

American diplomatic history and international thought: a constitutional perspective

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Abstract

This essay offers a constitutional perspective on the American encounter with the problem of international order. Its point of departure is the American Founding, a subject often invisible in both the history of international thought and contemporary International Relations theory. Although usually considered as an incident within the domestic politics of the United States, the Founding displays many key ideas that have subsequently played a vital role in both international political thought and IR theory. The purpose of this essay is to explore these ideas and to take account of their passage through time, up to and including the present day. Those ideas shine a light not only on how we organize our scholarly enterprises but also on the contemporary direction of US foreign policy and the larger question of world order.

Keywords

Alexander Hamilton, American founding, constitutionalism, intellectual history, international law, International Relations theory, internationalism, James Madison, liberalism, realism, republican security theory, US foreign policy, Woodrow Wilson, world order

This essay takes as its point of departure a subject that is almost invisible in both the history of international thought and contemporary International Relations theory: the American Founding. The reason for this invisibility is not difficult to discern: the founding is usually seen as an incident within the domestic politics of the United States. If we look closely, however, we can see that many key ideas that have subsequently played a vital role in both international political thought and IR theory received a full exposition

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in the early United States. The purpose of this essay is to explore these ideas and to take account of their passage through time, up to and including the present day. Those ideas shine a light not only on how we organize our scholarly enterprises but also on the contemporary direction of US foreign policy and the larger question of world order. The essay offers a constitutional perspective on the American encounter with the problem of international order.¹

The American founding

We are accustomed to seeing the United States as a unitary actor throughout its history, but in its first century of existence, the potential disunity of ‘the union of the states’ was seen to be the central political problem of the time. The consolidation of the American nation-state that ultimately occurred in 1865 was but one of the possibilities visualized by contemporaries and not usually considered the most likely, given the power of decentralizing tendencies. From North America’s separation from the British Empire in 1776 until its crackup in the Civil War era, predictions and forebodings of disunity were ever present. Rather than the isolated nation-state so often portrayed, North America featured a system of states within a larger system of states, its unique federal system standing as an imposing rival to the European system. American international thought concerned not simply the relations of the United States to other foreign powers but also its own ‘domestic’ discourse centered on the creation and maintenance of the federal union. Because of the specter of disunion, Americans confronted the idea of an anarchical system of states in North America as a standing possibility for a century, and this entered closely into their ideas of interstate cooperation.

A distinctly American approach crystallized in the years of revolution and constitution making (1770s–1780s), and then exerted a commanding influence thereafter. This new approach was centered on the union, a federative system perfected by the US Constitution after the false start under the Articles of Confederation. Significantly, the framers of the constitution did not give to either the national or the state governments a monopoly on the use of legitimate force within their territories – typically seen today as a key attribute of sovereign statehood. As Madison observed in the aftermath of the Federal Convention, the deliberations had brought forth a ‘feudal system of republics’, one which left the ultimate locus of authority obscure on key points.²

The overall structure of this body of thought was framed by two rival dangers. On one hand, there was the possibility that the American states, once they separated from Great Britain, would be unable to climb out of the state of nature and form a durable union. The disunion of the American states and sections would, in turn, invite European intervention in North America, making the former colonies the ‘football’ of European politics. Both processes together, attended by war and rumors of war, would encourage the development of institutions in North America – powerful executives, standing armies, enormous debts, and taxes – that would be destructive to republican liberty. Standing alongside the specter of anarchy, however, was the danger that the remedy for this condition – an overarching authority clearly superior to the states – might amount to an effective consolidation of the states into a vast monolith that would also be destructive to their liberty. This was a remedy potentially worse than the disease.

Much of this discourse anticipates schools of thought in contemporary IR. The Federalists developed, in effect, a theory of structural realism in which the existence of system of republican states, bound by no tie save the law of nations, would inevitably fail to cooperate with one another were they unable to institute and keep a strong federal government. This slide into remorseless conflict was presented not as an inevitability but as something toward which events were tending unless arrested. The Anti-Federalists, by contrast, developed ideas of democratic and commercial peace, stressing that a system of republican states, as arising from the people, would have no motive to war with one another and that, bound by ties of commercial reciprocity, they would lack any interest in doing so.

These ideas, especially on the Federalist side, were presented with very considerable theoretical sophistication. Classic statements of the problem of ‘cooperation under anarchy’ were given by a wide range of early Americans.³ How republican states needed to cooperate with one another, but could not successfully do so if each retained the right to veto the decisions of the center, was a thesis given many iterations. Under both the empire and the subsequent federal union, the political problem revolved around how to get cooperation from entities that needed to cooperate but faced immense practical obstacles in doing so. Benjamin Franklin gave this problem memorable expression in 1754, over three decades before the Federal Convention, in his comments on the inherent frailties of ‘the requisition system’ (referring to the requests or requisitions for troops and supplies that the crown made to the colonial assemblies under the British Empire). This curious arrangement left each:

assembly waiting to see what another will do, being afraid of doing more than its share, or desirous of doing less; or refusing to do anything, because its country is not at present so much exposed as others, or because another will reap more immediate advantage.

The inadequacies of this system, a feature of the British ‘empire’ which was carried over by the confederation after independence, resulted ‘naturally’, James Madison argued, ‘from the number and independent authority of the States’. A system of voluntary contributions could ‘never succeed’ because:

Some States will be more just than others, some less just: Some will be more patriotic; others less patriotic; some will be more, some less immediately concerned in the evil to be guarded against or in the good to be obtained. The States therefore not feeling equal motives will not furnish equal aids: Those who furnish most will complain of those who furnish least.⁴

Generally, the Anti-Federalists did not quite rise to the heights attained by Publius, but they did articulate theories of both the democratic and commercial peace. Thomas Paine had led the charge in this regard, especially in *Common Sense*, but the question was especially relevant in terms of the mutual relations of the states within the union. ‘What will democratic states make war for? And how long since have they imbibed a hostile spirit?’ So asked William Grayson in the Virginia Ratifying Convention. James Monroe made the same point, presenting in the ratifying debates the fullest statement of the theory that democracies are inherently pacific, and that ‘all those terrors which splendid genius and brilliant imagination’ had depicted were:

imaginary – mere creatures of fancy ... The causes of half the wars that have thinned the ranks of mankind, and depopulated nations, are caprice, folly, and ambition: these belong to the higher orders of governments, where the passions of one, or of a few individuals, direct the fate of the rest of the community. But it is otherwise with democracies, where there is an equality among the citizens.

