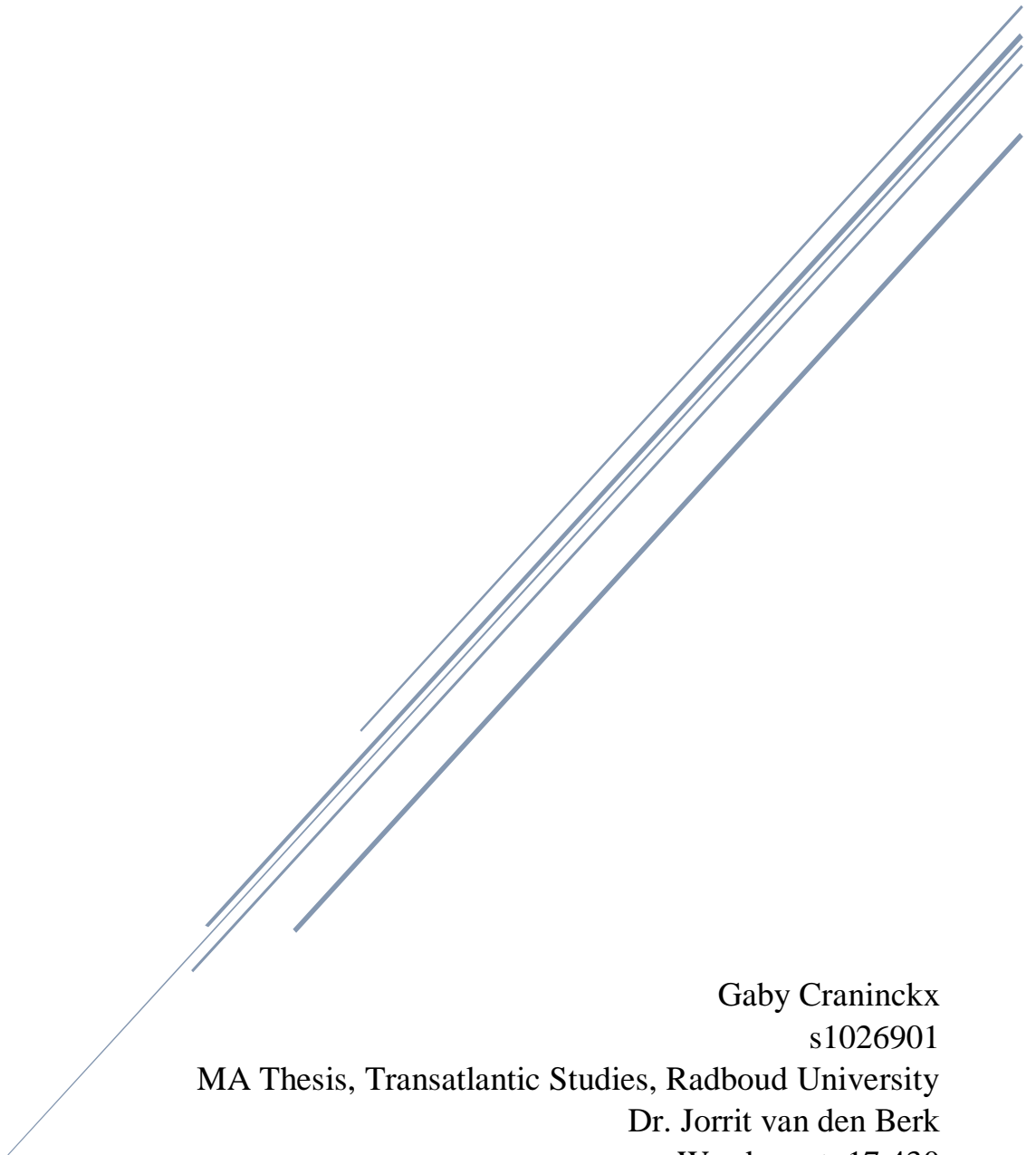


A MORE PERFECT UNION

How Alexander Hamilton, John Jay, and James Madison
construed the international system and the U.S.' place
therein in the Federalist Papers



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Abstract

During the post-Cold War debates within the academic field of International Relations (IR), the Philadelphian system (re)emerged as an alternative or supplement to the Westphalian system. The Westphalian system emerged from the Peace of Westphalia (1648) and asserts that sovereign nation-states pursue survival and security as permanent interests by relying on their monopoly on violence in an anarchic international environment. The Philadelphian system originated at the American founding and relies, according to contemporary scholars, on popular sovereignty, federalism, negarchy and liberalism to create a multilevel governmental system best able to create domestic harmony and international peace. The Philadelphian system will be used here as an analytical lens to study the American founding, a period notoriously neglected in IR. Specifically, the Federalists Papers – a collection of essays written by Alexander Hamilton, John Jay, and James Madison, which were a blueprint for the U.S. Constitution – will be analyzed to determine how the Federalists understood the international system and the U.S.’ place therein. By analyzing the Federalists views on sovereignty, federalism, negarchy and liberalism respectively, it becomes evident that the Federalists understood the international system as a hostile or anarchic environment. Where their understanding of the international system differed from the Westphalian system, however, is in the requirements a government must meet to effectively engage therein. Requiring the government to respect notions of national, popular, state, and individual sovereignty simultaneously and equally, according to the Federalists, constituted a government appropriately balanced between anarchy and tyranny, able to facilitate internal harmony and external security.

Table of Contents

Abstract	1
Table of Contents	2
Introduction	3
Chapter I: Sovereignty	11
<i>The History of Sovereignty in America</i>	12
<i>Sovereignty in the Federalist Papers</i>	14
<i>Preliminary Conclusion</i>	20
Chapter II: Federalism	22
<i>The History of (Con)federalism in America</i>	24
<i>National Elements of Federalism in the Federalist Papers</i>	25
<i>Preliminary Conclusion</i>	29
Chapter III: Negarchy	31
<i>The History of Negarchy in America</i>	33
<i>Confederal Elements of Federalism in the Federalist Papers</i>	34
<i>Preliminary Conclusion</i>	39
Chapter IV: Liberalism	41
<i>The History of Liberty in America</i>	43
<i>Liberty in the Federalist Papers</i>	44
<i>Preliminary Conclusion</i>	49
Conclusion	51
Bibliography	53
<i>Literature</i>	53
<i>Primary Sources</i>	56
Appendix I:	58
Radboud Statement on Fraud and Plagiarism	58

Introduction

During the twentieth century, international relations (IR) was still a developing academic discipline. According to its founding myth of 1919, IR became institutionalized in the wake of the Great War as an attempt to develop a better understanding of the causes of war.¹ In reality, however, IR has a longer and richer intellectual history which can be traced back to the late nineteenth century, the age of revolutions (1775 – 1848), the Peace of Westphalia (1648), or perhaps even before.² What the founding myth does rightly emphasize, is that the Great War triggered those engaged with IR to (re)consider its established scholarship. Yet the First World War was far from the only twentieth century trigger that did so. Others included, but were certainly not limited to: the Second World War, the beginning process of decolonization, the Cold War, and the subsequent end of bipolarity in the world order.³ While scholars thus worked on developing IR as an academic discipline during the twentieth century, its theoretical maxims were immediately and continuously challenged by real-time world developments.

As a result, one of the central components of IR increasingly became subject of debate, especially since the end of the Cold War. That is the conceptualization of the international system. This system encompasses the environment in which those who IR considers actors – most often states – interact with each other. Political scientist Joseph Nye and historian David Welch defined it as a “configuration of units”.⁴ Political scientist Morton Kaplan abstracted its meaning even further, writing of “a set of variables so related, in contradistinction to its environment, that describable behavioral regularities characterize the internal relationship of the variables to each other”.⁵ However, these definitions of the international system describe very little other than a generalized process. To imbue it with theoretical meaning, IR scholars developed specific conceptualizations of the international system from the end of the nineteenth century onwards. One of these is the Westphalian system of IR’s realist school, which has become the almost standardized framework. The Westphalian system asserts that sovereign nation-states pursue survival and security as permanent interests by relying on their monopoly

¹ Benjamin de Carvalho, Halvard Leira and John Hobson, “The Big Bangs of IR: The Myths That Your Teachers Still Tell You about 1648 and 1919,” *Millennium* 39, no. 3 (May 2011): 745 – 746.

² Alla Kyrydon and Sergiy Troyan, “International relations as a system and a discipline: From the westphalian to the post-westphalian world order,” *Studia i Analizy Nauk o Polityce* 1 (2021): 110 – 112.

³ Kyrydon and Troyan, “International relations as a system and a discipline,” 113 – 120.

⁴ Joseph Nye and David Welch, *Understanding Global Conflict and Cooperation: An Introduction to Theory and History* (New York: Pearson, 2012): 53 – 54.

⁵ Morton Kaplan, *System and Process in International Politics* (Essex: ECPR Press, 2005), 20.

on violence in an anarchic international environment.⁶ However, in the last few decades it has been criticized for multiple reasons, such as its misconstrued interpretation of the Peace of Westphalia, its excessive reliance on realism, and its generalization of the sovereign nation-state as the most prominent – if not sole – actor.⁷ Thus, discussion has arisen within IR regarding the question whether the Westphalian system is still a satisfactory conceptualization of the international system.

Consequently – in tandem with the rapidly changing world order – other conceptualizations of the international system, or even a convergence thereof, have (re)gained traction within the field of IR.⁸ One of these is the Philadelphian system, referring to the conceptualization of the international system and the role of the state therein as envisioned by the American Founders. The creation of the U.S. as a federal state in the eighteenth century itself challenged the Westphalian system for its sole preoccupation with sovereign nation-states. However, the Philadelphian system's prominence waned after the Civil War, when the U.S. started to resemble the European state model and conformed somewhat to the Westphalian system, as the federal government asserted authority over the state governments.⁹ It thus never received thorough scholarly consideration, as the system was considered a thing of the past.¹⁰ Currently, in the search for new or other conceptualizations of the international system, the Philadelphian system has reemerged as a possible alternative or supplement – to the Westphalian system.

Despite the renewed scholarly interest in the Philadelphian system – or exactly because of it – its exact conceptualization as a framework for international relations remains elusive. That is because scholars seem to agree on the four concepts which constitute the system, yet the application and implications thereof are subject of debate. What follows is an overview of these four central elements, with attention for both concurrence and dissent among scholars.

The first concept is sovereignty. Foreign affairs scholar Takashi Inoguchi argued in his

⁶ Darel Paul, "Sovereignty, survival and the Westphalian blind alley in International Relations," *Review of International Studies* 25, no. 2 (April 1999): 224; Susan Strange, "The Westfailure system," *Review of International Studies* 25, no. 3 (July 1999): 345.

⁷ See, for example: Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organization* 55, no. 2 (2001): 251 – 287; Laust Schouenborg, "Exploring Westphalia's Blind Spots: Exceptionalism Meets the English School," *Geopolitics* 17, no. 1 (January 2012): 130 – 152; Paul, "Sovereignty, survival and the Westphalian blind alley in International Relations," 217 – 231.

⁸ See, for example: Takashi Inoguchi, "Peering into the Future by Looking Back: The Westphalian, Philadelphian, and Anti-Utopian Paradigms," *International Studies Review* 1, no. 2 (1999): 173 – 191; Paul, "Sovereignty, survival and the Westphalian blind alley in International Relations," 217 – 231.

⁹ Schouenborg, "Exploring Westphalia's Blind Spots," 138; Robert Keohane, "Ironies of Sovereignty: The European Union and the United States," *JCMS: Journal of Common Market Studies* 40, no. 4 (2002): 752.

¹⁰ Schouenborg, "Exploring Westphalia's Blind Spots," 138.

article “Peering into the Future by Looking Back: The Westphalian, Philadelphian, and Anti-Utopian Paradigms”, that popular sovereignty is the very essence of the Philadelphian system.¹¹ Political scientist Daniel Deudney, one of the most prominent scholars to have written about the Philadelphian system, too recognized the central importance of popular sovereignty in his article “The Philadelphian System: Sovereignty, Arms Control, and Balance of Power in the American States-Union, Circa 1787 – 1861”.¹² However, he also noted that ‘sovereignty’ is a faulty concept when used as an indicator of power and the legitimacy of its use. He wrote: “the meaning of sovereignty is often conflated with the related questions of authority, which refers to the exercise of legitimate power”.¹³ Perhaps that is why political scientist Taesuh Cha, in his article “Competing visions of a postmodern world order: the Philadelphian system versus the Tianxia system”, spoke of pooled rather than popular sovereignty.¹⁴ He wrote: “The 13 states in early modern North America constructed a novel interstate system transcending the modern dual system of balance of power and empire in Europe by inventing the ‘Philadelphian system’, which pooled and shared member states’ sovereignty.”¹⁵ Deudney actually supported this finding, despite his argument in favor of popular sovereignty, stating: “it was customary to speak of the states retaining sovereignty in certain spheres”.¹⁶ While these authors thus agree on the importance of sovereignty in the way it distinguishes the Philadelphian system from its Westphalian counterpart, they disagree about its allocation.

The second concept is federalism. Cha wrote of a federal, interstate system as “a third organizing principle beyond the conventional dyad of anarchy and hierarchy” that consequently “traverse[s] the line between the domestic and international”.¹⁷ Deudney argued that this system was born out of necessity, as at the time of the American founding none of the thirteen former colonies were self-sufficient.¹⁸ Thus, by entering into a union of states, they could mitigate the adverse effects of their weaknesses and shortcomings, all while retaining some authority of their own. Note, however, that while Deudney and Cha described the same mechanism, they disagree about its descriptor. That is because whereas Cha wrote of a federal system, Deudney spoke of a state-union, arguing that the U.S. only became truly federal after the Civil War when

¹¹ Inoguchi, “Peering into the Future by Looking Back,” 173.

¹² Daniel Deudney, “The Philadelphian System: Sovereignty, Arms Control, and Balance of Power in the American States-Union, Circa 1787 – 1861,” *International Organization* 49, no. 2 (1995): 191 – 228.

¹³ Deudney, “The Philadelphian System,” 198.

¹⁴ Taesuh Cha, “Competing visions of a postmodern world order: the Philadelphian system versus the Tianxia system,” *Cambridge Review of International Affairs* 31, no. 5 (September 2018): 392 – 414.

¹⁵ Cha, “Competing visions of a postmodern world order,” 392 – 393.

¹⁶ Deudney, “The Philadelphian System,” 206.

¹⁷ Cha, “Competing visions of a postmodern world order,” 392 – 393.

¹⁸ Deudney, “The Philadelphian System,” 206.

the federal government started to assert increased power over the state governments.¹⁹ Furthermore, political scientist Daniel Elazar illustrated in his article ‘From Statism to Federalism: A Paradigm Shift’ that federalism is neither limited to the American continent nor a thing of the past, as current European alliances and partnerships have increasingly taken on a federal character in all but name.²⁰ This opened up the scope of the discussion on (the application of) the Philadelphian system to whole new areas and eras, with all due consequences.

