurpations of properly assigned powers, as contemporary examples demonstrate.¹²² For this reason, lifetime tenure of federal judges worries Levinson, even more than Publius. A possibility that Publius foresaw in Federalist 78 has come to pass, that judges might smug-

111. LEVINSON, *supra* note 3, at 291.

112. *Id.* at 250-51.

113. *Id.* at 255.

114. *Id.* at 260.

115. *Id.* at 257-60.

116. LEVINSON, *supra* note 3, at 268-69 (discussing FEDERALIST, *supra* note 88, No. 69 (Alexander Hamilton), at 355-62).

117. *Id.* at 53 (quoting FEDERALIST, *supra* note 88, No. 1 (Alexander Hamilton), at 1).

118. *Id.* at 52 (quoting FEDERALIST, *supra* note 88, No. 14 (James Madison), at 66).

119. *Id.* at 53-54.

120. *Id.* at 54.

121. LEVINSON, *supra* note 3, at 93.

122. *Id.* at 186-87.

gle their own legislative preferences into their decisions and “might be ‘disposed to exercise WILL instead of JUDGMENT.’”¹²³

Levinson’s open endorsement of breaking the chains of the Constitution when circumstances demand it, raises the important question, whether he wants to change the form of the political regime that the Constitution was meant to establish, or whether he wishes to improve it. Whatever the Constitution’s flaws, Publius clearly expects that the government formed under the Constitution will be republican in form, which Levinson acknowledges in his commentary on Federalist 39.¹²⁴ There, Levinson calls out the word “indirectly” in the definition Publius gives for republican government: “a government which derives all its powers directly or indirectly from the great body of the people”¹²⁵ In contrast to Publius, Levinson would prefer that “all primary political leaders are popularly elected,” which is clear when he reviews the democratic deficits of Congress and the Electoral College.¹²⁶ He does not agree with the argument that the indirect election of presidents and senators promotes wisely administered government, while simultaneously insuring that the public servants are accountable to the people. For him, the distance between the people and the public servants should not be remote. Publius and Levinson both support the genus of republicanism but Levinson, unlike Publius, favors the species of democratic republicanism, or democracy. However, at this time in American political history, the difference between the straight republicanism of Publius and the democratic republicanism of Levinson is immaterial, because creeping monarchism in our system threatens all species of republicanism.

First, the emergence of the powerful presidency, as Levinson depicts it, is part of an historical trend that is ongoing. A reformed Congress that is structured and elected in perfect harmony with Levinson’s democratic ideas changes little for the better if the legislative branch continues to lose power to the executive branch. The monarchic presidency developed first, because the Constitution failed to include sufficient barriers that might have contained the early presidents. Due to this error, the presidents acquired new power for the office through neither constitutional nor unconstitutional means, but rather, through extra-constitutional means. They seized greater authority because they could. The earliest presidents upheld the original theory of the presidency and vetoed only bills that they deemed unconstitutional. Then, they vetoed bills that were disagreeable to their policy preferences. Woodrow Wilson then formalized the practice of Theodore Roosevelt, who appealed directly to the people, to force a legislative agenda on Congress.¹²⁷

Now the monarchic form of the presidency that Levinson describes treads on unconstitutional territory. Levinson documents a recent controversy that points to the next major transition in the presidency from initiator of legislation to legislator.

123. *Id.* at 303.

124. *Id.* at 142.

125. *Id.*

126. LEVINSON, *supra* note 3, at 142.

127. *See* JEFFREY TULIS, *THE RHETORICAL PRESIDENCY* (1987).

Pressed to do something about unauthorized foreign residents, President Obama “rebuffed earlier calls by political liberals to act, by reminding them that he was not a ‘king.’”¹²⁸ After his re-election, Obama famously began warning Congress that he had “a pen and a phone.” He acted. If the assertion of executive power in this fashion becomes accepted, the strategic balance between the Congress and the presidency further shifts. In that event, the role of Congress would begin to transition from authoring law to influencing law, or in other words, towards the role of the later Roman Senate, which finally became a rubber-stamp to the Caesars.