Tied together by the umbilical cords of commerce, and restrained from ambition by their democratic character, the American states had no motive for war and every motive for peace. In effect, the Anti-Federalists presented, in counterpoise to the realism of the Federalists, a full-blown theory of the liberal democratic peace.⁵

It is interesting to note that one finds in the past these anticipations of contemporary debates in IR theory. It suggests that contemporary theorists need to be more conscious of their predecessors. Hume once commented that Greek antiquity displayed as many refinements on the balance of power as ‘ever entered into the head of a Venetian or English speculatist’; Hume’s age carried those refinements even further.⁶ Contemporary theorists often seem unconscious of these precedents, but there is an empirical science of IR embedded in past debates to which attention should be paid and from which the contemporary theorist may profit.⁷

What is especially notable about the thought of the Founders, however, is that it is deeply rooted in considerations of value. Speculation about the trajectory of international politics was firmly anchored by a sense of the norms and values threatened or preserved by governmental action. Whereas contemporary IR in its positivist vein is unmoored from these normative considerations, past reflection was very much alive to them. It has something to teach us in this regard.⁸

One great lesson is the danger that war poses to liberty. For the Founders, the political problem was basically reducible to the fact that the European system, with its inveterate wars, had produced consequences hostile to free institutions. Were that system replicated in America (as seemed quite possible and even likely in 1786), the same result would follow. The Founders are often thought of as concerned simply with domestic matters, but their thought actually bears witness to Cicero’s observation, highlighted by Grotius, that ‘the master science is the one which deals with alliances, agreements and bargains between peoples, kings, and foreign nations; that is, with all the rights of war and peace’.⁹ The Founders gave this old insight a new basis of peculiar relevance to states devoted to republican liberty, showing that such states could not maintain their institutions intact or preserve the liberty of their citizens in the midst of perpetual war. That standing forces played a role in perpetuating Europe’s war system was widely credited in the early United States, whose thinkers explored the question systematically. A key purpose of the federal constitution is that it would enable America to largely dispense with the engines of despotism – that is, standing armies – that had been the ruin of liberty in the old world. This danger formed the central justification for the union in the early numbers of *The Federalist*. Insight into this security problem was the weighty substratum on which the federal government was built.¹⁰

A second aspect of early American thought is the respect it accorded to the law of nations and to understand this also helps to illuminate the character of the independence that was sought. The act of separation from Great Britain was also a joining of

the society of states, whose normative foundation was laid in the writings of publicists like Grotius, Pufendorf, and Vattel. As Hamilton said, obedience to the law and good faith among nations were sacred obligations. Hamilton recognized that such appeals were weak in practice and understood how little faith is to be placed in the pledges of nations when interest dictates a contrary course. Nevertheless, the law of nations provided the basic normative framework with which to make judgments of the rightness or wrongness of national conduct, and it was therefore of the utmost importance to understand these obligations rightly.¹¹ This commitment to the law of nations stands in marked contrast with the theoretical assumptions of positivist IR in the United States. Both neorealists and neoliberals strip away the patina of norms and values as constituting a sort of irrelevant superstructure, offering parsimonious theories based on power seeking or interest seeking. Hamilton was actually as inveterate as anyone in detecting hidden motives based on interest, but this did not lead him (or other Founders) to the conclusion that faith and justice were irrelevant in state affairs.

A third lesson is the need to place political power under restraint. When John Adams said that ‘jealousies and rivalries have been my theme, and checks and balances as their antidotes, till I am ashamed to repeat the words’, he expressed an idea that entered deeply into both early American diplomacy and the formation of the federal constitution.¹² Human beings that were ‘remote from the happy empire of perfect wisdom and perfect virtue’ and whose love of power seemed not to diminish but rather increase through long possession needed checks upon their power. ‘The spirit of moderation in a state of overbearing power’, as Alexander Hamilton nicely put the point, ‘is a phenomenon which has not yet appeared, and which no wise man will expect ever to see’.¹³ Given the need for government both to control the governed ‘and in the next place to control itself’, as James Madison put it in *Federalist* No. 51, the imperative need was for ‘auxiliary precautions’ in addition to those supplied by the dependence of governors on popular elections. Such precautions against the abuse of power were to be registered in law and were to be sustained by institutions that guarded against undue concentrations of power in anybody – even those reputed especially virtuous. Contrast this with John Mearsheimer’s observation that states not only do seek to maximize their power but also *should* do so. From the perspective of republican security theory (as Daniel Deudney has called the approach of which the Founders were a part), nothing could be more fatal than this advice.¹⁴

The Founders’ catechism for republican liberty and international order, then, ran something like this. As a condition of ordered liberty, power must be subject to restraint in its exercise, and any condition of unbounded power is an evil in itself. Law is the vital method for the use and constraint of power, and observing the precepts of the law of nations is the best policy. Independence is the key building block of a peaceful international order, because it creates the basis for reciprocity and mutual advantage among disparate peoples through acts of mutual recognition and exchange. Independence can only be preserved through union, and both together promote a state of peace, the fundamental formula for the success of liberty. The challenge for free states is to navigate between the Scylla of international anarchy and the Charybdis of universal empire, both of them hostile to free institutions.

The American century

The American Civil War led to the crackup of the old federal union and the birth of a new national state. Scylla and Charybdis proved all too tempting. Although conceived in peace, the United States was made by war, especially by the greatest of its wars. The existence of the titanic struggle and the complete victory of the North over the South put paid to the notion that secession from the union would ever be allowable, whereas the danger of this occurring had been the overriding problem of previous generations, with a potential state system in North America frequently held up to their eyes.¹⁵ The experience of the Civil War suggested to European observers like Lord Acton the cogent observation that there was no middle ground between centralization and decentralization. A federal union might disintegrate or it might advance toward ever-tighter centralization, but it could not exist indefinitely in a balanced state.¹⁶ After the war, however, Americans exulted in the preservation of the union and thought that it showed the enduring value of federal arrangements. The war, according to John Fiske, writing in 1885, not only achieved the extirpation of slavery but also resolved the tremendous question 'whether this great pacific principle of union joined with independence should be overthrown by the first deep-seated social difficulty it had to encounter, or should stand as an example of priceless value to other ages and to other lands'.¹⁷ That view persisted. After European war broke out in 1914, Walter Weyl noted, Americans did not:

put ourselves in the place of the fighting nations and acknowledge that in their circumstances we too might have been struggling in the dust. Rather, we boasted of our restraining democracy, and of our perfect co-operative union, which protected us from European anarchy.¹⁸