The third concept is negarchy. Deudney, who coined the term, defined it as “the arrangement of institutions necessary to prevent simultaneously anarchy and hierarchy.”²¹ He explained that security threats do not solely stem from the external forces of anarchy, but also stem from the very institution created to suspend it: the government. The aforementioned – and already scrutinized – dyad between anarchy and hierarchy can namely extend beyond hierarchy into tyranny. Thus, the American Founders made use of what Cha called the “new science of politics” – inspired by the works of Montesquieu, Emer de Vattel, Thomas Hobbes and the like – in creating their government.²² This led to the construction of a multilevel governmental system that was not strictly hierarchical, but negarchical: the state governments had an important function to counterbalance the power of the federal government. Neither Elazar and Inoguchi, however, mentions negarchy. Here too, the implication of negarchy for the Philadelphian system lacks clear consensus.

The fourth and final concept is liberalism, the most divisive of them all. Deudney touched upon it briefly in the political sense, connecting it to the issue of liberty. He wrote of a corporal liberty of the populace, requiring the government to protect it from both internal and external threats. After all, the Declaration of Independence promised among the unalienable rights of the people life before all else.²³ Cha mentioned liberalism only after liberal internationalism became a shaping force of American foreign policy during the twentieth century. At this point, it should be noted that while Cha did recognize that the Philadelphian system is rooted in history, he also argued that it became instrumentalized based on “idealized historical experiences”.²⁴ This same understanding, whereby the contemporary application of the Philadelphian system seems to divert from its historic foundations, can be ascertained from

¹⁹ Deudney, “The Philadelphian System,” 220.

²⁰ Daniel Elazar, “From Statism to Federalism: A Paradigm Shift,” *Publius* 25, no. 2 (1995): 5 – 18.

²¹ Deudney, “The Philadelphian System,” 208.

²² Cha, “Competing visions of a postmodern world order,” 397.

²³ Deudney, “The Philadelphian System,” 197 – 198.

²⁴ Cha, “Competing visions of a postmodern world order,” 393.

the works of Elazar and Inoguchi. Elazar argued that economic liberalism developed in reaction to imperialism and subsequently became an inherent part of American foreign policy, especially during the Cold War peak in the international arms race. He wrote: “efforts began to be made to go beyond the old system to find new ways to gain control of the [international system] to everyone’s mutual satisfaction”.²⁵ Inoguchi pushed this point even further, almost – if not fully – equating the Philadelphian system with liberal democracy. He argued that “as a self-acknowledged world leader with a long-term concern about its sustainability and ambivalence over questions of isolationism and interventionism, the United States needs a grand guiding strategy in its relations with the rest of the world”.²⁶ According to Cha, it was in the nature of great powers to “redesign the world order in their own domestic image, thereby shaping the governing logic of international relations in line with their internal values and institutions”, which Inoguchi thus identified as economic liberalization and political democratization.²⁷ Liberalism is therefore undoubtedly connected to the Philadelphian system, but to what extent and with what implications remains subject of debate.

While these scholars thus jointly identified four elements of central importance to the Philadelphian system – sovereignty, federalism, negarchy, and liberalism – there is still ample room for discussion on their exact meaning and implications. Deudney emphasized the importance of popular sovereignty, referred to federalism as a state-union, introduced the concept of negarchy and spoke of liberalism as a mechanism to secure liberty. Cha instead wrote of pooled sovereignty and federalism, detailed the negarchical features of the U.S. Constitution and explained how liberalism became a cornerstone of American foreign policy well after its founding. Elazar remained silent on sovereignty and negarchy but did emphasize federalism as an important feature of the U.S. government and liberalism as a foreign policy objective. Finally, Inoguchi stated that popular sovereignty was at the core of the Philadelphian system, did not mention either federalism or negarchy, but did argue that liberalism was a core concept for U.S. international relations. These different conceptualizations of sovereignty, federalism, negarchy and liberalism are, however, not at all surprising, because each of these four concepts is in and of itself subject of substantial academic debates within IR and other closely related academic fields such as political science and history.

At this point, it thus seems justified to return to where it all once began, the American founding era, and inquire into the conceptualization of the international system by the Founders.

²⁵ Elazar, “From Statism to Federalism,” 11.

²⁶ Inoguchi, “Peering into the Future by Looking Back,” 179.

²⁷ Cha, “Competing visions of a postmodern world order,” 392.

The goal here is not to ameliorate the contemporary conceptualization of the Philadelphian system by trying to articulate one coherent framework based on the ideas of its creators in a set point of time, but to ascertain how the Founders' ideas on the international system could advance the contemporary debates of IR. In general, the American founding era has namely been somewhat neglected IR, despite the fact that ideas and theories of international relations were of great importance for the American founding.²⁸ Cha acknowledged that it had been mostly, if not practically solely, researched from the domestic perspective.²⁹ Political scientist David Hendrickson therefore emphasized the need for historians and international relations scholars to join forces and do research on “the junction point of the worlds of constitutionalism and diplomacy”.³⁰ In light of this research gap, it is thus not surprising that there is as of yet little consensus among IR scholars about the effects the American founding had on international relations at that time, as well as on theories and concepts currently developed. Luckily, the American founding era has left behind a rich collection of sources, which have now been supplemented by a great amount of scholarly literature from multiple fields. Combining these materials may just lead to new insights that the current debates on the Philadelphian system and its components need.

This research will therefore aim to answer the question: How did Alexander Hamilton, John Jay, and James Madison (the Federalists) construe the international system and the U.S.' place therein at the Founding in their Federalist Papers? The Federalist Papers is a collection of essays written by Hamilton, Jay and Madison between October 27, 1787, and August 13, 1788, in an effort to advance the ratification debate within their home state New York, but also in any other state where the people might have been able and willing to read their works.³¹ Their essays provided a blueprint for the intended purpose of the Constitution and the various levels and branches of government. However, the Papers also provided insight into how the Federalists perceived the international system, the U.S.' place therein, and perhaps even how they intended to reconfigure it. The Federalists made it abundantly clear that they intended to distance the U.S. from European affairs, which Hamilton described as “the pernicious labyrinths of

²⁸ William Bain and Terry Nardin, “International relations and intellectual history,” *International Relations* 31, no. 3 (September 2017): 220.

²⁹ Cha, “Competing visions of a postmodern world order,” 395

³⁰ David Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence: University Press of Kansas, 2003), xiii.

³¹ Library of Congress, Research Guides, Main Reading Room, Federalist Papers: Primary Documents in American History, accessed June 29, 2023, <https://guides.loc.gov/federalist-papers/full-text>. Henceforth, when citing from the Federalist Papers, the annotation will refer to this repository in its abbreviated form as ‘LoC’. Although there are many print versions and collections available, the author chose here to refer to the digital versions as they appear on the website of the Library of Congress, as they are both accessible and resemble the original texts more so than some edited modern editions.

European politics and wars”.³² They thus sought to explain the new system of governance, as devised in the proposed Constitution, which mitigated the need for violent conflict and instead emphasized collaboration. This effort was indeed supported by a notion of American exceptionalism. For example, Hamilton wrote: “It belongs to us to vindicate the honor of the human race, and to teach that assuming brother, moderation.”³³ He even further emphasized that the proposed Constitution stood “discriminated from every other institution of a similar kind, and exhibits a new and unexampled phenomenon in the political world”.³⁴ If the American “experiment” was to succeed, the Federalists were even of the opinion that the U.S. would be “superior to the control of all transatlantic force or influence, and able to dictate the terms of the connection between the old and the new world”.³⁵ While the whole of the Papers will be taken into consideration, the focus here will lie on the first half of the essays, which describe the advantages of the proposed government in the international sphere, as the second half mostly described the domestic requirements to sustain the proposed system.

The Philadelphian system will be used as an analytical lens through which to study the contents of the Federalist Papers. In doing so, this research will thus take place at the junction of the academic fields of history and IR, which is quite tricky. The former field emphasizes contingency and circumstance, emphasizing the intricacies of society, while the latter field is theory and concept driven, seeking to establish systems, patterns, and frameworks. Yet the fields are nevertheless closely related to each other, as explained by IR scholar Christian Reus-Smith:

Theory is history-dependent. If theory is always ‘from somewhere’, then the universal ‘somewhere’ is history. Not only because theorists write in historical contexts they cannot escape, but because the theories invariably rest on historical propositions.³⁶

History is thus of the utmost importance for the continuous development and improvement of theory, and as scholars such as Benjamin de Carvalho and Robert Keohane have shown, theory

³² LoC, Alexander Hamilton, *Federalist No.7 – The Same Subject Continued: Concerning Dangers from Dissensions Between the States*, <https://guides.loc.gov/federalist-papers/text-1-10>, tenth paragraph.

³³ LoC, Alexander Hamilton, *Federalist No.11 – The Utility of the Union in Respect to Commercial Relations and a Navy*, <https://guides.loc.gov/federalist-papers/text-11-20>, fourteenth paragraph.

³⁴ LoC, Alexander Hamilton, *Federalist No.21 – Other Defects of the Present Confederation*, <https://guides.loc.gov/federalist-papers/text-21-30>, second paragraph.

³⁵ LoC, James Madison, *Federalist No.14 – Objections to the Proposed Constitution From Extent of Territory Answered*, <https://guides.loc.gov/federalist-papers/text-11-20>, twelfth paragraph ; Hamilton, *Federalist No.11*, fourteenth paragraph.

³⁶ Christian Reus-Smit, “Theory, History, and Great Transformations,” *International Theory* 8, no. 3 (2016): 422.

is also an incentive and instrument to reassess history.³⁷ Thus, in using the Philadelphian system as a theoretical framework and its components sovereignty, federalism, negarchy, and liberalism as points of reference up front, this research will be able to synthesize IR theory and historic context without getting lost in either. It allows for a clearly demarcated and focused discourse analysis of the Papers, which contents are so astoundingly rich and elaborate, while taking historic context once again into consideration. It must be reiterated that this will not be done to look for confirmation of the importance of these four concepts for the Philadelphian system as currently devised, as it is not the historian's task to make judgement on correctness, but rather with the conscious awareness that the meaning and implications of these concepts might very well have changed over time.³⁸ It is exactly these diverging findings, and any possible explanations thereof, which will be able to advance the numerous debates within IR through supplementing theoretic knowledge with historic insights.

The following chapters will each focus on one of the central concepts of the Philadelphian system, those being sovereignty, federalism, negarchy, and liberalism in that respective order. As will become evident, the Founders' understanding of sovereignty, provided the foundation upon which the American governmental system was built. Each subsequent chapter will therefore highlight how their understanding of sovereignty affected other aspects of the multilevel system, respectively the general government, the state governments, and the people. Every chapter will follow the same structure. Starting out with a general overview of the current debate in IR or related fields regarding the concept up for discussion, its relevance for the analysis of the Federalist Papers will be explained. This is followed by some brief historic context explaining how the Founders developed their understanding of that concept, after which the Papers themselves will be analyzed to see how these concepts became institutionalized. Together, these subtopics will show how the Federalists' conceived the international system and the U.S.' place therein, as well as how their understanding of these concepts in their own time can still contribute to current debates of IR.

³⁷ de Carvalho et al., "The Big Bangs of IR," 735 – 758; Keohane, "Ironies of Sovereignty," 743 – 765.

³⁸ Gordon Wood, "Ideology and the Origins of Liberal America," *The William and Mary Quarterly* 44, no. 3 (1987): 632.

Chapter I: Sovereignty

Sovereignty is a core concept of IR, but counterintuitively also a heavily contested one.³⁹ There have generally been two different interpretations of sovereignty within IR, particularly concerning its allocation, which greatly influenced the structure of governments built thereon.⁴⁰ Firstly, sovereignty has often been understood as a “monopoly of power” that is an inherent attribute of government.⁴¹ This view was first advanced by Jean Bodin, a sixteenth-century philosopher and one of the first political theorists to define sovereignty, who described it as the “absolute and perpetual power vested in a republic”.⁴² This understanding of sovereignty then became codified as part of the Westphalian system, which contrasts the internal hierarchy of a state with the external absence of a higher or centralized authority, a condition referred to as anarchy.⁴³ This construction of government, through the establishment of a hierarchy being the antithesis to anarchy, allowed scholars to make enduring and definitive claims about sovereignty being innate to government. For example, lawyer Ernst-Ulrich Petersmann described it as “supreme political and legal power over people”, whereas historian Harry Dickinson wrote of “the ultimate authority in a state that has the constitutional authority to approve laws and taxes, and the power to coerce, punish or resist those who would challenge its legitimate right to exercise these powers”.⁴⁴ In this line of thinking, sovereignty is thus inherent to government.

Secondly, however, scholars have also put forth claims rejecting the notion that sovereignty is inherent to government, rather perceiving it as something it possesses or as a grant of power delegated to it from another source altogether. This approach emphasizes that sovereignty is different from autonomy and/or authority. For example, political philosopher Jacques Maritain argued that sovereignty is a “transcendently-supreme power” that does not exist at the top of the governmental hierarchy, but above and removed from it.⁴⁵ Therefore, he claimed, “the state is not and has never been genuinely sovereign”.⁴⁶ Rather, according to

³⁹ Keohane, “Ironies of Sovereignty,” 743.

⁴⁰ Deudney, “The Philadelphian System,” 198.

⁴¹ John Jackson, “Sovereignty-Modern: A New Approach to an Outdated Concept,” *The American Journal of International Law* 97, no. 4 (2003): 782 – 783.

⁴² Jean Bodin, *Les Six Livres de la Republique* (Paris: Jacques du Puys, 1577), 89.

⁴³ Joseph Stromberg, “Sovereignty, International Law, and the Triumph of Anglo-American Cunning,” *International Law* 18, no. 4 (Fall 2004): 29 – 30.

⁴⁴ Ernst-Ulrich Petersmann, “State Sovereignty, Popular Sovereignty and Individual Sovereignty: from Constitutional Nationalism to Multilevel Constitutionalism in International Economic Law?” *EUI Working Paper Law* 45 (2006): 1; Harry Dickinson, “Disputes on Sovereignty During the American Revolution,” *EurAmerica* 52, no. 2 (June 2022): 349.

⁴⁵ Jacques Maritain, “The Concept of Sovereignty,” *The American Political Science Review* 44, no. 2 (1950): 354.

⁴⁶ Maritain, “The Concept of Sovereignty,” 351.

Maritain, states rely on autonomy to govern, which political philosopher Raf Geenens defines as “the capacity to reflect upon norms and to direct their actions based on the outcomes of these reflections”.⁴⁷ Furthermore, Deudney defined sovereignty as “the ultimate source of all legitimate authority in a polity”, indicating that the authority to govern is indeed different from sovereignty.⁴⁸ Sovereignty is the source of power, while authority is the legitimacy to wield it. This understanding gives sovereignty a more materialistic connotation, as it is no longer an indicator of governmental status but rather an instrument of governance.