The seizure and exercise of greater authority by the executive is not the exclusive deed of the executive, but is encouraged by the bloc that favors a particular policy. Levinson notes that President Obama first resisted political liberals who were pressuring him to act.¹²⁹ Similarly, Levinson remarks that the American colonists “were in fact highly critical of King George for *not* exercising what they insisted was his continuing power to veto laws passed by Parliament.”¹³⁰ The point that Levinson wants to make in this context is that republicans in America found themselves oddly defending the dead “Stuart theory of the British monarchy,” a memory preserved by the reference to the nonexistent king’s veto in Federalist 69. The larger, unstated point substantiated by the two episodes is that policy partisanship can influence the developmental direction of the political regime in ways that the policy partisans might not initially recognize in the heat of political struggle, and that they might later rue after their policy battle is won. Power abhors a vacuum, and if policy partisans can win by gaining the aid of a sympathetic princely power within the system, they will seek it. The American presidency has certainly demonstrated susceptibility to accumulate power in this way.

Second, the advancement of the politically popular idea of good government that Levinson advocates contributes to strengthening the new monarchism that chafes against his democratic principles. Levinson openly shares his political views. He favors a strong national government that takes up good works for the general welfare, and weights passages that support his object.¹³¹ In Federalist 45 Publius argues for the subordination of state sovereignty to the union for “the public good, the real welfare of the great body of the people.”¹³² Levinson uses this part of the text to oppose “absurdly sacrificing the ends set out in the Preamble for a fetishistic piety toward what later generations would call ‘states’ rights.”¹³³ Addressing the concern that the citizenry might not obey the national government in Federalist 27, Publius dismisses this possibility, reassuring his reader that “the general government will be better administered than the particular governments.”¹³⁴ In other words, Levinson says, “The more one becomes accustomed to the new government. . . the

128. LEVINSON, *supra* note 3, at 256.

129. *Id.*

130. *Id.* at 267.

131. *Id.* at 170.

132. *Id.* at 169.

133. LEVINSON, *supra* note 3, at 170.

134. *Id.* at 98.

more it will take on the status of a friend whose ministrations are to be embraced rather than feared.”¹³⁵ In support of securing adequate revenues in Federalist 30, Publius writes, “A complete power [is] indispensable.”¹³⁶ Without revenues, Levinson comments, “polities inevitably decline.”¹³⁷

But the goal of the partisan opponents of Levinson is to “‘drown’ the national government by starving it of tax revenues.”¹³⁸ According to him, these partisans see “the [national administrative] state as an affront to, rather than a guarantor of ‘civilization.’”¹³⁹ They oppose the creation of “a better-functioning national bureaucracy” and sufficient taxes that would pay “administrators truly adequate salaries.”¹⁴⁰ Bedeviled by “anti-governmental radicalism,” he wonders, “Can any political system survive – at least without indeed calling on force of arms to quell popular discontent. . .?” Against these partisans, Levinson argues, Publius “was not a libertarian who saw the government’s role as limited to providing for the common defense. He consistently adopts a robust notion of government.”¹⁴¹

We can trace Levinson’s idea of good government back to Woodrow Wilson. For Wilson, good government should incorporate a robust national administration managed by educated experts, and he looked to Europe for his model.¹⁴² Although he admits that the European monarchies developed the administrative state, he reassures his hearers that if we engraft this feature into American Government, the change will not bend the American regime towards monarchy.¹⁴³ We would borrow the European idea and democratize it. Given Levinson’s concern that the executive branch has developed towards monarchy, it might be fair to ask whether the development of the administrative state instead has monarchized us, a development that Levinson dislikes.

Levinson recognizes that defenders of states’ rights and limited government stand in the way of completing the construction of a powerful, centralized administrative state that he wishes to see built. He does not inquire whether the achievement of this goal will alter the republican character of the American political regime. But near the end of his life, Madison explained the importance of federalism to the maintenance of republicanism. The purpose of dividing the powers of government in twain was to insure the perpetuity of self-government “over the parts and over the whole, notwithstanding the great extent of the whole.”¹⁴⁴ The value of federalism is that it maintains republican self-government over a large territory, not to preserve provincialism or state pride at the expense of a broadly national cosmo-

135. *Id.* at 99.

136. *Id.* at 112.

137. *Id.* at 113.

138. LEVINSON, *supra* note 3, at 113.

139. *Id.* at 116.

140. *Id.* at 101.

141. *Id.* at 116.