Once the United States entered the struggle in 1917, its president, Woodrow Wilson, drew deeply in his vision of international order on ideas associated with the federal union, and he was joined in this by numerous other voices. As James Brown Scott noted in the preface to a new edition of the *Federalist*, the problems of world organization would be enriched by the study of the Founders, who 'traversed the entire path' in addressing the commanding issues of international organization.¹⁹ The independent states of America after 1776, wrote Horace Kallen, 'were in precisely the same position and confronted precisely the same problems, in principle, as the present states and governments of the world'.²⁰ They confronted, that is, an anarchy that would be productive of despotism unless arrested by a union. Woodrow Wilson, deeply schooled in the American tradition, was well aware of the analogy. On 6 August 1914, the ex-President of Harvard, Charles Eliot, had suggested to Wilson the need for a defensive league that would lead to 'the future establishment and maintenance of federal relations and peace among the nations of Europe'. Wilson had considered Eliot's suggestion 'a momentous proposal'.²¹ Five years later, on returning from the Paris conference with the Treaty of Versailles, he told the Senate that 'the stage is set, the destiny disclosed. We cannot turn back. We can only go forward, with lifted eyes and freshened spirit, to follow the vision. It was of this that we dreamed at our birth'.²² The thing of which America dreamed at its birth was a confederation that united republican states in guarantees of independence, whose purpose was the preservation of peace. This felicitous result, if it could be achieved, would provide the essential framework within which republican liberty could flourish.

All the core elements of the old paradigm are present in Wilson's thought. The anarchy of states as fatal to liberty and productive of despotism, the armed camp as the unavoidable consequence for republican states caught in the maw of this unreformed system, the remedy seen in terms of a partnership or concert or union among democratic states that will achieve a preponderance of power while limiting armaments, the provision of equal rights to all states, great and small – all this shows that Wilson had drunk deeply of the union and its lore. But though this paradigm of thought pointed out the great objects to be achieved and the great dangers to be avoided, it did not mark out the same institutional path to getting there.²³

The League of Nations had none of the powers that were conferred on the general government in 1787 but most of the expectations it engendered. The objectives of 1787 were to be achieved with an instrument more resembling the league of states created by the Articles of Confederation, which meant that the league had many of the features (only more so) that the framers of the Constitution had denounced as grave defects in the right construction of federal government.

This feature of the league covenant pointed to a highly paradoxical feature of the movement toward international organization. The more one looked to America's federal union as a model for world union, as large numbers of individuals did, and the more one traded on the analogy between the international anarchy the framers sought to master, and that which the world would have to master in 1919, the more problematic the enterprise appeared. Enthusiasts for world union had to admit it, and, indeed, did admit it: the league was a first step; insofar as it was re-enacting anything, it was re-enacting the Articles of Confederation, not the Constitution of 1787. But if the analogy was sound, the league would fail. If the principles by which unions might be made more or less perfect had been well understood by the framers, this new union would not work.²⁴ Advocates of the league covenant might plead that there was no alternative, and that the sacrifice of sovereignty entailed by a charter for the world modeled on the US Constitution was impossible. All of this was quite true but was an evasion of the main point. The Founders had set forth for their legatees not only a way of thinking and a model but also a reproach.

These contradictions overwhelmed Wilson's case for the league, but when another great war came, there came also a 'second chance' at the reformation of international order that Wilson had promised. Franklin Roosevelt was leery of incurring the wrath of the reservationists a second time around and consciously designed the structure of the United Nations (UN) so as to avoid a paralyzing domestic debate over the scope of American commitments. The adoption of the UN Charter was extremely important in setting forth the basic legal norms of the era after 1945, at the center of which was respect for the territorial integrity and political independence of member states. Under the charter, states were to refrain from the use of force against other states for any but defensive purposes, and they were assured that nothing in the charter authorized intervention 'in matters which are essentially within the domestic jurisdiction of any state'. It soon emerged, however, that the enforcement mechanism foreseen by the UN's Founders – the Security Council – was paralyzed by the mutual antagonism between the Soviet Union and the United States. Instead of collective security, an ideal which assumed joint action against 'the unknown enemy', a new set of arrangements arose, centered on the North Atlantic Treaty Organization (NATO), based on the idea of collective defense.

Neither of these schemes – a UN-centered version of collective security, and regionally based organizations dedicated to collective defense – bridged the vast gap that, as Hamilton argued, separated a government from a league. And there were many voices in the United States who argued that the prospects for world order would be gravely imperiled unless that step was taken, with some arguing for world government modeled on the US constitution, and others pushing for joining the democracies of the North Atlantic into a more perfect union. Both of these proposals, however, flew in the face of basic political realities.

Only the direst necessity could have led to the success of such schemes, and such necessity was plainly lacking. For there was an alternative, and that alternative was the assumption by the United States of a leadership role. American power, once it was fully mobilized in the course of the Second World War, seemed virtually unlimited in its capacity to make use of the industrial might of the United States. And Europeans – the majority of them, at least – were thrilled that the United States seemed willing to cast its role in constitutional terms. ‘For as far ahead as political thought can see’, said Sir Alfred Zimmern in 1951:

the United States will occupy a preponderant position in the world, and the people of the United States, who might have set the crown of world empire on their brows, have decided to share their power in a constitutional partnership of free nations. Thus free nations everywhere are called, at a moment in world history corresponding to the moment of 1787 in your own constitutional annals, to a task of political construction.²⁵

At the core of the post-Second World War American system were NATO and the economic institutions associated with the Bretton Woods regime. The 50-odd states that by the late 1950s had been brought into its bilateral and multilateral security communities included colonial powers and colonies, allies and enemies from the Second World War, democracies and dictatorships. Over time, however, democratic norms and liberal values took firm root within this American-led system. This led observers to grope for a name that would capture its peculiar character and specify its membership and boundaries. Plausible candidates for the most apt description have included ‘the pacific union of liberal democracies’ and ‘the federation of free nations’. Daniel Deudney and John Ikenberry have called it a ‘civic union’ embracing the United States, Western Europe, and Japan whose members ‘increasingly appear to be separate regions of the same political system rather than distinct ones’. Samuel Huntington argued that ‘the emerging universal state of Western civilization is not an empire but rather a compound of federations, confederations, and international regimes and organizations’. American leaders have reiterated continually that the United States was committed to building a peaceful world order based on law. Observers frequently stressed its constitutional character, emphasizing that the United States deliberately embedded itself in international institutions that would serve the common good and operate on the basis of consensus. The alliances were not only narrowly instrumental but also reflected common values and ideals.²⁶

From the constitutional vantage point we have adopted, perhaps, the most interesting feature of America’s system of ‘liberal hegemony’ is that it cast the United States into the role of overcoming the defects that were otherwise inherent in confederations. The

institutions that have distinguished the postwar system – the alphabet soup of NATO, International Monetary Fund (IMF), International Bank for Reconstruction and Development (IBRD), Organization for Economic Cooperation and Development (OECD), General Agreement on Tariffs and Trade (GATT), World Trade Organization (WTO), Organization of American States (OAS) and so on – share the same feature that, according to the framers of the Constitution, doomed all such confederal arrangements to dissolution. For essentially the same reasons, observers as disparate as Clarence Streit and Hans Morgenthau argued during the Cold War that the Western alliance would dissolve or succumb to external aggression unless it moved toward more centralized institutions.²⁷ But the prophets of dissolution were not borne out. The system did not dissolve during the Cold War but managed instead to rise repeatedly, like a bull market, over a wall of worry. Nor did it fall apart after the end of that conflict, though it had been the Soviet threat at the end of Second World War that brought it into being.