The following chapter will show that, although this debate on the true meaning, allocation and implications of sovereignty currently takes place in contemporary literature, it was also already a topic of debate in colonial America and significantly affected the U.S.’ development. If this debate did not have its origin in the American founding – which started well before the War for Independence – it was at the very least actively present in the minds of the Founders.⁴⁹ First, some concise historic context will shed light on why the Founders, Framers and Federalists actively engaged with and reimagined the concept of sovereignty. Second, an analysis of the Federalist Papers will show the understanding they eventually developed thereof and allude to how this affected the American governmental system. Third and finally, the implications of these findings will be summarized, with attention for how these findings will be able to advance the contemporary debate on sovereignty. Political scientist Robert Keohane wrote: “The changing meanings of sovereignty enable it to be used as a conceptual lens, through which attitudes and policy preferences are refracted.”⁵⁰ And indeed the Founders’ understanding and implementation of sovereignty had a profound impact on (the creation of) the American multilevel governmental structure.

The History of Sovereignty in America

During the founding era, the Founders were tasked with consciously and definitively establishing where sovereignty would be allocated in the U.S. That is because in the decades prior, from the very beginning of settlement in the New World, the colonists had developed multiple novel understandings of sovereignty in juxtaposition to the British empire of which they were formally still part. Most of the Eurocentric world, and especially the British Empire,

⁴⁷ Raf Geenens, “Sovereignty as Autonomy,” *Law and Philosophy* 36, no. 5 (October 2017): 502.

⁴⁸ Deudney, “The Philadelphian System,” 198.

⁴⁹ Keohane, “Ironies of Sovereignty,” 743.

⁵⁰ Keohane, “Ironies of Sovereignty,” 743.

still relied on a nation of absolute sovereignty, often embodied by the monarch.⁵¹ Even though the British constitution prescribed a mixed government – which combined the best aspects of monarchy, aristocracy and democracy into one system of governance – the King nevertheless had broad discretion to rule the Empire by playing the system and exerting his influence over Parliament.⁵² As such, the American colonies were established through royal prerogative alone, as it was the monarch who issued them their charters. However, soon after their establishment, the colonists already started to gradually distance themselves from the absolute sovereignty of the King. That is because each of the colonies established their own governments for organizing daily life, in the absence of any active involvement from the far-removed British government. The dispute that arose once the British government wanted to reassert its authority over the colonies is of course eventually culminated in the American War for Independence.⁵³ Consequently, in definitively rejecting the absolute sovereignty of the British king, the colonists were challenged with rethinking the meaning, allocation and implications of sovereignty.

This resulted in multiple new perspectives of sovereignty being developed and implemented throughout the colonies, such as individual, popular, state, and national sovereignty. Individual sovereignty derived from the colonists reliance on self-preservation and purported the principle that each citizen of the U.S., also already in colonial times, possessed some unalienable rights by nature.⁵⁴ This rights of course included “Life, Liberty, and the pursuit of Happiness”, as enumerated in the Declaration of Independence, but also included certain property rights, a right to choose one’s own religion, and a right of suffrage for the colonial governments.⁵⁵ The right of suffrage became the foundation for the idea of popular sovereignty as the colonies started to establish their own governments. Although both individual and popular sovereignty allocate the people as the true source of sovereignty, popular sovereignty places it in the body of citizens as a whole in its collective function as a constituency.⁵⁶ However, as these new governments came into being, some saw those as the appropriate repositories of sovereignty, giving rise to the idea of state sovereignty.⁵⁷ This resembled the more traditional understanding of sovereignty being inherent to government

⁵¹ Keohane, “Ironies of Sovereignty,” 749.

⁵² Dickinson, “Disputes on Sovereignty During the American Revolution,” 297.

⁵³ Dickinson, “Disputes on Sovereignty During the American Revolution,” 307 – 337.

⁵⁴ Alice Butler, “The concepts of sovereignty at the American founding” (MA Thesis, Texas Woman’s University, 2003), 78.

⁵⁵ National Archives, America’s Founding Documents, Declaration of Independence Transcript, accessed June 29, 2023, <https://www.archives.gov/founding-docs/declaration-transcript>, second paragraph.

⁵⁶ Joshua Miller, “The Ghostly Body Politic: The Federalist Papers and Popular Sovereignty,” *Political Theory* 16, no. 1 (February 1988): 104; Geenens, “Sovereignty as Autonomy,” 504 – 505.

⁵⁷ Butler, “The concepts of sovereignty at the American founding,” 25.

itself. Finally, as the brewing conflict between the colonies and the British government came to a head, the thirteen individual colonies defaulted to the creation of a confederacy as devised in the Articles of Confederation. This brought forth the idea of national sovereignty, where one general government was granted the legitimate power to rule over all member states and its citizens.⁵⁸ As the U.S. emerged victorious from the War for Independence, its Founders were tasked with synthesizing these various different concepts into one workable and sustainable system of governance.

This task became increasingly pressing as the Articles began to fail as an effective foundation for the general government. The Articles had granted the general government sufficient powers for times of war, but they lacked the necessary powers during times of peace. They promised that “each state retains its sovereignty”.⁵⁹ Consequently, some of the states within the U.S. started to outright reject the general government’s authority, refusing to delegate any further amount of sovereignty and thus undermining the general government’s ability to govern effectively.⁶⁰ Adherence to a strong notion of state sovereignty thus weakened the American confederation overall and calls for a revision of the Articles emerged from those preferring a stronger union. Consequently, the Continental Congress called for a federal convention to reconsider the weaknesses in the Articles. Eventually, the delegates of the Constitutional Convention instead proposed a whole new Constitution. As no minute part of their efforts, the Framers thus also had to reconsider the questions concerning the meaning, allocation, and implications of sovereignty and how the different notions thereof would relate to each other under their proposed Constitution. The Federalists explained the fruits of this labor in their Papers.

Sovereignty in the Federalist Papers

Throughout all Papers the Federalists used ‘sovereign’ in a variety of ways. For example, sometimes they used “the sovereign” to refer to heads of state, such as “sovereign” Emperor Charles V of the Holy Roman Empire, “the sovereign” of the Ottoman Empire, or “the British sovereign” the King.⁶¹ This usage of sovereign of course aligned with the traditional and

⁵⁸ Butler, “The concepts of sovereignty at the American founding,” 96.

⁵⁹ National Archives, Milestone Documents, Articles of Confederation (1777), accessed June 29, 2023, <https://www.archives.gov/milestone-documents/articles-of-confederation>, Article II.

⁶⁰ Keohane, “Ironies of Sovereignty,” 751.

⁶¹ LoC, Alexander Hamilton, *Federalist No.6 – Concerning Dangers from Dissensions Between the States*, <https://guides.loc.gov/federalist-papers/text-1-10>, fifth paragraph; LoC, Alexander Hamilton, *Federalist No.30 – Concerning the General Power of Taxation*, <https://guides.loc.gov/federalist-papers/text-21-30>, third paragraph;

European conceptualization of absolute sovereignty being vested in the highest ranks of government. Other times, they used “sovereignty” to refer to an autonomous territorial unit or state. For example, they used “sovereign states” repeatedly when speaking of the thirteen former colonies, and referred to the Republic of the Seven United Netherlands as consisting of “seven coequal and sovereign states”.⁶² Here too, the allocation of sovereignty coincided with the state apparatus itself, referring to it as a whole rather than one person embodying it. Furthermore, in multiple instances the Federalists wrote of “sovereigns”, “distinct sovereignties” or “sovereign will”, without ever specifying if they referred to a singular person, a territory, or perhaps even a collective of people.⁶³ Finally, “sovereign” is throughout the essays also used as an indicator or descriptor of legitimacy by writing of “sovereign power”.⁶⁴ Nowhere did the Federalists offer a precise definition of sovereignty, neither concerning the different usages nor in general, already indicating that it was not a static but rather a situational or circumstantial concept.

The Federalists did identify three entities that were all imbued with some degree of sovereignty, those being: the general government, the people, and the state governments. The general government needed legitimacy and an adequate grant of power to fulfill its primary objective, which was to provide safety for its people.⁶⁵ From the very beginning of the essays, the Federalists were adamant in their conviction that, as Jay wrote, “nothing is more certain

Loc, Alexander Hamilton, *Federalist No.69 – The Real Character of the Executive*, <https://guides.loc.gov/federalist-papers/text-61-70>, fifth paragraph.

⁶² LoC, Alexander Hamilton, *Federalist No.16 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union*, <https://guides.loc.gov/federalist-papers/text-11-20>, sixth paragraph; Loc, James Madison, *Federalist No.39 – The Conformity of the Plan to Republican Principles*, <https://guides.loc.gov/federalist-papers/text-31-40>, seventh paragraph; LoC, Alexander Hamilton or James Madison, *Federalist No.62 – The Senate*, <https://guides.loc.gov/federalist-papers/text-61-70>, fifth paragraph; LoC, Alexander Hamilton and James Madison, *Federalist No.20 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union*, <https://guides.loc.gov/federalist-papers/text-11-20>, second paragraph.

⁶³ LoC, John Jay, *Federalist No.4 – The Same Subject Continued: Concerning Dangers From Foreign Force and Influence*, <https://guides.loc.gov/federalist-papers/text-1-10>, third paragraph; LoC, James Madison, *Federalist No.47 – The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts*, <https://guides.loc.gov/federalist-papers/text-41-50>, second paragraph; LoC, Alexander Hamilton, *Federalist No.82 – The Judiciary Continued*, <https://guides.loc.gov/federalist-papers/text-81-85>, first paragraph; LoC, Alexander Hamilton, *Federalist No.81 – The Judiciary Continued, and the Distribution of the Judicial Authority*, <https://guides.loc.gov/federalist-papers/text-81-85>, fourteenth paragraph.

⁶⁴ LoC, Alexander Hamilton, *Federalist No.9 – The Utility of the Union as a Safeguard Against Domestic Faction and Insurrection*, <https://guides.loc.gov/federalist-papers/text-1-10>, sixteenth paragraph; Loc, Alexander Hamilton, *Federalist No.15 – The Insufficiency of the Present Confederation to Preserve the Union*, <https://guides.loc.gov/federalist-papers/text-11-20>, thirteenth paragraph; LoC, Alexander Hamilton, *Federalist No.32 – The Same Subject Continued: Concerning the General Power of Taxation*, <https://guides.loc.gov/federalist-papers/text-31-40>, fifth paragraph; Hamilton, *Federalist No.69*, seventh paragraph.

⁶⁵ Loc, John Jay, *Federalist No.3 – The Same Subject Continued: Concerning Dangers From Foreign Force and Influence*, <https://guides.loc.gov/federalist-papers/text-1-10>, third paragraph.

than the indispensable necessity of government”.⁶⁶ In a later essay, Hamilton explained: “Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint.”⁶⁷ Madison too concurred, writing: “If men were angels, no government would be necessary.”⁶⁸ As these excerpts suggest, and as becomes evident throughout the whole collection of the Papers, the Federalists fundamentally distrusted human nature. They described man, among other things, as “ambitious, vindictive, and rapacious”, and imbued with “ignorance” and “selfishness”.⁶⁹ Particularly, the Federalists berated humanity’s inclination towards violence, as Madison wrote: “So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts.”⁷⁰ According to historian Richard Hofstadter, these convictions were rooted in the social theories of Thomas Hobbes, John Locke, Emer de Vattel, and other enlightened thinkers, which the Federalists were very well read upon.⁷¹ However, the Federalists also learned from history, as Hamilton and Madison poetically summarized: “Experience is the oracle of truth.”⁷² The human propensity to violence was therefore so obvious to the Federalists, that Hamilton wrote of it as “the natural course of things” and “the natural and necessary progress of human affairs”.⁷³ In the absence of an adequate government, Madison wrote, “anarchy may truly be said to reign as in a state of nature”.⁷⁴ Thus, the Federalists claimed that the creation of government was necessary to save the people from a state of nature-like condition caused by nothing less than their own human nature and its tendency toward violent conflict.

However, solely the creation of a government would not suffice, as it needs the ability to overcome the harmful effects of human nature. Just as humans are prone the using violence against each other, the Federalists understood that governments are by extension just as prone

⁶⁶ LoC, John Jay, *Federalist No.2 – Concerning Dangers from Foreign Force and Influence*, <https://guides.loc.gov/federalist-papers/text-1-10>, second paragraph.

⁶⁷ Hamilton, *Federalist No.15*, twelfth paragraph.

⁶⁸ Loc, James Madison, *Federalist No.51 – The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments*, <https://guides.loc.gov/federalist-papers/text-51-60>, first paragraph.

⁶⁹ Hamilton, *Federalist No.6*, second paragraph; Hamilton, *Federalist No.15*, twelfth paragraph, fifteenth paragraph.

⁷⁰ LoC, James Madison, *Federalist No.10 – The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection*, <https://guides.loc.gov/federalist-papers/text-1-10>, seventh paragraph.

⁷¹ Richard Hofstadter, *The American Political Tradition: And the Men Who Made it* (New York: A.A. Knopf: 1973), 5.

⁷² Hamilton and Madison, *Federalist No.20*, twenty-fourth paragraph.

⁷³ LoC, Alexander Hamilton, *Federalist No.8 – The Consequences of Hostilities Between the States*, <https://guides.loc.gov/federalist-papers/text-1-10>, sixth paragraph, seventh paragraph.

⁷⁴ Madison, *Federalist No.51*, first paragraph.

to making war among each other. Jay identified two just causes of war, those being the “violation of treaties” or the show of “direct violence” from a foreign power, both of which are essentially defensive or reactive in nature.⁷⁵ Yet he also acknowledged that there are numerous other incentives for instigating a war, which encompassed all goals with “a prospect of getting *anything* by it”, which are therefore more offensive in nature.⁷⁶ According to the Federalists, man would be by nature just as likely to wage war for the latter reason as they would for the former. They observed numerous instances throughout human history, all the way from the ancient times to their own revolution, where wars were fought not to procure or protect safety for the people, but for the pursuance of interest such as territorial gains, commercial prosperity, or even personal aggrandizement. One specific example they used to support their claim are the Punic Wars between Rome and Carthage, which were fought over territorial domination, commercial prosperity and the personal honors that came with it.⁷⁷ But the Federalists thus did not consider this kind of human behavior a thing of the past. On the contrary, they saw it as the very source of the “engines of despotism which have been the scourge of the Old World”, a phenomenon that had to be prevented from taking root in their New World.⁷⁸ That left the Federalists with an important question: how was the government to be foreseen from the necessary and sufficient powers to provide safety for its people if it suffered from the same flaws of human nature?