142. Woodrow Wilson, *The Study of Administration*, 2 POL. SCI. Q. 197, 204-205 (1887).

143. *Id.* at 219-20.

144. 9 THE WRITINGS OF JAMES MADISON 430n (Gaillard Hunt ed., 1902) [hereinafter MADISON WRITINGS].

politanism, as Levinson suggests.¹⁴⁵ Therefore, the loss of self-government in the parts for the sake of centralized state-building is a serious change to the political regime.

Federalism is simply a device for structuring republican government that solves the problem of size; and, that is its sole but essential value. A cardinal principle of republicanism is that the people or their representatives upon whom the law operates must be the makers of the law. In a large nation of 320 million dispersed people, the requisite of this principle is met, if the whole people or the representatives of the whole decide the question whether to go to war, because war affects the whole nation. If the question is whether to build an eleven-mile road in one corner of that nation, affecting only 700,000 people of that state, the principle is violated if the whole people decide the question, because the people of the state upon whom the law operates constitute a tiny fraction of the makers of the law. It does not matter if the purest democratic means are employed by the whole people to decide the question. The net effect is that an outside power makes the law for the people who must obey the law, and when an outside power governs, it is not self-government, but imperial government.

No republic had ever been so large as the United States in 1776, and so their problem of preserving self-government and preventing imperial government of the whole over the parts was new and unique. To implement their solution of dividing government, Madison continued, they had to decide where to draw “the untried demarcation of the line which divides the general and the particular Governments,” and this was a “most arduous and delicate task.”¹⁴⁶ In form, the method by which they effected the division was “an enumeration and definition of the powers,” most visible in Article I, section 8. He added, “the success of this new scheme . . . depends on the faithful observance of this partition of powers,” and “the friends of liberty and of man, cannot be too often earnestly exhorted to be watchful in marking and controlling encroachments by either of the Governments on the domain of the other.”

In an earlier day, the watchful friends of liberty fought Calhoun and his acolytes who upset the delicate balance and assigned greater weight to the states. The political purpose of these apostates of constitutional fidelity was to protect their ruling state oligarchies from the reforming arm of the national government. But Levinson sees a nominal, and not a major difference in substance between the theories of Calhoun and Madison, despite the fact that Madison reviewed the theories of the former, and denied their author could be “within the pale of the republican faith.”¹⁴⁷ Unfortunately, many defenders of state self-government today also conflate Madison and Calhoun, Founding theory and Confederate theory, as Levinson notes.¹⁴⁸ This conflation of the sacred and profane has unjustly discredited the orig-

145. LEVINSON, *supra* note 3, at 175.

146. MADISON WRITINGS, *supra* note 144, at 430n.

147. LEVINSON, *supra* note 3, at 144; MADISON WRITINGS, *supra* note 144, at 526.

148. LEVINSON, *supra* note 3, at 144-45.

inal theory, which deserves a fair hearing, because in our day, the balance is upset in the other direction. The purpose of those, like Levinson, who endorse tipping the balance against the states, is founded on well-intended aims to gratify “the remarkable sweep of services we now demand from a national government.”¹⁴⁹ The demand for greater services and the organization of government to supply them meets the conditions of a theory of de Tocqueville, that the repeated satisfactions of popular demand for succor incrementally strengthens central powers, with the result that soft despotism could grow out of democracy itself.¹⁵⁰ Equality might be retained, but the people would be equally subjected to despotism, stripped of liberty.

In Federalist 46, Publius addresses the concern that the federal government might extend an unwarrantable jurisdiction over the states, and that the national government might dominate the whole system. In reply to this concern, Levinson asks, “So what?”¹⁵¹ Imperial government and the loss of liberty, that’s what. If the national government assumes all powers formerly divided between state and national government and, combined with this change, national power is concentrated in the executive, supported by a vast bureaucracy unaccountable to the people, the result is a potent monarchic concoction. But Levinson is too interested in the good works that a national bureaucracy could achieve to see that the success of his political aims will produce more of what he dislikes; the effects of completing the demolition of state self-government cannot be reconciled with his democratic convictions.