The role of American power in all of this was very important, and indeed, the federal analogy suggests a way of conceiving American leadership that best expresses its true *raison d'être*, which has been to pursue the cooperative policies in security, trade, and finance normally associated with federative systems while also acting to arrest the 'natural' tendency of confederations to fall apart. As the lender of last resort, the market of first resort, and the ultimate guarantor of allied security, American power and leadership were to the post-Second World War system what an effective federal government was to the political system established by the constitution – the crucial element, once missing, that made it workable.

Contributing to the legitimacy of American power was a narrative explaining how the United States arrived at a position of preeminence. The United States, the record showed, was a reluctant superpower and had taken up its duties as a world power with the spirit of Cincinnatus, as ready to lay down as to take up the sword. The United States, it was thought, found no glory in dominion, but took pride instead in having subordinated its interest to a generous view of world order, one that claimed particular privileges for no state but that afforded equality of opportunity to all in peaceful pursuits. The richness of its political tradition, the way it had institutionalized the pursuit of power and subordinated it to law, fitted the United States, as no other state, to be trusted with extraordinary power.

That narrative never went without challenge during the Cold War and was thrown into temporary disrepute by the Vietnam War, but the United States could always be contrasted favorably with the Soviet Union, and the dangers that would ensue were the Soviets to be allowed free rein. In the years since the disappearance of the Soviet Union, however, these traditional claims on behalf of the legitimacy of American power have become increasingly unreal. Two failed wars in the past decade, in Iraq and Afghanistan, attest to that unreality. One of those wars, in Iraq, was a preventive war obviously in violation of the UN Charter. It led world public opinion to pronounce America as a 'rogue nation'. The other war, in Afghanistan, showed the United States singularly intent on the use of force but singularly inept in devising a war plan that could achieve its objectives. The disclosures in 2013, thanks to Edward Snowden, that the American government had spied repeatedly on allied leaders and undertaken an unlimited program of global surveillance have added fuel to a smoldering critique of the misuses of American

power.²⁸ At a minimum, they have badly undermined the rhetoric of American internationalism and raised to a pitch the old Roman question – who will guard the guardians?

Internationalism's broken promises

Among the most dramatic moments in America's rise to world power is the great speaking tour that Woodrow Wilson mounted in 1919 on behalf of American membership in the League of Nations. Wilson would collapse in Pueblo, Colorado, in September 1919, and then suffer a massive stroke that incapacitated him in the great debate over the league. But in these prophetic speeches before the end, he 'shouted out' the case for American entry and warned of the awful consequences if America rejected the league and 'broke the heart of the world'. He held that the alternative to the league, and to the general disarmament it would make possible, was a set of institutions in the United States that would prove fatal to liberty: vastly enlarged executive powers, 'a great standing army', 'secret agencies planted everywhere', 'universal conscription', 'taxes such as we have never seen', restrictions on the free expression of opinion, and a 'military class' that would dominate civilian decision making, all of it 'absolutely antidemocratic in its influence' and representing an 'absolute reversal of all the ideals of American history'.²⁹

The United States did not join the league, as Wilson urged, but when it did go into the world it was with the idea that these consequences could be avoided, were the very thing the United States was fighting against. The irony of the last 75 years is that by joining the world and seeking to transform it, America has gotten a great many of the consequences it was to avoid in that venture. Not every little bit of Wilson's dystopia, to be sure, came true. There are precious few restrictions on the free expression of opinion (although dissenting views on foreign policy are rarely aired in the mainstream media). Taxes, while much higher than in Wilson's day, are lower than in other states of the free world complex. In other respects, however, Wilson's role as Cassandra proved prescient. Since the 1940s – but with just about every subsequent decade adding a new reinforcement – a national security state and military industrial complex have arisen that exercises enormous domestic influence. It is not the 'garrison state' with universal conscription feared by Wilson and by so many observers in the 1940s, when Roosevelt spoke of an America isolated from trade by the totalitarian powers and forced to mobilize all its resources, but there is no mistaking its great importance. Call it 'The Emergency State' or 'The Surveillance State', the 'National Security State' or the 'Deep State', it dominates foreign policy and grand strategy. The vastly enlarged powers of the presidency, especially in regard to the initiation of war; a standing military establishment that towers over the rest of the world; secret agencies that have put the whole planet under surveillance; and a military class that, if it does not dominate civilian decision making, is elevated into godlike status in the organs of public opinion – all these have entrenched themselves in the century since Wilson's dark prophecy.³⁰ These trends, as Wilson insisted, are uniformly undemocratic in their influence and represent a reversal of precious American ideals.

The Founders dreamed of an American world in which the institutions of the national security state would be pushed to the margins of its civic life. That such institutions are now at the center of it should provoke a serious reconsideration of the path the United States has taken. 'The history of Roman historiography', notes J. G. A. Pocock, is the

history of 'the problem of *libertas et imperium*, in which liberty is perceived as accumulating an empire by which it is itself threatened'.³¹ This bids fair to become the central thread of American historiography as well.