This questions was even further complicated by the fact that the Federalists acknowledged that the people too retained some degree of sovereignty, even after the creation of a government. Concerning the Articles of Confederation, Hamilton wrote: “It has not little contributed to the infirmities of the existing federal system, that it never had ratification by the people.”⁷⁹ The people’s support for the newly proposed Constitution was of the utmost importance for its success – which is why the Federalists initiated their project of writing these essays in the first place – because the U.S. suffered from what historian Robert Shoemaker called a “frequency of mob violence”.⁸⁰ This was already present in colonial times, as exemplified by Shoemaker through the Boston Tea Party, but the same tendency toward violent uprisings can thereafter also be ascertained from the American Revolution itself, as well as

⁷⁵ Jay, *Federalist No.3*, sixth paragraph.

⁷⁶ Jay, *Federalist No.4*, third paragraph. Emphasis added.

⁷⁷ Hamilton, *Federalist No.6*, tenth paragraph.

⁷⁸ Hamilton, *Federalist No.8*, sixth paragraph.

⁷⁹ LoC, Alexander Hamilton, *Federalist No.22 – The Same Subject Continued: Other Defects of the Present Confederation*, <https://guides.loc.gov/federalist-papers/text-21-30>, eighteenth paragraph.

⁸⁰ Robert Shoemaker, ““Democracy” and “Republic” as Understood in Late Eighteenth-Century America,” *American Speech* 41, no. 2 (1966): 88.

Shays' Rebellion that took place after the U.S. secured their independence. Thus, Hamilton wrote, government "ought to rest on the solid basis of the consent of the people. The streams of national power ought to flow immediately from the pure, original fountain of all legitimate authority."⁸¹ What he described was the principle of popular sovereignty, on which the government thus had to be at least partially constituted. That created a remarkable tension, however, between the need for government to suppress man's tendency towards violence through good governance and its simultaneous reliance on the people's consent to attain and retain legitimacy.

The Federalists were nevertheless able to incorporate both requirements – a certain distance of the government from human nature and the simultaneous consent of the people for it – into one system of governance: a confederate republic. Madison defined a republic as "a government in which the scheme of representation takes place".⁸² The Federalists found such a system of representative government especially suitable for the U.S., which stretched over an expansive territory. This was partially for practical reasons, as it would allow for only a small number of the populace to travel to and from the seat of government and still govern in the name of the whole.⁸³ More importantly, however, the frequent elections of representatives by large constituencies would both make sure that the best candidate would end up in office and keep him accountable for the duration of his tenure. Madison explained:

[A]s each representative will be chosen by a greater number of citizens in a large than in the small republic, it will be more difficult for untrustworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre in men who possess the most attractive merit and the most diffusive and established characters.⁸⁴

Furthermore, the promise of reelection, which was at the founding present for all offices of the general government, would keep representatives according to the Federalists responsible and "accountable to the society over which they are placed".⁸⁵ Not only would the best candidate thus be voted into office, but once instated he would also be encouraged to govern for the greater good to retain that office. Therefore, a system of representative government in which the citizens voted for their own representatives allowed the government to be sufficiently removed from the people as a whole, while still functioning adequately and with their support.

⁸¹ Hamilton, *Federalist No.22*, eighteenth paragraph.

⁸² Madison, *Federalist No.10*, fourteenth paragraph.

⁸³ Madison, *Federalist No.14*, sixth paragraph.

⁸⁴ Madison, *Federalist No.10*, eighteenth paragraph.

⁸⁵ Loc, Alexander Hamilton or James Madison, *Federalist No.55 – The Total Number of the House of Representatives*, <https://guides.loc.gov/federalist-papers/text-51-60>, seventh paragraph.

The Federalist made sure, however, to distinguish between republicanism and democracy, which they said were often conflated.⁸⁶ Madison explained that in a democracy, as opposed to a republic, all citizens “assemble and administer the government in person”.⁸⁷ Allowing all people to engage in governing, would hardly provide any safeguard against their human nature at all and would, according to Madison, only create an unstable and turbulent government.⁸⁸ The Federalists thus clearly preferred republicanism over democracy, due to its usage of a “medium of a chosen body of citizens”.⁸⁹ As such, a republican government gave its citizens the ability to have a say in their own government, thereby respecting the principle of popular sovereignty, while thereafter removing the power of governance from popular control and putting it in the hands of the few capable statesmen, imbuing the government itself too with a necessary degree of sovereignty.

However, the Federalists argued specifically in favor of a *confederate* republic. This indicated that the individual state governments too retained a *raison d'être*, and indeed the Federalists assigned them too sovereignty. Hamilton explained:

An entire consolidation of the States into one complete national sovereignty would imply an entire subordination of the parts; and whatever powers might remain in them, would be altogether dependent on the general will. But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, exclusively delegated to the United States.⁹⁰

Under the Articles of Confederation, the states retained full sovereignty, while also establishing a with sovereignty imbued general government existing alongside their governments. However, as the Federalists noted, this was another defect of the Articles. Its division of sovereignty, according to Madison, amounted to the subversion of “a mathematical axiom, by taking away a part, and letting the whole remain”.⁹¹ The states could not retain full sovereignty while simultaneously delegating an amount thereof to the general government. Thus, if the Framers were to retain that the states were fully sovereign, the proposed Constitution would be void. The Federalists therefore explained, as Hamilton did in the quote above, that the states retained partial sovereignty. Hamilton further explained: “The proposed Constitution, so far from

⁸⁶ Madison, *Federalist No.10*, fourteenth paragraph.

⁸⁷ Madison, *Federalist No.10*, thirteenth paragraph

⁸⁸ Madison, *Federalist No.10*, thirteenth paragraph.

⁸⁹ Madison, *Federalist No.10*, sixteenth paragraph.

⁹⁰ Hamilton, *Federalist No.32*, second paragraph.

⁹¹ LoC, James Madison, *Federalist No.42 – The Power Conferred by the Constitution Further Considered*, <https://guides.loc.gov/federalist-papers/text-41-50>, fourth paragraph.

implying an abolition of the State governments, makes them constituent parts of the national sovereignty (...) and leaves in their possession certain exclusive and very important portions of sovereign power.”⁹² Madison confirmed this assumption, writing: “the States will retain, under the proposed Constitution, a very extensive portion of active sovereignty”.⁹³ Thus, aside from the general government, that necessarily needed a degree of sovereign power, and the people, which were the source of all sovereign power, the states too contained a vestige of sovereignty.

Preliminary Conclusion

The Federalists explained that under the proposed Constitution sovereignty was dividable. While the different notions of sovereignty developed naturally and gradually during America’s colonial period, its subsequent institutionalization required conscious consideration and implementations. As such, the American founders allocated sovereignty in three distinct entities: the general government, the state governments, and the people. The Federalists explained that sovereignty was a necessary – but not inherent – feature of government, while at the same time the people were its true source.

In (re)connecting these findings to contemporary IR theory, it is abundantly clear that the American founders rejected the traditional and Westphalian notions of absolute sovereignty either as embodied by the head of state or as innate to the governmental apparatus itself. The Founders instead, as explained by the Federalists, shared the conviction of some contemporary scholars who distinguish between the source and allocation of sovereignty, such as Maritain and Deudney.⁹⁴ However, the Founders pushed this point even further, claiming that sovereignty could be divided and consequently exist in multiple places simultaneously and equally. Such a notion of dividable sovereignty seems as of yet unexplored in contemporary IR, even though it could have fundamental implications, not only as part of the Philadelphian system but also for the general debate on sovereignty and constructions of the state.

At this point it could be questioned, however, how these notions of sovereignty related to grants of authority. As remarked by Deudney and explained before, sovereignty and authority are often conflated in meaning.⁹⁵ But in looking at the division of sovereignty as explained by the Federalists here, it seems to say little about the actual grants of authority. That is because

⁹² Hamilton, *Federalist No.9*, sixteenth paragraph.

⁹³ LoC, James Madison, *Federalist No.45 – The Alleged Danger From the Powers of the Union to the State Governments Considered*, <https://guides.loc.gov/federalist-papers/text-41-50>, second paragraph.

⁹⁴ Maritain, “The Concept of Sovereignty,” 343 – 357; Deudney, “The Philadelphian System,” 198.

⁹⁵ Deudney, “The Philadelphian System,” 198.

the Federalists never made any claims about one notion of sovereignty being either larger or more important than the other. Furthermore, the Constitution itself remained eerily silent on the issue, never mentioning sovereignty at all. Therefore, the Founders' ideas on sovereignty must be understood as the foundation upon which the durable structure of the American multilevel government was built. To illustrate this point, the following chapters will each focus on one layer of this structure – respectively the general government, the state governments, and the people – as to inquire how their grants of sovereignty translated to actual authority.

Chapter II: Federalism

In the past few decades, the concept of federalism – understood as a multilevel system of government – has experienced a revival within multiple academic fields, such as public administration, political science, and indeed IR.⁹⁶ Within IR, the federal governmental structure emerged as an alternative to the sovereign nation-state as the sole actor in the international sphere, as the Westphalian system purports it to be. The American model of federalism has often been used as a standardized example or mode of comparison, which is according to political scientist Patrick Riley due to the “well-established reputation of the United States as the most successful federal system that ever existed”.⁹⁷ Accordingly, the American model has taken up a central position in scholarship on federalism. For example, political scientists Anand Menon and Martin Schain have published a collection of essays devoted to comparing the federalists structures of the U.S. and the European Union.⁹⁸ Historian Muhammad Kazimi wrote an article on the proliferation of federalism in South Asia, reiterating an earlier statement of historian Marshall Smelser calling federalism “the chief American contribution to the art of government”.⁹⁹ Elazar exemplified the prominence of the American model of federalism recognizing its structure in the EU, its multiple predecessors, NATO and many more relatively smaller economic partnerships such as in the Caribbean (CARICOM) or Southeast Asia (ASEAN).¹⁰⁰ The revival of federalism in IR theory has been a primary incentive for the reemergence of the Philadelphian system exactly because of its support for multilevel governmental structures.

However, it is important to note that the contemporary understandings and applications of the American model of federalism differ from how the model was constituted at the founding. Political scientist Martin Diamond illustrated that federalism meant something quite different to the founders that it does to most scholars of IR today.¹⁰¹ The Founders actually used ‘federal’ and ‘confederal’ interchangeably in referring to the idea of a central government existing

⁹⁶ Michael McConnell, “Federalism: Evaluating the Founders’ Design Book Review,” *University of Chicago Law Review* 54, no. 4 (1987): 1511.

⁹⁷ Alain Gagnon, “Multinational federalism: challenges, shortcomings and promises,” *Regional & Federal Studies* 31, no. 1 (January 2021): 105; Patrick Riley, “Martin Diamond’s View of “The Federalist”,” *Publius* 8, no. 3 (1978): 73.

⁹⁸ Anand Menon and Martin Schain, *Comparative Federalism: The European Union and the United States in Comparative Perspective* (Oxford: Oxford University Press, 2006).

⁹⁹ Muhammad Kazimi, “The Evolution of Federalism as a System of Governance in South Asia: A Historical Appraisal,” *Journal of History and Social Sciences* 10, no. 1 (2019): 3; Marshall Smelser and Joan Gundersen, *American History at a Glance* (New York: Barnes & Noble Books, 1978), 44 – 45.

¹⁰⁰ Elazar, “From Statism to Federalism,” 7 – 8.

¹⁰¹ Martin Diamond, “The Federalist on Federalism: Neither a National Nor a Federal Constitution, But a Composition of Both,” *Yale Law Journal* 86, no.6 (1977): 1273 – 1285.

alongside governments of member states.¹⁰² Yet currently, federalism is often understood to be an intermediary between purely national and confederal forms of government created and instated by the Founders. This made federalism, according to lawyer Michael McConnell, “a uniquely American blend of national systems – like the French – and confederate systems – like the ancient Greek and early modern Dutch”.¹⁰³ This understanding of federalism reduces it to solely a division of jurisdiction between two or more governments within their own spheres of governance.¹⁰⁴ However, this conceptualization of federalism as an intermediary in the tripartite distinction between national, federal and confederal governments is mostly a nineteenth century invention which was retroactively projected onto the American founding.¹⁰⁵ The Founders themselves understood their government not to consist solely of one defining element, but of five: formation, structure, operation, jurisdiction, and amendment.¹⁰⁶ Some of these befit a national government, some of these a confederal government, and some both. While jurisdiction was arguably the most important element of the general government, it was not the only one. The Founders thus did not regard the proposed government to be of a purely confederal nature, but rather as a compound consisting of elements both of a national and of a confederal nature, and which consequently went beyond solely dividing jurisdictions.¹⁰⁷

The following two chapters will jointly expand on the Federalists’ understanding of the proposed government as a compound rather than an intermediary system, with this chapter focusing on the national aspects and the next chapter explaining the confederal aspects. In doing so, it will build upon the knowledge gained in the previous chapter by illustrating how the different and equal notions of sovereignty supported the multilevel, compound system of government of the Constitution. This chapter will thus focus on national sovereignty and how that translated to a broad grant of power for the general government. First, some historic context will illustrate how the U.S. gradually came to know a confederal system of government during colonial times, which was then further developed during the American founding era. Then, it will be analyzed why the confederal government nevertheless, according to the Federalists, required some elements of a national government to be incorporated into the compound system. Finally, with these considerations freshly in mind, the implications will be summarized while attentive to the fact that this chapter covers only the first half of the American federal system

¹⁰² Diamond, “The Federalist on Federalism,” 1274 – 1276.

¹⁰³ McConnell, “Federalism,” 1492.

¹⁰⁴ Riley, “Martin Diamond’s View of “The Federalist,”” 74.

¹⁰⁵ Diamond, “The Federalist on Federalism,” 1274 – 1276.

¹⁰⁶ Diamond, “The Federalist on Federalism,” 1278 – 1279.

¹⁰⁷ Diamond, “The Federalist on Federalism,” 1274.

as devised in the Constitution. Historian Edward Purcell warned that “in analyzing American federalism, (...) we examine an evolving phenomenon through shifting analytical lenses,” which makes it even more interesting to inquire what insights the Federalists’ understanding thereof can attribute to the contemporary debate on federalism in IR.¹⁰⁸

The History of (Con)federalism in America

Early in the American colonies’ existence, the colonists became familiar with the first contours of a confederal government. Not because the British Empire was a federation and not because the individual colonies were, but due to the coinciding of their governments. As explained in the previous chapter, the highest authority in the British Empire was the King: he was, together with Parliament, responsible for ruling over the colonies. Their involvement was most prominent in the realm of foreign affairs, for example through directing the army and navy present in the colonies or by taking charge over “Indian affairs”.¹⁰⁹ While also responsible for the internal affairs of the colonies – Parliament by creating legislation and the King by being able to execute that legislation as well as being authorized to appoint colonial officers – their acts of government were still mostly imperial in nature. That is because, according to historian Andrew McLaughlin, hardly any legislation stemmed from or was attuned to local circumstances, with most acts instead being issued to serve the empire as a whole.¹¹⁰ Thus, in absence of a truly locally involved government, the colonies each created their own to organize daily life. The British government initially tolerated these governments for practical reasons. As such, prior to the War for Independence, the colonists already became familiar with a system of government where a removed, centralized government was responsible for their foreign affairs, while each colony could regulate its own internal affairs.¹¹¹

The first efforts to institutionalize this confederal system were already made when the American colonies were still part of the British Empire. The colonists were willing to let Britain retain its authority over the foreign affairs of the colonies collectively, yet they increasingly denied the British government authority over their individual internal affairs without adequate representation in government.¹¹² The King and Parliament were, however, not willing to

¹⁰⁸ Edward Purcell, “Evolving Understandings of American Federalism: Some Shifting Parameters,” *New York Law School Law Review* 50 (2006): 637.