Pushed forward by political movement of this kind, the American political regime has traveled back to its pre-revolutionary origins. In *Our Declaration* Allen writes that Jefferson’s *Summary View of the Rights of British America* was a “preview” of the Declaration, arguing that the British Parliament “had no authority over the colonies.”¹⁵² The fundamental problem denounced by the *Summary View* was imperial rule, which is to say, rule over and not self-rule.¹⁵³ The laws that the Americans were forced to observe were not the laws of their own making, as republicanism demands. What was their recourse? The same recourse available to my fellow citizens in Alaska today, when they are told by the federal government, and do not decide, whether they may build an eleven-mile road to save Alaskan lives, and when they are told by the federal government, and do not decide, where the line should be drawn between environmental stewardship and the development of their struggling local economy. Their recourse is to travel 4,000 miles to supplicate an administration that haughtily waves the Supremacy Clause at them, just as Benjamin Franklin traveled 4,000 miles to supplicate the haughty imperial administration in

149. *Id.* at 49.

150. ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 640-45 (Harvey C. Mansfield & Delba Winthrop trans., 2000)

151. LEVINSON, *supra* note 3, at 174.

152. ALLEN, *supra* note 3, at 50.

153. *See* 2 *THE WORKS OF THOMAS JEFFERSON* 54 (Paul Leicester Ford ed., G.P. Putnam’s Sons, 1905) [hereinafter *WORKS OF JEFFERSON*].

1774.¹⁵⁴ The scene of Franklin's debasement in the Privy Council is, unfortunately, too often repeated in ordinary Americans' interactions with their government today.

Americans then and now know they cannot exercise "reflection and choice" and decide many important questions that interest them infinitely more than federal administrators, who nevertheless decide for them, and are many degrees beyond direct accountability to local people. We should not wonder that, fatigued by frustration, the American people turn away from political life, lose the interest and capacity to debate and vote, and indeed, lose the vitality of a flourishing free people when the responsibility for self-government is taken from them. Levinson does not recognize the possibility that the enervating effect of the administrative state on citizenship is the cause of his doubt that the people are really capable of "reflection and choice." In other words, the administrative state becomes self-justifying. In similar fashion, the debilitating effect of slavery on human beings drove slaveholders' doubt in natural equality, and chattel slavery became self-justifying.

Nor should we wonder at the agitations of other citizens who have not forgotten their patrimony and persist in demanding it back, nor that these citizens run into a wall of self-interested opposition. The administrative state has created incomes, interests and dependencies; in sum, another class of citizens who are the beneficiaries, and are interested in preserving the new system of government that provides the benefactions. This wedge deliberately driven into the heart of the American people also has antecedents in pre-revolutionary America. In his Novanglus letters, John Adams calls out Americans who were working against American liberty for the sake of gaining a place on the imperial payroll.¹⁵⁵ Can we blame Americans today, if they see circumstances similar to that of our forebears and tend towards defiance? Jefferson went farther. He directly addressed the king in the *Summary View*, invoked natural right, declared the imperial laws void, and in closing, wrote "Let those flatter who fear; it is not an American art."¹⁵⁶

The remedy that emerges from the *Summary View* is a complete reinterpretation of the British political order, in which the colonies would govern themselves with regard to local concerns, and become a co-equal and integral part of the British union presided by the king. The division of government in Jefferson's reinterpreted British order is the same plan upon which the provisions in the Constitution stand. That plan, Madison said at the end of his life, was to divide and organize "power as will provide at once for its harmonious exercise on the true principles of liberty."¹⁵⁷ Madison singled out that feature and the moral foundation of the republic, rooted in the consent of the people, as "the two vital characteristics of the political system of the United States."¹⁵⁸ Standing on that moral foundation and holding that plan

154. KENNETH LAWING PENEGAR, *THE POLITICAL TRIAL OF BENJAMIN FRANKLIN: A PRELUDE TO THE AMERICAN REVOLUTION* 90-97 (2011).

155. 4 *THE WORKS OF JOHN ADAMS, SECOND PRESIDENT OF THE UNITED STATES 18-19* (Charles Francis Adams ed., Charles C. Little & James Brown 1854).

156. *WORKS OF JEFFERSON*, *supra* note 153, at 87.

157. *See MADISON WRITINGS*, *supra* note 144, at 430n.

158. *Id.*

for a government that protected liberty, many Americans then said to London, as today they say to Washington, D.C., “We are your equals!”¹⁵⁹

159. *See id.*