To understand the process by which this has occurred, and why what has occurred is contrary to both liberal and republican values, we can do worse than consult earlier prophecies as to how it would unfold. War, in this analysis, was the serpent most likely to cause a deformation of republican institutions. James Madison put forward the classic statement:

Of all the enemies to public liberty, war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies; from these proceed debts and taxes; and armies, and debts, and taxes are the known instruments for bringing the many under the domination of the few. In war, too, the discretionary power of the Executive is extended; its influence in dealing out offices, honors, and emoluments is multiplied; and all the means of seducing the minds are added to those of subduing the force of the people. The same malignant aspect in republicanism may be traced in the inequality of fortunes and the opportunities of fraud growing out of a state of war, and in the degeneracy of manners and of morals engendered by both. No nation could preserve its freedom in the midst of continual warfare.³²

In the vast and pervasive weight of the national security complex, a set of consequences have followed that are very similar to those foreseen by earlier writers in the tradition of republican liberty, with their fear of large standing forces. Considered from the standpoint of republican security theory, the deformation is easy to see. The growth of these domestic institutions confirms the old suspicion that a permanent establishment specializing in war would need war and rumors of war to demonstrate the need for its specialties, and that great interests, once created, tend to perpetuate themselves and to grow.³³

In classical republican thinking, the danger of a large standing military was that it would disorder republican institutions, leading to the usurpation of civilian rule. Hamilton described a process by which war leads to frequent infringements on the rights of the people, a condition that, in turn, weakens 'their sense of those rights' and leads them 'to consider the soldiery not only as their protectors, but as their superiors'. The step from considering the military as superiors to thinking of them as masters, as Hamilton wrote, was 'neither remote nor difficult'.³⁴ President Dwight Eisenhower was thinking in these classical terms when he famously warned of the acquisition of unwarranted influence by 'the military-industrial complex' and the 'potential for the disastrous rise of misplaced power'.³⁵ The United States does not have in prospect a Caesar crossing the Rubicon, but it does have an entrenched institutional apparatus dedicated to the cultivation of enmity with adversaries. America's world position has also been seen to require a presidency of greatly enlarged power and discretion, with what ultimate consequences no one can say.

It is the conceit of US national security elites that the United States emerged in the twenty-first century as the world's *de facto* government – providing an array of public goods that the nations would have been incapable of securing on their own.³⁶ Although not an unreasonable description of US aspirations, it also raises insistent questions about the legitimacy of such a role. It goes to the very definition of republican government that it should embody a regime of countervailing powers. A government, in the tradition of

republican liberty, needs to be representative in order to be considered just. But there is no international equivalent to the separation of powers, judicial review, popular representation, and all the other devices that the Founders erected to preserve a balanced republican regime in the United States. The mantra of US leaders is that other powers should have a voice, but not a veto, over US decisions regarding the use of force, even uses of force that would otherwise be illegal, whereas the essence of constitutional government is that it should provide not only for the use of power but also for its effective limitation and constraint.³⁷ Keeping ‘all options on the table’, as the United States has so often done, legitimizes offensive war in a fashion far removed from classic ideas of constitutional government and international law. America’s use of the dollar-based financial system to impose its will on otherwise friendly allies is an illustration of the same tendency.

A world government it may be in certain respects, then, but it is as plain as day that this ‘government’ has been constructed in a way that ignores or violates central precepts informing traditional notions of ‘free government’. Looked at through the lens of the philosophy of constitutional government, it is a grossly deficient thing, overloaded with monarchical principles and oligarchical interests (although keenly supported by an exceptionalist ideology that seeks to disguise its obvious democratic deficits). Since the US has paid for its liberal hegemony and on occasion has listened to allied voices, Mandelbaum cleverly characterized the system as one of ‘representation without taxation’. Be that as it may – the distribution of burdens within the alliance has indeed been strange – a government, if it wishes to be considered a liberal government, must pay attention to certain traditional criteria. America’s rule over the international system, in its capacity as ‘the world’s government’, has not done so.

Another troubling feature of America’s recent world role is the huge disparity that exists between the executive and legislative branches toward the American ‘internationalist’ project. Presidents, Democratic and Republican, have taken the view that their untrammelled action is necessary for the maintenance of world order, and that they need, in law, the consent of neither Congress nor Security Council even for actions otherwise illegal under international law, such as preventive war or humanitarian intervention. The Senate of the United States, by contrast, has become hostile to the cooperative attempts to extend the reach of international law. Such treaties as are submitted by presidents wither on the vine, since the two-thirds supermajority required to ratify treaties is in virtually all cases unobtainable.³⁸ The US Senate – or at least its stubborn minority – has wished, in effect, to affirm no common values with the rest of the world, for the declarations of rights and restrictions entailed by these scorned treaties usually do not entail serious constraints that encroach on America’s effective freedom of action in legislative acts or judicial decisions. Those that do, such as the law of the sea, entail reciprocal restraints that the country should willingly accept. And yet United Nations Convention on the Law of the Sea (UNCLOS) remains unratified after all these years.³⁹

These tendencies – the unbounded prerogative of the US executive, the contemptuous attitude toward international treaties in the Senate – seem deeply opposed, with one pushing outward and the other pushing inward. What they have had in common is the unwillingness of the American government to subject itself to rules, a posture very difficult to justify for the state that has so often invoked its leadership role in the rule-based order.

Considering the post-Second World War American system as a constitutional order, it was not unreasonable to see US allies as a sort of Senate that weighed in on critical occasions to restrain the use of American power. European allies did sometimes play that role over the last 60 years, but their protests, though often vindicated, usually proved irrelevant in affecting US actions. More recently, allies have often served as a goad to, rather than as a restraint upon, US impulsiveness. In Europe, France and Britain did not restrain the overthrow of the Qaddafi government in Libya in 2011 but rather strongly encouraged it. In the Middle East, Israelis and Saudis have continually advised the United States to go to war against Iran. In East Asia, Japan has sought to enlist US support in its (dubious) claim to the Senkaku/Diaoyu islands. There is an alliance between these foreign interests and the US national security state, both of them often favoring aggressive actions against America's self-declared 'enemies', a list that embraces not only terrorist groups like the Islamic State of Iraq and the Levant (ISIS) but also major nations and powers.

The US alliance system, ostensibly concerned with the enforcement of neutral principles, has really been based on the Roman maxim of rewarding friends and smiting enemies. In practice, that came to mean that the world cannot enjoy the fruits of a liberal world order unless the United States maintains hostile relations with Iran, Russia, and China (worst, next worst, and worst to come in American demonology). The American people are of a mind to complain of the resulting interventionist disposition, say the opinion polls, but have often been voiceless in the practical matter of getting their perspectives heard in the corridors of power. Reinforcing the vast institutional weight of the national security state is a deeply embedded cultural tendency: Americans have great difficulty in limiting their propensity to demonize enemies, as also their propensity to exalt themselves. Call it the cultural contradictions of internationalism, chief of which is the antagonism between the disinterested internationalism America has preached and the biased nationalism it has exhibited.⁴⁰

For a free state, the maximization of power is a fatal objective for foreign policy. Constitutional democracies may be less subject to the abuse of power than other states, but they are hardly exempt from the frailties incident to human nature. The people of America, as Hamilton puts it, are 'remote from the happy empire of perfect wisdom and perfect virtue'.⁴¹ So they remain in the age of Trump. Constitutional democracies, moreover, have reason to fear not only threats from abroad but also overly centralized power at home. In the long history of reflection on the security predicaments of free states, domestic hierarchy or tyranny is as significant a problem as international anarchy or conquest. That crucial theme, although missing from much of contemporary academic writing on international politics and missing, too, from the conduct of recent American statecraft, was at the core of the republican security theory to which America's Founding Fathers made such distinguished contributions. That theory is far more sophisticated and relevant than contemporary ideas of domination and superiority because it places the preservation of free institutions and the control of power at the core of its concern.