¹⁰⁹ Andrew McLaughlin, “The Background of American Federalism,” *American Political Science Review* 12, no. 2 (1918): 217.

¹¹⁰ McLaughlin, “The Background of American Federalism,” 217 – 218.

¹¹¹ Akhil Amar, “Of Sovereignty and Federalism,” *Yale Law Journal* 96, no. 7 (1987): 1444 – 1445.

¹¹² Amar, “Of Sovereignty and Federalism,” 1445.

concede, and even tried to reassert their power over the colonies. The colonists' notion of dividable sovereignty and their institutionalization thereof thus eventually culminated in the War for Independence. In the run-up to this war the colonists already jointly erected the Continental Congress, a governmental body that would be in charge of their collective foreign affairs. During the war, Congress was valuable in coordinating the colonists' war effort. Afterwards, when the U.S. secured their independence, the U.S. decided voluntarily to upkeep the confederal structure of the Articles of Confederation. The colonists thus kept gravitating toward a confederal system of government prior to, during, and after the war.

But that system, particularly as devised under the Articles, was far from perfect. A first defect was already explained in the previous chapter: the lack of the people's consent.¹¹³ But there were more, such as, but not limited to: Congress' inability to oust the British from Western forts which they were meant to leave as agreed on in the Treaty of Paris; the inability of the states to commercially compete with foreign powers in the absence of Congressional regulation; and the lacking power Congress had over regulation conflict with Indigenous Nations, with which many state unilaterally engaged in violent conflict.¹¹⁴ However, as illustrated by political scientist Samuel Beer, these problems all stemmed from a more fundamental problem of the Articles: its lack of enforcement powers. What seemed like a workable and reasonable division of authority on paper, was thus not put into practice well.¹¹⁵ The need to revise the Articles thus seemed so evident, that the Founders were willing to impose another sovereign government on the states after they had just gotten rid of one.¹¹⁶ At the Convention, the Framers indeed concluded that the general government required increased strength to enact its policies and be beneficial to the state governments and the people alike, as the Federalists explained in their Papers.

National Elements of Federalism in the Federalist Papers

Hamilton defined (con)federation as “an assemblage of societies, or an association of two or more states into one state”.¹¹⁷ He further emphasized that a confederation was fundamentally different from a consolidation of states. In the latter, the national government would have any and all authority over its parts, while in the former the general government's authority is limited

¹¹³ Hamilton, *Federalist No.22*, eighteenth paragraph.

¹¹⁴ Samuel Beer, *To make a nation: the rediscovery of American federalism* (Cambridge: Harvard University Press, 1993), 245.

¹¹⁵ Beer, *To make a nation*, 246 – 247.

¹¹⁶ Wood, “Ideology and the Origins of Liberal America,” 634.

¹¹⁷ Hamilton, *Federalist No.9*, ninth paragraph.

to the collective external capacities of its parts and its authority over their internal affairs restricted.¹¹⁸ Hamilton also stated that in a confederation the exact relation of the parts to each other are “mere matters of discretion”, writing: “So long as the separate organization of the members be not abolished; so long as it exists, by a constitutional necessity, for local purposes; though it should be in perfect subordination to the general authority of the union, it would still be, in fact and in theory, an association of states, or a confederacy.”¹¹⁹ These were the ideals upon which the Articles of Confederation were constituted. However, according to the Federalists, the Articles’ purely confederal design was unable to preserve the union between the states it was meant to facilitate, as the members were not subordinated to the general government.

Hamilton acknowledged “that there are material imperfections in our national system, and that something is necessary to be done to rescue us from impending anarchy”.¹²⁰ He further enumerated and summarized the issues in the 15th essay, part of a subdivision of the Papers appropriately titled “The Insufficiency of the Present Confederation to Preserve the Union”.¹²¹ He mentioned, among numerous other examples, that the debts owed after the War for Independence “remain without any proper or satisfactory provision for their discharge”; that there were still “valuable territories and important posts in the possession of a foreign power” which they could not counteract; and that they had a right to compete in commerce and navigation with other foreign powers which they were unable to enforce.¹²² All these imperfections, according to the Federalists, mostly boiled down to one fundamental defect in the Articles: the relative weakness of the general government.

Therefore, the Federalists defended the Framers’ decision to add elements of a national government to the previously existing confederal government to create a compound system. Most prominently, the Federalists explained the need to expand the general government’s powers and make it supreme to the state governments with respect to certain enumerated policy areas. Under the Articles, the U.S.’ general government consisted solely of a Congress with neither an executive nor a judicial branch to enforce its laws. Hamilton explained the problem this caused, writing: “The consequence of this is, that though in theory [Congress’] resolutions concerning those objects are laws, constitutionally binding on the members of the Union, yet in

¹¹⁸ Hamilton, *Federalist No.9*, fifteenth paragraph.

¹¹⁹ Hamilton, *Federalist No.9*, sixteenth paragraph.

¹²⁰ Hamilton, *Federalist No.15*, second paragraph.

¹²¹ LoC, Alexander Hamilton, *Federalist No. 1 – General Introduction*, <https://guides.loc.gov/federalist-papers/text-1-10>, eighth paragraph.

¹²² Hamilton, *Federalist No.15*, third paragraph.

practice they are mere recommendations which the States observe or disregard at their option.”¹²³ This made the Continental Congress as a whole a lame duck and its laws, according to Hamilton, “a dead letter”.¹²⁴ If the American people thus wanted to maintain the union between the states, they needed to delegate supplementary powers to the general government. This would allow the general government, for example, to better enforce the states’ contribution to paying off the national debt, to use the collective military capacities of the states to protect them from conflict with foreign powers or Indigenous Nations, and to regulate commerce to the benefit of all. This need for increased strength in the general government subsequently led not only to the addition of both an executive and judicial branch to the general government that would allow it to enforce its own policies, but not in the least also to the inclusion of the Supremacy Clause in the proposed Constitution, which stated that the Constitution itself and all laws and treaties made thereunder “shall be the supreme Law of the Land”.¹²⁵

The general government under the Articles was thus by the proposed Constitution replaced with a government that possessed some powers that resembled that of a national government. Besides from emphasizing the necessity of a stronger general government for reasons of efficiency, however, the Federalists also explained that a strong central government would be advantageous in multiple ways. The Federalists explained this predominantly in a subsection of the Papers called “The Utility of the Union to your Political Prosperity”.¹²⁶ Their arguments touched upon two interconnected themes. First, the Federalists explained that a strong central government would be beneficial to the internal organization of the U.S. Second, they also explained that a strong central government would be advantageous in foreign affairs.

Starting off with the benefits for internal organization, the Federalists argued that a strong central government could best facilitate internal harmony between the individual states. That is because interstate conflict was not just possible, but probable. Hamilton explained:

A man must be far gone in Utopian speculations who can seriously doubt that, if these States should neither be wholly disunited, or only united in partial confederacies, the subdivisions into which they might be thrown would have frequent and violent contests with each other. To presume a want of motives for such contexts as an argument against their existence, would be to forget that men are ambitious, vindictive, and rapacious. To look for a continuation of harmony between a number of independent, unconnected sovereignties in

¹²³ Hamilton, *Federalist No.15*, sixth paragraph.

¹²⁴ Hamilton, *Federalist No.22*, fourteenth paragraph.

¹²⁵ National Archives, America’s Founding Documents, The Constitution of the United States: A Transcription, accessed June 30, 2023, <https://www.archives.gov/founding-docs/constitution-transcript>, Article VI, section 2.

¹²⁶ Hamilton, *Federalist No.1*, eighth paragraph.

the same neighborhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages.¹²⁷

Even organized under a general government, the state governments were still a byproduct of human nature. A strong central government could thus act as a mediator when conflicts were to arise, if given sufficient and adequate powers of a nationally sovereign nature, by making use of its extensive collective resources that the states might not possess individually.¹²⁸ While the general government could never foresee or prevent all interstate conflicts, it could at least be a mediating factor therein.¹²⁹

The Federalists broadly identified four likely sources of interstate conflict, those being: commerce, territory, finances, and/or geography. First, commerce, which Hamilton called “an unbridled spirit”, would make the states each other’s competitor and interstate conflict likely to ensue.¹³⁰ As the general government was to be given the power to regulate all interstate and foreign commerce, however, it was tasked with regulating it in the best interest of all.¹³¹ Through this regulation by the general government, the states were thus less likely to get into conflict with each other. Second, territorial expansion was also a cause for concern, both because it was just as likely a source of competition between the states as commerce, and because there was a risk of running into the territories of foreign powers or Indigenous Nations.¹³² In disputes like these, the general government could act as an arbiter, as it would be a party not directly involved but nevertheless had an interest in peaceful conflict resolution. Third, the national debt was a definite source of conflict between the states, whether part of a union or not. A strong central government was best able to pay it off as quick as possible, through the coordination of state resources and efforts, which was of the utmost importance as the financial dependency of the U.S. on foreign powers threatened their status as an independent and autonomous polity.¹³³ Finally, geography was a source of inherent inequality of the states to each other, which would only exacerbate the aforementioned sources of conflict.¹³⁴ Here too, it would be beneficial to have a general government to rule in the best interest of all, and mediate whenever necessary. In sum, according to Jay, interstate conflict would only make the states

¹²⁷ Hamilton, *Federalist No.6*, second paragraph.

¹²⁸ Hamilton, *Federalist No.16*, eleventh paragraph.

¹²⁹ Hamilton, *Federalist No.16*, eleventh paragraph.

¹³⁰ Hamilton, *Federalist No.7*, fifth paragraph.

¹³¹ National Archives, America’s Founding Documents, The Constitution of the United States: A Transcript, accessed June 30, 2023, <https://www.archives.gov/founding-docs/constitution-transcript>, Article I, section 8.

¹³² Hamilton, *Federalist No.7*, second paragraph.

¹³³ Hamilton, *Federalist No.15*, seventh paragraph.

¹³⁴ Jay, *Federalist No.2*, fourth paragraph.

“dwindle into comparative insignificance”, also in relation to foreign powers.¹³⁵ This, Jay wrote, “foreign nations will know and view it as it is; and they will act toward us accordingly”.¹³⁶ In other words: internal division significantly weakened the U.S.’ external position.

With internal harmony – or at the very least tranquility – being a prerequisite to external strength, a strong central government had even further benefits in international relations. First, it would allow the states to jointly articulate a coherent foreign policy, as opposed to the individual states each having to formulate their own. Jay explained: “It is of high importance to the peace of America that she observe the law of nations toward all these powers, and to me it appears evident that this will be more perfectly and punctually done by one national government than it could be (...) by thirteen separate States.”¹³⁷ Second, if international relations nevertheless were to become sour or even threaten to escalate, a strong central government would best be able to facilitate peaceful conflict resolution. Jay argued that a good government “instead of inviting war, will tend to repress and discourage it”, which a strong central government could do by offering “acknowledgements, explanations, and compensations”.¹³⁸ Not only would a general government be best suited to do so – because its somewhat removed position from local circumstances, allowing it to truly act for the greater good – but foreign powers would also be more likely to accept such conflict resolution strategies from a substantial and significant centralized government, as opposed to smaller individual state governments.¹³⁹ Finally, if international conflict was truly to escalate into violent war, a strong central government was the best institution to organize collective defense. Joining the states forces would create an powerful institution that the individual state defense organizations would not be able to measure up to, and creating one central chain of command allowed for efficiency in times it mattered most.¹⁴⁰ Thus, there were numerous external incentives too for the creation of a strong general government with a sufficient grant of power to conduct foreign affairs.

Preliminary Conclusion

The American Founders created a compound government, consisting of elements of both a national and confederal nature. Having thus far only discussed the national elements of the

¹³⁵ Jay, *Federalist No.4*, fourteenth paragraph.

¹³⁶ Jay, *Federalist No.4*, seventeenth paragraph.

¹³⁷ Jay, *Federalist No.3*, seventh paragraph.

¹³⁸ Jay, *Federalist No.4*, tenth paragraph; Jay, *Federalist No.3*, seventeenth paragraph.

¹³⁹ Jay, *Federalist No.3*, eighth paragraph, seventeenth paragraph.

¹⁴⁰ Hamilton, *Federalist No.11*, fifth paragraph; Jay, *Federalist No.4*, eleventh paragraph.

system, the Founders' federal system seems quite closely related to that from contemporary IR scholarship. The Federalists stressed the need for the U.S. to act almost as one homogeneous nation outwardly in international affairs. This indicated that, even though the Founders were in a position to consciously reassess their domestic structure and position in the international system, the latter required the U.S. nevertheless to adapt to the existing order. For example, if they wanted to compete commercially with foreign powers, the states needed a central government to combine their resources and enforce their right to compete in an already established system of trade. Furthermore, the Federalists argued that if the need to practice diplomacy were to arise, like concerning the U.S.' foreign debts, having one central government – as opposed to thirteen smaller ones – would make the foreign powers feel more confident in the U.S.' capabilities and legitimacy. Furthermore, as internal harmony was an important prerequisite to external strength, the general government needed authority to manage internal affairs between the states too, as their coexisting under one general government would not suddenly equalize their interests. This paints a picture of a division of jurisdiction with the federal government being supreme to the state governments in the enumerated policy areas – those that facilitate internal harmony and external security – and the state governments only having authority over residual matters. So, just like within the Westphalian system, the general government is characterized by its institutionalization of internal hierarchy in opposition to external anarchy.

However, as explained before, this chapter only touched upon the national elements of the compound system, which pertained mostly to the hierarchic operation of the government. The confederal aspects of the compound system will supplement this understanding of the American government as hierarchic, by showing that it was also negarchic. In relation to the formation, structure, jurisdiction and amendment of the proposed government, the state governments had important residual authorities that were a recognition of state sovereignty coinciding with national sovereignty.