It has been a feature of the American outlook for the last generation, brought to an apotheosis under the administration of President George W. Bush, that America's mission in the world is to 'end tyranny'. No country is more closely identified with this doctrine than the United States, and no country has done more to put it into practice,

however, unsatisfactory the actual results. Bush was wont to argue, as have most of his Democratic rivals, that these aspirations represent a set of universal truths that Americans have uttered ‘from the day of our Founding’. It is in our DNA, opined Joe Biden.⁴² Historical research will show, however, that the universal truths American leaders have embraced today are not the universal truths propounded by the Founders. The objective of ‘ending tyranny’ through external military intervention stands athwart the classic American doctrine holding such an ambition to be contrary to ‘the general rights of nations’ and ‘the true principles of liberty’. The self-evident truths of the Declaration of Independence – that all men are created equal and are endowed by the Creator with natural rights to life, liberty, and the pursuit of happiness – did not justify, for the author of the Declaration, the proposition that foreign states had any right to revolutionize another political order, even a tyrannical one. Jefferson also regarded it as a self-evident truth that all nations had the right to determine for themselves the form of government they would adopt. Wishing success to the possibility that the new governments in South America would find their way to free government, Jefferson, nevertheless, insisted that ‘they have the right, and we none, to choose for themselves’.⁴³

For the Founders, the belief that the principles underlying the American regime might have universal applicability existed happily alongside the idea that the United States had neither a right nor a duty to bring others to an appreciation of these truths through force. Rather than being contradictory, these ideas originated in the same school of thought. Like religious intolerance, the denial of legitimacy to other forms of government was seen to cause perpetual war, and such a condition made for an international environment hostile to the preservation and spread of free institutions. For all their arguments over the French Revolution, Hamilton and Jefferson understood that very well; both subscribed to Hamilton’s derisory observation in the *Federalist* that ‘in politics, as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution’.⁴⁴

Consulting liberalism’s long and distinguished history (its grand entrance onto the stage of universal history comes with the American Revolution of 1776), putting out of mind the innovations of the last 25 years, it surely must be realized how central ideas of nationality and self-determination were for long stretches of liberalism’s intellectual hegemony. The ‘doctrine that all men are equal’, as William Graham Sumner once noted, ‘was set up as a bar to just this notion that we are so much better than others that it is liberty for them to be governed by us’.⁴⁵ Sumner’s pithy maxim, with its bow to the Declaration of Independence, gives the essential diagnosis of, and the indispensable remedy for, the ailments of contemporary US foreign policy. Liberalism once recognized heterogeneity and accepted that this is not a world ready to be governed by a universal standard of domestic legitimacy or caged by a universal panopticon. The separate and distinguished contribution each nationality might make to humanity was a great article of liberal faith that, in turn, required respect for their internal autonomy and self-determination. We now know as ‘liberal’ what earlier liberals would have regarded as very illiberal. The past has a winning argument to make with the present on this score.⁴⁶

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Notes

1. Cf. Martin Wight's evocation of 'the constitutional tradition in diplomacy' in 'Western Values in International Relations', in Herbert Butterfield and Martin Wight (eds), *Diplomatic Investigations: Essays in the Theory of International Politics* (Cambridge, MA: Harvard University Press, 1968), pp. 90–1.
2. The discussion of the Founding is based on David C. Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence, KS: University Press of Kansas, 2003). See pp. 242–48 for Madison's use of 'feudal system of republics'. In a similar vein, see also Peter S. Onuf, 'Anarchy and the Crisis of the Union', in Herman Belz, Ronald Hoffman, and Peter J. Albert (eds), *To Form a More Perfect Union: The Critical Ideas of the Constitution* (Charlottesville, VA: University of Virginia Press, 1992), pp. 272–302; Peter S. Onuf, 'A Declaration of Independence for Diplomatic Historians', *Diplomatic History*, 22(1), 1998, pp. 71–83; Peter S. Onuf and Nicholas Onuf, *Federal Union, Modern World: The Law of Nations in an Age of Revolutions, 1776–1814* (Indianapolis, IN: Madison House, 1993). There are good summaries of the historiography in Robbie J. Totten, 'Security, Two Diplomacies, and the Formation of the US Constitution: Review, Interpretation, and New Directions for the Study of the Early American Period', *Diplomatic History*, 36, 2012, pp. 77–117; Alan Gibson, *Interpreting the Founding: Guide to the Enduring Debates over the Origins and Foundations of the American Republic* (Lawrence, KS: University Press of Kansas, 2010); Scott A. Silverstone, 'Federal Democratic Peace: Domestic Institutions and International Conflict in the Early American Republic', *Security Studies*, 13, 2004, pp. 48–102. Other works that capture the internationalist aspect of early American federalism, though from a variety of disciplinary perspectives, include Daniel H. Deudney, *Bounding Power: Republican Security Theory from the Polis to the Global Village* (Princeton, NJ: Princeton University Press, 2007); James E. Lewis, *The American Union and the Problem of Neighborhood: The United States and the Collapse of the Spanish Empire, 1783–1829* (Chapel Hill, NC: University of North Carolina Press, 1998); Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774–1804* (Charlottesville, VA: University of Virginia Press, 2009); D.W. Meinig, *The Shaping of America: A Geographical Perspective on 500 Years of History*, 4 vols. (New Haven, CT: Yale University Press, 1988–2003), Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607–1788* (New York: W. W. Norton & Company, 1990); Alison LaCroix, *The Ideological Origins of American Federalism* (Cambridge, MA: Harvard University Press, 2010); John G. A. Pocock, 'States, Republics, and Empires: The American Founding in Early Modern Perspective', in Terence Ball and John G. A. Pocock (eds), *Conceptual Change and the Constitution* (Lawrence, KS: University Press of Kansas, 1988), pp. 55–77; Thomas Bender, *A Nation among Nations: America's Place in World History* (New York: Hill & Wang, 2006). Emphasizing US state-building on the European model is Max M. Edling, *A Revolution in Favor of Government: Origins of the US Constitution and the Making of the American State* (New York: Oxford University Press, 2003); Max M. Edling, 'A Mongrel Kind