Chapter III: Negarchy

While the contemporary debates on federalism often reduce it to a division of jurisdiction, there have been attempts to diversify it and consider operational aspects of the system as well, which lead to the emergence of variations such as administrative, competitive, opportunistic, or even kaleidoscopic federalism, that each highlight a specific aspect or mode of operation.¹⁴¹ More generally, however, the scholarly debate has focused on the broad dichotomy between dual and cooperative federalism, into which many of the aforementioned variants can be subdivided.¹⁴² Dual federalism, according to political scientist John Kincaid, is “a system of divided sovereignty whereby the federal government exercises delegated powers independently of the states and state governments exercise reserved powers independently of the federal government”.¹⁴³ While the American model of federalism is often used as a generalized standard, the U.S. is particularly regarded as the prototype of dual federalism. But, Purcell argued: “designed both to preserve and eliminate state ‘sovereignty’, American constitutional federalism was unsettled and contested from the outset”.¹⁴⁴ Spurred on by three distinct episodes in U.S. history – the Civil War, the Great Depression and the New Deal era, and the 1960s – the federal government became more powerful.¹⁴⁵ Therefore, scholars increasingly approach American federalism as being of the cooperative kind, focusing also on its mode of operation. Kincaid referred to cooperative federalism as “a hierarchy of levels of government”.¹⁴⁶ Political scientists Sean Mueller and Alan Fenna further explain that within such a system, “different functions or roles, rather than entire policy domains, are assigned to the respective orders of government”.¹⁴⁷ In other words: the federal government creates legislation, and the state governments execute it locally. The consensus has become that while the U.S. started out as a dual federalist system, it gradually developed into a cooperative

¹⁴¹ See, respectively: Nathalie Behnke and Sabine Kropp, “Administrative Federalism,” in *Public Administration in Germany*, ed. Sabine Kuhlmann, Isabella Proeller, Dieter Schimanke and Jan Ziekow (Birmingham: Palgrave MacMillan, 2021); James Buchanan, “Federalism and Individual Sovereignty,” *Cato Journal* 15, no. 2 (1996): 259 – 268; Michael Reagan and John Sanzone, *The New Federalism* (Oxford: Oxford University Press, 1981); Jonathan Adler, “The Administrative Presidency Encounters Opportunistic Federalism,” *Regulation* 44, no. 4 (2022): 59 – 60; Thomas Birkland, Kristin Taylor, Deserai Crow and Rob DeLeo, “Governing in a Polarized Era: Federalism and the Response of U.S. State and Federal Governments to the COVID-19 Pandemic,” *Publius: The Journal of Federalism* 51, no. 4 (2021): 650 – 672.

¹⁴² Sean Mueller and Alan Fenna, “Dual versus Administrative Federalism: Origins and Evolution of Two Models,” *Publius: The Journal of Federalism* 52, no.4 (2022): 530.

¹⁴³ John Kincaid, “The Eclipse of Dual Federalism by One-Way Cooperative Federalism,” *Arizona State Law Journal* 49, no. 3 (2017): 1062.

¹⁴⁴ Purcell, “Evolving Understandings of American Federalism,” 683.

¹⁴⁵ Schouenborg, “Exploring Westphalia’s Blind Spots,” 138; Kincaid, “The Eclipse of Dual Federalism by One-Way Cooperative Federalism,” 1066 – 1067; Mueller and Fenna, “Dual versus Administrative Federalism,” 528.

¹⁴⁶ Kincaid, “The Eclipse of Dual Federalism by One-Way Cooperative Federalism,” 1068.

¹⁴⁷ Mueller and Fenna, “Dual versus Administrative Federalism,” 525.

federalist system.

However, the debate between dual and cooperative federalism as summarized here is based on ideal types, which have multiple (combined) flaws. First, dual federalism has been critiqued for its strict division of jurisdiction, which according to Mueller and Fenna do not accurately reflect the “increasing entanglement of policy areas”.¹⁴⁸ However, the overlapping authorities of cooperative federalism create an overload of bureaucracy, with an intricate chain of command and decision-making process, and a lack of accountability and responsibility of government officials at all levels as they can point the finger to each other.¹⁴⁹ Second, and related to the first, dual and cooperative federalism are not as mutually exclusive as they seem, as any governmental system with multiple levels requires some degree of cooperation between them.¹⁵⁰ Finally, and most important here, both dual and cooperative federalism overly rely on the division of power as the central aspect of federalism.¹⁵¹ The previous chapter already alluded to the fact that American federalism encompassed more than just this division of jurisdiction.

Therefore, this chapter will enumerate the five distinct aspects of American federalism, which according to the Federalists concern its formation, structure, operation, division of jurisdiction, and process to amend, with a focus on the confederal aspects of the compound system. This will show that while the division of jurisdiction is one of the most essential and characteristic features of federalism, it was not the only one for the Founders. First, some historic context will shed light on how both the colonists’ experience under the rule of the British Empire as well as the government as provided under the Articles of Confederation were of great importance to their understanding of the enduring function of the individual states under a general government. As the previous chapter showed, both these experiences also provided incentives to create a stronger central government, but the Founders were nevertheless simultaneously of the opinion that the individual states had an important function in the federal framework. The analysis of the Federalist Papers will show what its function – that can broadly be described as facilitating negarchy, which Deudney defined as “the arrangement of institutions necessary to prevent simultaneously anarchy and hierarchy” – encompassed, specifically in relation to the five areas aforementioned.¹⁵² Together this will show that state sovereignty was not just a colonial remnant, but an important principle in and of its own.

¹⁴⁸ Mueller and Fenna, “Dual versus Administrative Federalism,” 530.

¹⁴⁹ Mueller and Fenna, “Dual versus Administrative Federalism,” 530.

¹⁵⁰ Kincaid, “The Eclipse of Dual Federalism by One-Way Cooperative Federalism,” 1062 – 1064.

¹⁵¹ Mueller and Fenna, “Dual versus Administrative Federalism,” 525.

¹⁵² Deudney, “The Philadelphian System,” 208.

The History of Negarchy in America

When the thirteen former colonies declared themselves independent of the British Empire, they claimed to be “Free and Independent States”.¹⁵³ After the War for Independence, they were also recognized by the British King as “free, Sovereign and independent states”.¹⁵⁴ With that came all rights and powers of a sovereign state as established by the law of nations, with which the Founders were quite familiar. Therefore – according to lawyers Anthony Bellia and Bradford Clark, who relied on Vattel’s *Le Droit de Gens* – each individual state had a right to “self-government and territorial sovereignty”, “the right to pursue, and establish the terms of commerce with other nations”, “the rights to maintain sovereign dignity and equality with other nations”, and the “right to security”.¹⁵⁵ But, already when the war was ongoing, each state agreed to establish a general government through the Articles of Confederation. Why the states chose to simultaneously hold on to their own full sovereignty, was explained by Mueller and Fenna.¹⁵⁶ First, the state governments had become unsatisfied with indirect government while part of the British Empire. Second, and closely related to the first, the state governments thus wanted to keep matters in their own hands as a locally focused government. This desire stemmed partly from the misconstrued idea that a localized government was less bureaucratic and more trustworthy.¹⁵⁷ Third, the states were incredibly diverse, as a result of which they would not easily be satisfactorily united under one central government. Thus, when one was created anyways, the survival of the state governments was of great importance to attain and retain the people’s support for the multilevel governmental system.

At the Constitutional Convention, the delegates were thus tasked with answering two interconnected questions relating to the fundamental aspects of federalism: what was the nature of the compact between the states and how did the multiple governments – general and state – relate to each other? As has become evident, the Articles were unable to preserve the union because the individual states retained too much sovereignty and the general government lacked any real enforcement power. This left the delegates with an important choice of either giving the existing government sufficient means of coercion and enforcement, or creating a new

¹⁵³ National Archives, America’s Founding Documents, Declaration of Independence Transcript, accessed July 1, 2023, <https://www.archives.gov/founding-docs/declaration-transcript>, thirty-second paragraph.

¹⁵⁴ National Archives, Milestone Documents, Treaty of Paris (1783), accessed July 1, 2023, <https://www.archives.gov/milestone-documents/treaty-of-paris>, Article I.

¹⁵⁵ Anthony Bellia and Bradford Clark, “The International Law Origins of American Federalism,” *Columbia Law Review* 120, no. 4 (2020): 846 – 847.

¹⁵⁶ Mueller and Fenna, “Dual versus Administrative Federalism,” 532 – 533.

¹⁵⁷ Purcell, “Evolving Understandings of American Federalism,” 664.

compact altogether.¹⁵⁸ The first was no viable option at all. As the government under the Articles consisted solely of a legislature, the only means it could be granted was coercion through the threat of violence. But, according to the Framers, if the general government used violence against the states, civil war was certain to ensue.¹⁵⁹ Thus, the Framers created a new compact – the compound system – through a transaction of sovereignty. The individual states delegated some sovereignty to the general government to allow it to rule directly over the people in limited policy areas without having to rely on state intervention, and in return the states recovered some sovereignty as the general government was no longer able to commandeer their governments.¹⁶⁰

But: this new arrangement did invigorate another debate already taking place at the Convention pertaining to the representation of states in the general government and whether it should be equal or proportional. Lawyer H. Jefferson Powell called this debate the “Oldest Question of Constitutional Law”, to which Purcell added that it was also the “Most Enduring”.¹⁶¹ The full scope and detailed arguments of this debate cannot be considered here, yet it is important to note that the debate resulted in the Connecticut Compromise, which provided a House for the people and a Senate for the states. What this small glimpse into the debates at the Convention thus shows, is that American federalism was more than just a strict division of jurisdiction: it also affected other aspects of the system, as the Federalists explained in their essays.

Confederal Elements of Federalism in the Federalist Papers

In the 39th essay, titled “The Conformity of the Plan to Republican Principles”, Madison summarized how the proposed Constitution established a compound republic consisting of both national and confederal elements but being neither in full.¹⁶² On the republican nature of the system, he wrote: “It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government.”¹⁶³ Madison further explained that “it is *essential*

¹⁵⁸ Bellia and Clark, “The International Law Origins of American Federalism,” 876.

¹⁵⁹ Christopher Wolfe, “On Understanding the Constitutional Convention of 1787,” *The Journal of Politics* 39, no. 1 (February 1977): 101.

¹⁶⁰ Bellia and Clark, “The International Law Origins of American Federalism,” 864.

¹⁶¹ H. Jefferson Powell, “The Oldest Question of Constitutional Law,” *Virginia Law Review* 79, no.3 (1993): 633 – 689; Purcell, “Evolving Understandings of American Federalism,” 636.

¹⁶² Madison, *Federalist No.39*.

¹⁶³ Madison, *Federalist No.39*, second paragraph.

to such a government that it be derived from the great body of the society”, however “it is *sufficient* for such a government that the persons administering it be appointed, either directly or indirectly, by the people”.¹⁶⁴ This mechanism satisfied the principle of popular sovereignty. Concerning the compound nature of the government, the Federalists explained in the previous essays how it was necessary for the general government to have sufficient power to enforce its policies, as also explained in the previous chapter. This satisfied the principle of national sovereignty. But in the compound system the states too retained significant, ‘residual’ powers. This satisfied the principle of state sovereignty. To explain, Madison relied on five specific aspects of the proposed government – its formation, structure, operation, jurisdiction, and amendments – of which only one was purely national, with all others being either partly or wholly confederal in nature.

First, Madison touched upon the formation of the compound republic, which he also referred to as “the foundation on which it is to be established”.¹⁶⁵ He wrote:

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong.¹⁶⁶

The people did not consent to the proposed Constitution as one nation, but as citizens of their own respective states through their respective ratifying conventions. Madison further clarified: “Each state, in ratifying the constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act.”¹⁶⁷ It was of the utmost importance that the states entered into the compact on their own accord. Hamilton argued: “It seems to require no pains to prove that the States ought not to prefer a national Constitution which could only be kept in motion by the instrumentality of a large army continually on foot to execute the ordinary requisitions or decrees of the government.”¹⁶⁸ Like the Framers, the Federalists were convinced that violent coercion would not work, and would even lead to civil war.¹⁶⁹ Thus, the Federalists sought to promote the ideal of “coercion of the magistracy”, by which the states would enter into the compact of their own free will, because it was deemed to be in their best

¹⁶⁴ Madison, *Federalist No.39*, fourth paragraph.

¹⁶⁵ Madison, *Federalist No.39*, ninth paragraph.

¹⁶⁶ Madison, *Federalist No.39*, tenth paragraph.

¹⁶⁷ Madison, *Federalist No.39*, eleventh paragraph.

¹⁶⁸ Hamilton, *Federalist No.16*, fifth paragraph.

¹⁶⁹ Hamilton, *Federalist No.16*, second paragraph.

interest.¹⁷⁰ However, one question on the nature of the compact that remained notoriously unanswered during the Founding, was if the states were also free to leave the compact of their own will. This question would only be answered – with a definitive ‘no’ – after the Civil War.¹⁷¹ Nevertheless, the need for voluntary ascension of the states into the union showed that the general government could not just assert its authority over the states and the people. Thus, Madison concluded: “The act, therefore, establishing the Constitution, will not be a *national*, but a *federal* act.”¹⁷²

Second, Madison commented on the structure of the compound government, specifically regarding “the sources from which its ordinary powers are to be drawn”.¹⁷³ The legislative branch drew its power from both the people and the states. Madison explained: “The House of Representatives will derive its powers from the people of America”.¹⁷⁴ Thus, in representing the American people as one nation, the House thus institutionalized popular sovereignty in the general government. Madison continued: “The Senate, on the other hand, will derive its powers from the States, as political and coequal societies; and these will be represented on the principle of equality in the Senate”.¹⁷⁵ The Senate thus represented the consolidation of state sovereignty and allowed them representation in government. The President drew his powers from both the people and the states. That is because the President was originally elected through the intervention of the state legislatures, after which he would serve the American nation as a whole. The executive thus relied on both state and popular sovereignty to gain and retain support. The government thus represented both general popular and specific state interests simultaneously and equally. As such, Madison concluded: “From this aspect of the government it appears to be of a mixed character, presenting at least as many *federal* as *national* features.”¹⁷⁶

Third, regarding operation, Madison argued: “The difference between a federal and national government, as it relates to the *operation of the government*, is supposed to consist in this, that in the former the powers operate on the political bodies composing the Confederacy, in their political capacities, in the latter, on the individual citizens composing the nation, in their individual capacities.”¹⁷⁷ In the previous chapter it was explained that the Federalists were in

¹⁷⁰ Hamilton, *Federalist No.15*, eleventh paragraph.

¹⁷¹ Edward Corwin, “National Power and State Interposition,” *Michigan Law Review* 10, no. 7 (1912): 535 – 551.

¹⁷² Madison, *Federalist No.39*, tenth paragraph.

¹⁷³ Madison, *Federalist No.39*, twelfth paragraph.

¹⁷⁴ Madison, *Federalist No.39*, twelfth paragraph.

¹⁷⁵ Madison, *Federalist No.39*, twelfth paragraph.

¹⁷⁶ Madison, *Federalist No.39*, twelfth paragraph.