- of Government: The US Constitution, the Federal Union, and the Origins of the American State', in Peter Thompson and Peter S. Onuf (eds), *State and Citizen in British America and the Early United States* (Charlottesville, VA: University of Virginia Press, 2013), pp. 150–177.
3. For a modern formulation, see Kenneth A. Oye (ed.), *Cooperation under Anarchy* (Princeton, NJ: Princeton University Press, 1986).
 4. Franklin (1754) and Madison (1789) are cited in Hendrickson, *Peace Pact*, pp. 77, 212–13.
 5. Grayson (1788), Monroe (1788), and Paine (1776) are cited in Hendrickson, *Peace Pact*, pp. 11–2, 162–3.
 6. David Hume, 'Of the Balance of Power', in Eugene Miller (ed.), *Essays: Moral, Political and Literary* (1777; repr., Indianapolis, IN: Liberty Fund, 1985).
 7. Deudney, *Bounding Power*, is especially fertile in sketching these anticipations. From a different perspective, see Joseph M. Parent, *Uniting States: Voluntary Union in World Politics* (New York: Oxford University Press, 2011). For attempts to understand the European Union in light of early American thought and experience, see David C. Hendrickson, 'Of Power and Providence: The Old U.S. and the New EU', *Policy Review*, 135, 2006, pp. 23–42; Andrew Glencross, *What Makes the EU Viable? European Integration in the Light of the Antebellum US Experience* (Basingstoke: Palgrave Macmillan, 2009); Frederick Lister, *The European Union, the United Nations, and the Revival of Confederal Governance* (Westport, CT: Greenwood Press, 1996).
 8. For a defense of this methodological perspective, see Robert Jackson, *The Global Covenant: Human Conduct in a World of States* (New York: Oxford University Press, 2000). The landmark work in the positivist IR tradition is Kenneth N. Waltz, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979). But as one observer complained, Waltz's major work 'denuded the realist tradition of its complexity and subtlety, appreciation of agency, and understanding that power is most readily transformed into influence when it is both masked and embedded in a generally accepted system of norms'. Richard Ned Lebow, 'The Ancient Greeks and Modern Realism: Ethics, Persuasion, and Power', in Duncan Bell (ed.), *Political Thought and International Relations: Variations on a Realist Theme* (New York: Oxford University Press, 2009), p. 26. Shunting normative inquiry aside did not make for science, that is, for true knowledge about the subject. On the contrary, it simply reflected a straightened conception of what the human sciences could be.
 9. Hugo Grotius, *Prolegomena, the Rights of War and Peace*, vol. 3, ed. By Richard Tuck (Indianapolis, IN: Liberty Fund, 2005), pp. 1745.
 10. Alexander Hamilton, James Madison, and John Jay, *The Federalist*, ed. By Jacob Cooke (Middletown, CT: Wesleyan University Press, 1983). See especially *Federalist* Nos. 6–8 (Hamilton).
 11. David Armitage, *The Declaration of Independence: A Global History* (Cambridge, MA: Harvard University Press, 2008); David M. Golove and Daniel J. Hulsebosch, 'A Civilized Nation: The Early American Constitution, the Law of Nations, and the Pursuit of International Recognition', *New York University Law Review*, 85, 2010, pp. 932–1066; Daniel G. Lang, *Foreign Policy in the Early Republic: The Law of Nations and the Balance of Power* (Baton Rouge, LA: Louisiana State University Press, 1985). For a more critical perspective, emphasizing imperial claims, see Eliga H. Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge, MA: Harvard University Press, 2012), Joshua Simon, *The Ideology of Creole Revolution: Imperialism and Independence in American and Latin American Political Thought* (New York: Cambridge University Press, 2017).

12. John Adams, 'John Adams to Abigail Adams, March 17, 1797', in Charles Francis Adams (ed.), *Letters of John Adams: Addressed to His Wife*, vol. 2, (Boston, MA: Little, Brown, 1841), p. 252.
13. Americus, 'The Warning I', January 27, 1797, in Henry Cabot Lodge (ed.), *The Works of Alexander Hamilton*, vol. 6 (New York: G.P. Putnam's Sons), pp. 233–34.
14. John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: W. W. Norton & Company, 2001), p. 11. Ironically, Mearsheimer recently gave an eloquent denunciation of the threat posed to America's liberal political order by the national security state, yet he seems not to have retracted this essential doctrine from the *Tragedy*. John J. Mearsheimer, 'America Unhinged', *The National Interest*, January/February 2014, esp. pp. 27–29. If 'the overriding goal of each state is to maximize its share of world power', as Mearsheimer argued in the *Tragedy*, this inevitably puts in the shade the requirements of domestic liberty. In contrast with offensive realism, republican security theory places the control of power at home and abroad as the central problem reflection must solve and sees these two questions as closely interrelated. See further below, Note 33.
15. David C. Hendrickson, 'Bringing the State System Back in: The Significance of the Union in Early American History, 1763–1865', in Peter Thompson and Peter Onuf (eds), *State and Citizen* (Charlottesville, VA: University of Virginia Press, 2013), pp. 113–49.
16. Lord Acton, 'Political Causes of the American Revolution', in William H. McNeill (ed.), *Essays in the Liberal Interpretation of History* (Chicago, IL: University of Chicago Press, 1967), pp. 43–4.
17. John Fiske, *American Political Ideas Viewed from the Standpoint of Universal History* (New York: Harper & Brothers, 1885).
18. Walter Weyl, *American World Policies* (New York: Macmillan Publisher, 1917), p. 32.
19. James Brown Scott, *James Madison's Notes of Debates in the Federal Convention of 1787 and their Relation to a More Perfect Society of Nations* (New York: Oxford University Press, 1918). See also James Brown Scott, *The United States of America: A Study in International Organization* (New York: Oxford University Press, 1920).
20. Horace Kallen, *The Structure of a Lasting Peace* (1918; repr., New York: Haskell House, 1974), pp. 126–37.
21. Wilson quoted in Edwin Borhard and William Potter Lage, *Neutrality for the United States*, 2nd ed. (New Haven, CT: Yale University Press, 1940), pp. 236–37. See also discussion in Bartlett, *The League to Enforce Peace* (Chapel Hill, NC: University of North Carolina Press, 1944), p. 53.
22. Woodrow Wilson, 'Address to Senate, July 10, 1919', in Arthur S. Link (ed.) *The Papers of Woodrow Wilson*, 69 vols, vol. 61. (Princeton, NJ: Princeton University Press, 1966–1994), p. 436.
23. For further discussion of Wilson's significance, see David C. Hendrickson, *Union, Nation, or Empire: The American Debate over International Relations, 1789–1941* (Lawrence, KS: University Press of Kansas, 2009), pp. 300–40.
24. See especially *Federalist* No. 15 (Hamilton).
25. Alfred Zimmern, 'How Can Europe Unite?' *Vital Speeches*, 17, 1951, pp. 677–80.
26. Daniel Deudney and G. John Ikenberry, 'The Logic of the West', *World Policy Journal*, 10, 1993/1994, pp. 17–25; Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996), p. 53. See also by Ikenberry, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order* (Princeton, NJ: Princeton University Press, 2011). Stressing the federal aspects of America's post-Second World War European policy is Ernest May, 'The American Commitment to Germany, 1949–1955', *Diplomatic History*, 13, 1989, pp. 431–60. In a similar vein, see Timothy Garton Ash,

- Free World: America, Europe, and the Surprising Future of the West* (New York: Random House, 2004); John Gerard Ruggie, *Winning the Peace: America and World Order in the New Era* (New York: Columbia University Press, 1998).
27. The positions of Streit and Morgenthau are discussed in Wesley T. Wooley, *Alternatives to Anarchy: American Supranationalism since World War II* (Bloomington, IN: Indiana University Press, 1988).
 28. Detailed in Glenn Greenwald, *No Place to Hide: Edward Snowden, the NSA, and the US Surveillance State* (New York: Metropolitan Books, 2014).
 29. Thomas Knock, *To End All Wars: Woodrow Wilson and the Quest for a New World Order* (New York: Oxford University Press, 1992), p. 261.
 30. The most evocative depictions are Tom Engelhardt, *Shadow Government: Surveillance, Secret Wars, and a Global Security State in a Single-Superpower World* (New York: Haymarket Books, 2014); Ian G. R. Shaw, *Predator Empire: Drone Warfare and Full Spectrum Dominance* (Minneapolis, MN: University of Minnesota Press, 2016). See further Dana Priest and William M. Arkin, *Top Secret America: The Rise of the New National Security State* (Boston, MA: Little, Brown and Company, 2011); David C. Unger, *The Emergency State: America's Pursuit of Absolute Security at All Costs* (New York: Penguin Press, 2012).
 31. John G. A. Pocock, *Barbarism and Religion: The First Decline and Fall*, vol. 3 (Cambridge: Cambridge University Press, 2003), p. 310.
 32. 'Political Observations', April 20, 1795, *Letters and Other Writings of James Madison*, vol. 4 (Philadelphia, PA: J.P. Lippincott, 1865), pp. 491–92.
 33. Deudney, *Bounding Power*, is the classic reconstruction of 'republican security theory'. I give an assessment of the evolution of this paradigm of thought (using somewhat different terminology) in *Peace Pact and Union, Nation, or Empire*. A good summing up is Karl Walling, 'Toward an Old New Paradigm in American International Relations', *Orbis*, 55, 2011, pp. 325–35. Michael Lind has a lucid discussion of the terminological complexities in *The American Way of Strategy* (New York: Oxford University Press, 2006), pp. 8–11, arguing persuasively that republican liberalism 'is the most accurate shorthand description of the American Creed', with liberalism the noun and 'democratic republican' the adjectival modifier.
 34. *Federalist* No. 8 (Hamilton).
 35. Dwight Eisenhower, Farewell Address, 17 January 1961.
 36. Michael Mandelbaum, *The Case for Goliath: How America Acts as the World's Government in the 21st Century* (New York: Public Affairs, 2005).
 37. As John C. Calhoun pithily expressed it, it is the positive power which makes the government and the negative power which makes the constitution. 'The one is the power of acting – and the other the power of preventing or arresting action. The two, combined, make constitutional governments'. Calhoun, *A Disquisition on Government*, Ross M. Lence (ed.) *Union and Liberty: The Political Philosophy of John C. Calhoun* (Indianapolis, IN: Liberty Fund, 1992), pp. 28–9.
 38. See David Kaye, 'Stealth Multilateralism', *Foreign Affairs*, 92, 2013, pp. 113–24. Kaye notes that dozens of multilateral treaties 'are pending before the Senate, pertaining to such subjects as labor, economic and cultural rights, endangered species, pollution, armed conflict, peace-keeping, nuclear weapons, the law of the sea, and discrimination against women'.
 39. In ratifying human rights treaties (such as those governing the rights of the child, or of women, or of people with disabilities), states have the option of restricting their reach in domestic law through various reservations, understandings, and clarifications, as the Senate did in 1992 in ratifying the International Covenant on Civil and Political Rights. Rather than a cudgel to force states to conform, such treaties represent in practice a conversation among nation-states

about how to state norms of conduct to which all can consent but that have, in domestic legal systems, no binding effect unless the ratifying state provides for such. The most cogent objection to making certain kinds of international treaties binding in domestic courts is that it projects judicial rather than legislative settlement of controverted questions of public policy. It is proper to object to some of these transnational enterprises as fundamentally in tension with the principle of democratic self-rule – Brexit should teach a lesson in that regard. It may also be proper to reserve jurisdiction according to the principle of subsidiarity. But the attitude of contemptuous defiance toward the whole lot of such treaties bespeaks an imperious refusal of consort with ‘the international community’. The traditional US respect for international law, in spirit opposite to that of the ‘new sovereigntists’, is conveyed in Daniel Patrick Moynihan, *On the Law of Nations* (Cambridge, MA: Harvard University Press, 1990).

40. The analysis of this tendency in Reinhold Niebuhr, *Moral Man and Immoral Society* (1932; repr., New York: Charles Scribner’s Sons, 1960) pp. 91–7, 106–9, holds up very well after all these years.
41. *Federalist* No. 6 (Hamilton).
42. Remarks by Vice-President Joseph Biden at Harvard’s Kennedy School, Boston Massachusetts, October 23, 2014.
43. Pacificus No. 2, 3 July 1793, in Lodge, *Hamilton Works*, vol. 4, p. 454; ‘Thomas Jefferson to John Adams, 17 May 1818’, in Lester J. Cappon (ed.), *The Adams-Jefferson Letters* (Chapel Hill, NC: University of North Carolina Press, 1987), p. 524.
44. *Federalist* No. 1 (Hamilton).
45. William G. Sumner, *The Conquest of the United States by Spain* (Boston, MA: Dana Estes & Company, 1899), p. 12.
46. For elaboration of these themes, see David C. Hendrickson, *Republic in Peril: American Empire and the Liberal Tradition* (New York: Oxford University Press, 2017).

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