¹⁷⁷ Madison, *Federalist No.39*, thirteenth paragraph.

favor of a strong central government because it would be able to enforce its own policies without needing intervention by the states governments. Hence, the creation of the executive and judicial branch to bolster the already established legislature, and the inclusion of the Supremacy Clause on the proposed Constitution. Madison thus openly admitted: “On trying the Constitution by this criterion, it falls under the *national*, not the *federal* character”, as it imbued the government with the hierarchy it needed to be authoritative.

Fourth, considering the division of jurisdictions, Madison continued: “But if the government be national with regard to the *operation* of its powers, it changes its aspect again when we contemplate it in relation to the *extent* of its powers.”¹⁷⁸ He explained that the power of a national government would not only be supreme but also unlimited, which was clearly not applicable to the general government of the proposed Constitution. The premise was that while it would be a powerful conductor of external and foreign affairs, intrastate domestic matters would be left to the individual states. Thus, he wrote: “In this relation, then, the proposed government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.”¹⁷⁹

The picture that Madison painted was that of the common understanding of federalism as a (strict) division of jurisdiction and power. However, there might still be more to it. In the 32nd essay, Hamilton wrote: “the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, *exclusively* delegated to the United States.”¹⁸⁰ He explained that ‘exclusive delegation’ took on three distinct forms in the proposed Constitution’s text:

This exclusive delegation, or rather this alienation, of State sovereignty, would only exist in three cases: where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union, and in another prohibited the States from exercising the like authority; and where it granted an authority to the Union, to which a similar authority in the States would be absolutely and totally *contradictory* and *repugnant*.¹⁸¹

Hamilton exemplified these variants of exclusive delegation with Article I, section 8 of the proposed Constitution, which respectively gave Congress the exclusive right to legislation over the district which was to become the seat of government; assigned Congress the duty of taxing

¹⁷⁸ Madison, *Federalist No.39*, fourteenth paragraph.

¹⁷⁹ Madison, *Federalist No.39*, fourteenth paragraph.

¹⁸⁰ Hamilton, *Federalist No.32*, second paragraph.

¹⁸¹ Hamilton, *Federalist No.32*, second paragraph.

import products and prohibited the states from doing the same; and tasked Congress with creating a uniform rule of naturalization for the whole U.S.¹⁸² This is how the Constitution divided jurisdictions.

However, there were policy areas with regard to which the states only partly delegated their rights, allowing them to simultaneously and concurrently exercise some powers, for example relating to taxation and the militias. These shared powers were an important tool to prevent the development of tyranny in the general government, as it was restricted from encroaching upon this state authority. For example, while the general government had the exclusive right to tax commercial imports, the state retained the right to levy all other internal taxes. This allowed the general government a significant source of revenue, needed to effectively implement their policies, while not overly imposing a financial burden on the state citizens.¹⁸³ The same principle of shared powers applied to the militias: while the general government was responsible for regulating the state militias, as to facilitate uniformity therewithin, the individual states bared the responsibility of appointing officers and training them in accordance with Congressional regulations.¹⁸⁴ This mechanism, Hamilton explained “amounts to what lawyers call a *negative pregnant* that is, a *negation* of one thing, and an *affirmance* of another”.¹⁸⁵ Hamilton furthermore referred to this constitutional mechanism as “concurrent and coequal authority” or “concurrent jurisdiction” of the general government and the states, but Deudney contemporaneously stylized it as “negarchy”.¹⁸⁶ Not only did it satisfy the principle of state sovereignty within the compound system by granting the states significant residual authority, but it was also an important tool to tackle the possible development of tyranny in the general government overextending its power. Although this measure was not explicitly codified in the Constitution until the ratification of the Bill of Rights – particularly the 10th Amendment which stated that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people” – the principle of shared and interconnected powers was nevertheless an implicitly established component of the proposed Constitution itself which served to preserve both state

¹⁸² National Archives, America’s Founding Documents, The Constitution of the United States: A Transcription, accessed July 1, 2023, <https://www.archives.gov/founding-docs/constitution-transcript>, Article I, section 8.

¹⁸³ Hamilton, *Federalist No.30*, sixth paragraph.

¹⁸⁴ LoC, Alexander Hamilton, *Federalist No.29 – Concerning the Militia*, <https://guides.loc.gov/federalist-papers/text-21-30>, second paragraph.

¹⁸⁵ Hamilton, *Federalist No.32*, third paragraph.

¹⁸⁶ Hamilton, *Federalist No.32*, third paragraph, fifth paragraph; Deudney, “The Philadelphian System,” 208.

sovereignty and consequently the compound system as a whole.¹⁸⁷

Fifth and finally, Madison discussed the nature of the process to amend the proposed Constitution, which had some similarities to the process of its initial ratification as a whole. New amendments could be proposed either by a two-thirds majority in Congress – requiring a majority vote in both chambers – or by two-thirds of the states gathered in a special convention for that purpose. Both modes satisfy the same requirement, however, which is that both a majority of states and a likely majority of the American people as a whole support the proposition. Ratification of the proposed amendments required an even bigger majority of either three-fourths of the state legislatures (when the proposition originated in Congress) or three-fourths of the special convention delegations (when the proposition stemmed from that convention).¹⁸⁸ This satisfied both principles of state and popular sovereignty as a prerequisite for adaptations of the national sovereignty.

Preliminary Conclusion

The survival of the state government, through the inclusion of confederal elements in the compound government, confirmed that states too retained sovereignty. This was, however, not just a colonial remnant nor a practicality of public administration, but an important counterweight to the general government: the negarchic powers of the state kept the hierarchy of the general government in check. The way these insights can add to current scholarly debates is twofold. First, it provides an incentive for the general debate of federalism to look beyond the division of jurisdiction and operation as essential components, by also looking at formation, structure, and amendment to consider how such systems are created and sustained. That is because federalism, after its institutionalization, does not need to be a perpetual but static compact, as can also be ascertained from the development of federalism throughout America's history. As Hamilton remarked: the exact relations between the different governments were “mere matters of discretion”, which explains why the American model of federalism can be perceived as both dual and cooperative at the same time.¹⁸⁹

Second, determining how these findings might enrich debates of IR, however, is a little more complicated. That is especially true for considerations of realist theories and the

¹⁸⁷ National Archives, America's Founding Documents, The Constitution of the United States: A Transcription, accessed July 1, 2023, <https://www.archives.gov/founding-docs/constitution-transcript>, Amendment X; Bellia and Clark, “The International Law Origins of American Federalism,” 871.

¹⁸⁸ Madison, *Federalist No.39*, fifteenth paragraph.

¹⁸⁹ Hamilton, *Federalist No.9*, sixteenth paragraph.

Westphalian system, as that school mostly purports that the international system is an independent variable that determines states' behavior. The American model of federalism as devised at the founding, aimed at creating outward unity while sustaining internal diversity. In that sense, it was devised to adapt to the existing order within the international system, but painted a new kind of picture of the sort of state that could exist within that system. The way in which the Federalists attempted to create a state balanced between anarchy and tyranny can thus very well provide insights for the debates of IR specifically, *if* there is room to consider how domestic structure affects international relations.

Chapter IV: Liberalism

Liberalism is a contentious concept because its meaning changes depending on the academic field in which it is used. In economics it is connected to the principles of free markets and private property, in political science it encompasses the ideal that governments should interfere in the lives of their citizens as little as possible to protect their liberty, and in IR it is used to refer to one of its central paradigms. IR's liberalism emerged as a paradigm in juxtaposition to realism, and the dichotomy between the two has generated at least two of the canonically 'great debates' in IR, those being the first and the third. It must be noted, however, that scholars have increasingly questioned if the first great debate – which allegedly pitted realists against idealists during the Interbellum – really did take place, instead regarding it as an invented tradition by those engaged in the third debate wanting to root their ideas in the history of the discipline.¹⁹⁰ During the third great debate between neorealism and neoliberalism, scholars of both camps thus relied on the ideas of their predecessors, respectively realism and idealism, to bolster their arguments. Neorealism remained, like realism, a positivist theory which explained the causes of war between states in a Westphalian system.¹⁹¹ Unlike its predecessor, however, neorealism sought its explanations in the structure of the system itself, rather than in human nature.¹⁹² Neoliberalism, on the contrary, was a more normative theory which like its predecessor sought to mitigate the need for violent conflict among states.¹⁹³ It did so by emphasizing the importance of non-governmental actors, institutions and processes active in the international system alongside states, which encouraged peaceful cooperation.¹⁹⁴ IR's liberalism thus seems quite far removed from its economic and political counterparts.

Nevertheless, there is still something that economic, political, and IR liberalism have in common: they decentralize the role of the state in governing human affairs. Liberalism thus understood became a cornerstone of American foreign policy throughout the twentieth century, for example as part of the Wilsonian agenda that encouraged both economic and political liberalism.¹⁹⁵ However, this development raised the question to what extent American liberalism was compatible with its republican roots, which brought forth its own academic

¹⁹⁰ See, for example: Brian Schmidt, "The Historiography of Academic International Relations," *Review of International Studies* 20, no. 4 (October 1994): 349 – 367; Joel Quirck and Darshan Vigneswaran, "The construction of an edifice: the story of a First Great Debate," *Review of International Studies* 31, no. 1 (January 2005): 89 – 107; de Carvalho et al., "The Big Bangs of IR," 745 – 755.

¹⁹¹ de Carvalho et al., "The Big Bangs of IR," 746.

¹⁹² Joseph Nye, "Neorealism and Neoliberalism," *World Politics* 40, no. 2 (1988): 238.

¹⁹³ Peter Wilson, "Idealism in International Relations," in *Encyclopedia of Power*, ed. Keith Dowding (Thousand Oaks: SAGE, 2011), 332.

¹⁹⁴ Nye, "Neorealism and Neoliberalism," 245 – 246.

¹⁹⁵ de Carvalho et al., "The Big Bangs of IR," 750 – 751.

debate as part of the larger interdisciplinary discourse on liberalism.¹⁹⁶ Some scholars, such as historians Carl Richard or John Pocock, were of the opinion that republicanism and liberalism are irreconcilable, as the first advocates in favor of collectivism (popular sovereignty) while the latter promotes individualism (individual sovereignty).¹⁹⁷ Yet others, like historian Paul Rahe, argue that liberalism is actually an extension of republicanism, as both ascribe great authority to the people.¹⁹⁸ These understandings represent the ends of a spectrum, with many more positions to be taken up in between, for example like that of political scientist Joseph Postell who argued that republicanism and liberalism did not serve the same goal, but were nevertheless complimentary.¹⁹⁹ This debate between the tension of republicanism and liberalism is thus relevant here, because although it did not necessarily affect international relations at the founding directly, it did pertain to principles of internal government that became key elements of U.S. foreign policy in the future.

As liberalism was thus no comprehensive theory – neither of economics nor politics, let alone IR – at the founding, this chapter will instead focus on the shared libertarian roots, by looking at how the Federalists engaged with the concept of liberty. In doing so, it will touch upon the final conception of sovereignty as developed by the American colonists and Founders and discussed here: individual sovereignty. Like in the previous chapter on state sovereignty, individual sovereignty was first and foremost an important safeguard against the development of tyranny in the general government. To explain, some historic context will first illustrate how liberty, as the embodiment of individual sovereignty, became an important principle for the American people. Then, the analysis of the Papers will show what safeguards the Federalists regarded as sufficient to protect the people’s rights and liberties. Together, this will show that individual sovereignty was not just a natural right, but together with popular, state, and national sovereignty had a function in the American governmental system first, and likely in their future foreign policies too.

¹⁹⁶ For a more detailed overview of this historiography, see: Joseph Postell, “Regulation during the American Founding: Achieving Liberalism and Republicanism,” *American Political Thought* 5, no. 1 (2016): 81 – 85.

¹⁹⁷ Carl Richard, *The Founders and the Classics: Greece, Rome, and the American Enlightenment* (Cambridge: Harvard University Press, 1995); John Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975).

¹⁹⁸ Paul Rahe, *Republics Ancient and Modern: Inventions of prudence: constituting the American regime* (Chapel Hill: University of North Carolina Press, 1994).

¹⁹⁹ Postell, “Regulation during the American Founding,” 80 – 108.

The History of Liberty in America

The aforementioned debate on the compatibility of republicanism and liberalism centers around the diverging definitions they ascribe to liberty, which has been excellently explained by political philosopher Philip Pettit.²⁰⁰ The republican understanding finds its roots, not at all surprising, in the Roman republics. Pettit explained that the Romans defined liberty using three prerequisites: non-domination, mixed government, and what he called “contestatory” citizenry.²⁰¹ Non-domination meant that no one “should be subject to the arbitrary or discretionary will of another”, neither privately (subjection by another person) nor publicly (subjection by the government). Because the government subjected all its citizens to its law, it was only deemed domination if the law applied to the citizens unequally.²⁰² Mixed government, according to Pettit, required that “the law was to be formed and implemented under a procedure that gave different groups (...) mutually restrictive access to power”.²⁰³ This mechanism was closely related to the idea of the “contestatory” citizenry, which meant that the citizens required the power to oppose their government either by making use of the system or even by subverting it.²⁰⁴ Together, these requirements ensured the Roman people were free while living under a government.

Surprisingly, the liberal understanding of liberty emerged in tandem with the American republic. Pettit explained: “The republican tradition played a decisive role in prompting the American colonists to revolt against their English masters in the 1770s. But it was the very debate surrounding the American war of independence that gave rise to the classical liberal way of thinking about freedom that eventually eclipsed the republican approach.”²⁰⁵ As the thirteen former colonies developed from small settlements, to moderate societies, and later even into full-fledged states, the colonists enjoyed a significant amount of personal freedom.²⁰⁶ They were, for example, free to choose their own religion – as there were numerous religious covenants and compacts present in the colonies which they could join – but also had a right to

²⁰⁰ Philip Pettit, “A Brief History of Liberty – And Its Lessons,” *Journal of Human Development and Capabilities* 17, no. 1 (January 2016): 5 – 21.

²⁰¹ Pettit, “A Brief History of Liberty,” 6 – 9.

²⁰² Pettit, “A Brief History of Liberty,” 6 – 7. Historian Robert Gutierrez has justly remarked that any definition of liberty struggles with defining ‘personhood’, that is, who the definition applies to. In the Roman or American republics, this right of liberty only extended to those who the government considered citizens and as a result, for example, women and slaves were left out. See: Robert Gutierrez, “Our Federalist Roots: A Neglected Past?” *Theory & Research in Social Education* 31, no. 2 (April 2003): 234.

²⁰³ Pettit, “A Brief History of Liberty,” 7.

²⁰⁴ Pettit, “A Brief History of Liberty,” 7.

²⁰⁵ Pettit, “A Brief History of Liberty,” 10.

²⁰⁶ Gutierrez, “Our Federalist Roots,” 221 – 222.

personal property.²⁰⁷ Aside from these social and economic rights, however, the colonists also started to assert political rights pertaining to the relation between the people and their governments as to protect their individual sovereignty. These were codified in the Declaration of Independence, which mentions for example the right “That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government”.²⁰⁸ As such, the assertion of individual rights – as the realization of individual sovereignty – became the legitimization and justification for the U.S. to declare their independence from the British Empire.

As well known by now, that is only where the American founding era began, as the Founders were subsequently tasked with establishing a satisfactory overarching system of government for the thirteen states, which contained the necessary national sovereignty, relied on popular sovereignty, left its parts with sufficient states sovereignty, and also respected the individual sovereignty of the people. Relying on the principle of individual sovereignty, Americans increasingly started to believe that liberty required non-interference from the government, giving birth to the liberal understanding of liberty as being a natural right rather than a provision by the government.²⁰⁹ However, all governments required some delegation of rights. Recall that Jay wrote “nothing is more certain than the indispensable necessity of government,” after which he immediately added: “and it is equally undeniable, that whenever it is instituted, the people must cede to it some of their natural rights in order to vest it with requisite powers.”²¹⁰ But, with the assertion of individual rights, the Founders had to seek a balance between governmental power and individual rights that was not easily struck. How difficult this task was not only became evident at the Constitutional Convention – where nationalists, federalists and anti-federalists budded heads – but also during the ratification debates, and even in the Federalist Papers themselves.

Liberty in the Federalist Papers

Though liberalism was no comprehensive theory at the founding, the Federalists did engage with the concept of liberty throughout their Papers. Initially, they had planned to end their series with a subcollection of essays titled: “the additional security which its adoption will afford to

²⁰⁷ Baker, “The concepts of sovereignty at the American founding,” 78 – 82.

²⁰⁸ National Archives, America’s Founding Documents, Declaration of Independence Transcript, accessed July 2, 2023, <https://www.archives.gov/founding-docs/declaration-transcript>, second paragraph.

²⁰⁹ Pettit, “A Brief History of Liberty,” 12.

²¹⁰ Jay, *Federalist No.2*, second paragraph.

the preservation of that species of government, to liberty, and to property”.²¹¹ However, in the 85th and final essay, Hamilton concluded that the subject had been sufficiently treated throughout the previous essays and that repetition was redundant.²¹² Thus, to structure the Federalists’ arguments where they did not, the analysis here will be split in two. First, it will be explained that the Federalists regarded what would come to be known as liberalism in the IR sense not viable in their own time. Second, it will be explained that the Federalists did regard liberty as an important safeguard for individual sovereignty that would keep the government from becoming tyrannical. According to the Federalists, liberty was thus first and foremost important to maintain internal order, but they did keep the door slightly open for its possible future international potential.

The Federalists perceived the international system too hostile for foreign governments to interact with each other in good faith and with respect to each other’s rights and liberties. The Federalists thus intended for the U.S. to keep themselves politically distances from the rest of the world, particularly Europe. Hamilton berated the “pernicious labyrinths of European politics and wars”, and one of the primary objectives of the union was exactly to keep the U.S. from getting “entangled” therein.²¹³ Hamilton did warn against a false sense of security, writing: “Though a wide ocean separates the United States from Europe, yet there are various considerations that warn us against an excess of confidence or security.”²¹⁴ Not only were there residual European colonies and settlements on the American continent, but Hamilton also warned that “the improvements in the art of navigation have (...) rendered distant nations, in great measure, neighbors”.²¹⁵ Total isolation of the U.S. from the European powers was thus not realistic, but the Federalists nevertheless argued against direct engagement with them.

Concerning commercial relations between the U.S. and foreign powers, which was a necessity, the Federalists were too less than convinced that it would secure international cooperation and collaboration. Hamilton explained: “The prosperity of commerce is now perceived and acknowledged by all enlightened statesmen to be the most useful as well as the most productive source of national wealth, and has accordingly become a primary object of

²¹¹ Hamilton, *Federalist No.1*, eighth paragraph.

²¹² LoC, Alexander Hamilton, *Federalist No.85 – Concluding Remarks*, <https://guides.loc.gov/federalist-papers/text-81-85>, first paragraph.

²¹³ Hamilton, *Federalist No.7*, tenth paragraph.

²¹⁴ LoC, Alexander Hamilton, *Federalist No.24 – The Powers Necessary to the Common Defense Further Considered*, <https://guides.loc.gov/federalist-papers/text-21-30>, tenth paragraph.

²¹⁵ Hamilton, *Federalist No.24*, tenth paragraph.

their political cares.”²¹⁶ He furthermore posed some rhetorical questions which strongly indicated his own stance on the matter, asking:

Has commerce hitherto done anything more than change the objects of war? Is not the love of wealth as domineering and enterprising a passion as that of power or glory? Have there not been as many wars founded upon commercial motives since that has become the prevailing system of nations, as were before occasioned by the cupidity of territory or dominion? Has not the spirit of commerce, in many instances, administered new incentives to the appetite, both for the one and for the other?²¹⁷

Thus, regarding intercourse in the economic sphere, the Federalist saw little potential for the creation of durable – if not permanent – peaceful international relations.

The Federalists did, however, leave room for possible future change. They never quite explained in what manner they thought the U.S. to arrive at that place, but they did more than once speak of aspirations that it would come to play a significant role in international relations. For example, Hamilton wrote: “Let the thirteen States, bound together in a strict and indissoluble Union, concur in erecting one great American system, superior to the control of all transatlantic force or influence, and able to dictate the terms of the connection between the old and the new world!”²¹⁸ This shows that while they advocated for relative isolationism at the time, they did see potential for future interaction in, or even domination of, the international system.

The Federalists were more immediately concerned, however, with establishing a sustainable domestic order. Therefore, they regarded liberty as an important safeguard to uphold the republican structure of government and simultaneously protect the people’s individual rights. Hamilton wrote that he looked back in horror at the history of republics which were “kept in a state of perpetual vibration between the extremes of tyranny and anarchy”, those representing the ends of a spectrum.²¹⁹ One end, anarchy, was characterized by an excess of liberty. In an anarchic environment, people could exercise their rights free of all, what Postell calls, “consequentialist considerations”.²²⁰ This could easily lead to either domination by one person exercising their rights at the cost of another, which was exactly the type of situation that

²¹⁶ LoC, Alexander Hamilton, *Federalist No.12 – The Utility of the Union In Respect to Revenue*, <https://guides.loc.gov/federalist-papers/text-11-20>, second paragraph.

²¹⁷ Hamilton, *Federalist No.6*, ninth paragraph.

²¹⁸ Hamilton, *Federalist No.11*, fourteenth paragraph.

²¹⁹ Hamilton, *Federalist No.9*, first paragraph; Geoffrey Miller, “Liberty and Constitutional Architecture: The Rights-Structure Paradigm Legacy of the Federalist Papers,” *Harvard Journal of Law & Public Policy* 16, no. 1 (1993): 92.

²²⁰ Postell, “Regulation during the American Founding,” 93.

the constitution of a government was to prevent.²²¹ However, once instituted, government itself could become a source of domination too. Therefore, tyranny characterized the other end of the spectrum, which encompassed an excessive restriction of liberty. The principle of individual sovereignty was thus an important counterweight to national sovereignty, to keep the government from overly exercising its powers over the people. However, striking a balance between the two was complicated, as it was a matter of opinion where to find the appropriate balance between liberty and order, which becomes evident from the fact that even the Federalists did not agree among themselves.²²²

Hamilton – who was notoriously in favor of a strong, central government – believed that internal, structural safeguard sufficed to prevent the government from overly exercising its power over the people and thereby infringing on their liberty. Limiting the government’s powers out of fear it would use them to encroach on the people’s rights, would void the institution. Hamilton explained: “A government, the constitution of which renders it unfit to be trusted with all the powers which a free people ought to delegate to any government, would be an unsafe and improper depository of the national interests.”²²³ Instead of applying external control mechanisms to the government, Hamilton thus argued in favor of internal structural safeguards. These mechanisms were the separation of powers and the checks and balances imbedded therein. On the separation of powers, he wrote that the government must be kept in check “by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places”.²²⁴ However the separation of powers was not absolute. By making all branches of government, to some extent, dependent on each other, Hamilton argued, none of them would be able to usurp power, become tyrannical, and unduly restrict the people’s liberty.²²⁵ The Federalists subsequently jointly spent essays 52 to 83 to extensively elaborate on each of the branches of government and how they were either independent of or interrelated to each other. To Hamilton, these measures sufficed to protect the people’s liberty.

Madison did not share Hamilton’s confidence in the internal structural integrity of the

²²¹ Pettit, “A Brief History of Liberty,” 6.

²²² John Patrick, *Liberty and Order in Constitutional Government: Ideas and Issues in The Federalist Papers* (Charlottesville: The Virginia Jefferson Association, 1989), 4, 13 – 18, 19 – 25.

²²³ LoC, Alexander Hamilton, *Federalist No.23 – The Necessity of a Government as Energetic as the One Proposed to the Preservation of the Union*, <https://guides.loc.gov/federalist-papers/text-21-30>, eleventh paragraph.

²²⁴ Hamilton, *Federalist No.51*, first paragraph.

²²⁵ Patrick, *Liberty and Order in Constitutional Government*, 14.

government, referring to the separation of powers as “parchment barriers”.²²⁶ He feared that the government could still become tyrannical through the influences of human nature, even if the people made legitimate use of the system. Particularly, he feared “the violence of faction”.²²⁷ He explained: “By faction, I understand a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse or passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.”²²⁸ Madison feared that factions would be able to secure power through the rightful election of representatives who would govern in favor of their specific faction, instead of for the whole. The formation of factions, however, could not be prevented without contracting individual liberty too much. It was sensible for people from different backgrounds to unite in interest groups based on their common interests.²²⁹ However, its harmful effects could be mitigated through two, interrelated measures, both of which ensured that a faction would not become a majority of the electorate. First, Madison argued, creating large constituencies – for which the American extended republic was particularly suitable – would make it difficult for a faction to become a majority because it would need significant numbers. Second, by allowing and even encouraging people to pursue their personal interests, rights, and liberties, the heterogeneity of the people would not allow for a faction to emerge as a homogeneous majority. Madison wrote:

Extend the sphere and you take in a greater variety of parties and interests; you make it less probable than a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.²³⁰

Hamilton actually agreed, writing that the different interests of the people, whether united in a faction or not, would be “checks upon each other”.²³¹ Interestingly, the Federalist thus sought to prevent the interests of the few harming the rights of the many exactly by encouraging the people to individually pursue their rights and liberties.

One glaring omission in the proposed Constitution that allowed the people to pursue those, was a bill of rights. Hamilton only addressed this issue all the way at the end of the series, where he – fully in line with his earlier argument that internal structural safeguards were enough

²²⁶ LoC, James Madison, *Federalist No.48 – These Departments Should Not Be So Far Separated as to Have No Constitutional Control Over Each Other*, <https://guides.loc.gov/federalist-papers/text-41-50>, third paragraph.

²²⁷ Madison, *Federalist No.10*, first paragraph.

²²⁸ Madison, *Federalist No.10*, second paragraph.

²²⁹ Madison, *Federalist No.10*, fifth paragraph.

²³⁰ Madison, *Federalist No.10*, twentieth paragraph.

²³¹ Hamilton, *Federalist No.11*, sixth paragraph.

to keep the government in check – swiftly sought to downplay or even reverse the consequences of such an omission based on four arguments. First, he remarked that many of the state constitutions lacked one too.²³² Second, he argued that the Constitution did guarantee numerous and significant personal rights, for example the right to a trial by jury and the prohibition for Congress to pass *ex-post-facto* laws.²³³ Third, he argued that a bill of rights was an instrument between the king and his people, and was thus not applicable to a republic.²³⁴ Fourth and finally, Hamilton even called the inclusion of a bill of rights “dangerous” as it would prohibit the government from exercising some powers, implying that it did have the right to exercise all other powers not enumerated.²³⁵ Nevertheless, it was the promise of a swift adoption of the Bill of Rights, rather than Hamilton’s arguments against it, which ensured ratification of the Constitution. Exactly this codification of individual rights and liberties was an essential affirmation of individual sovereignty.

Preliminary Conclusion

The Federalists explained that liberty was an essential attribute of individual sovereignty, which was an important counterweight (together with state sovereignty) for national sovereignty to maintain the domestic governmental order balanced between anarchy and tyranny. This understanding of liberty at the founding became the foundation upon which different notions of liberalism were later developed and implemented throughout American history.²³⁶ For example, historian Gordon Wood explained how in the first few decades after ratification of the Constitution and the Bill of Rights both political and economic liberalism began to develop and were institutionalized, not by the elite but by “the mass of ordinary Americans” who asserted and exercised their individual rights.²³⁷ Furthermore, throughout the twentieth century, starting with the policies of President Woodrow Wilson, liberal internationalism gradually became a cornerstone of American foreign policy. This was actually one of the driving factors behind the

²³² LoC, Alexander Hamilton, *Federalist No.84 – Certain General and Miscellaneous Objections to the Constitution Considered and Answered*, <https://guides.loc.gov/federalist-papers/text-81-85>, second paragraph.

²³³ Hamilton, *Federalist No.84*, fourth paragraph.

National Archives, America’s Founding Documents, The Constitution of the United States: A Transcription, accessed July 2, 2023, <https://www.archives.gov/founding-docs/constitution-transcript>, Article III, section 2, Article I, section 9.

²³⁴ Hamilton, *Federalist No.84*, seventh paragraph.

²³⁵ Hamilton, *Federalist No.84*, ninth paragraph.

²³⁶ Jonah Rink, “A Republic in its Own Time: The Re-Imagining of Republican Theory in the Federalist Papers,” *WWU Honors College Senior Projects* 411 (2020): 54 – 61.

²³⁷ Wood, “Ideology and the Origins of Liberal America,” 635.

development of IR's liberalism.²³⁸ Liberalism was thus not necessarily a core value of international relations at the founding, because the Founders' goal was first and foremost to establish a stable and durable internal order. Yet the perseverance and success of this order – or more specifically: the principles upon which it was constituted – created the conditions in which different variants of liberalism could emerge, develop, and proliferate.

²³⁸ de Carvalho et al., "The Big Bangs of IR," 750.

Conclusion

So, how did the Federalists construe the international system and the U.S.' place therein? As to the first part of that question: the Federalists regarded the international system as a hostile environment to which the U.S. had to conform. Based on enlightened thought – like the works of Hobbes and Locke – as well as experiences from history, they distrusted human nature and man's capability to peaceful coexistence in the absence of a higher or centralized authority. This state of anarchy could be suspended, or at least its harmful effects could be mitigated, through the creation of hierarchy by the constitution of a government which was to facilitate security. In this sense, the Federalists' views on the international system were similar to that of classical realists. The Federalists did not intend to either change this understanding, or create a new system on their own terms: that was impossible. What they did argue, however, was that a government did not have to conform to the sovereign nation-state ideal of the Westphalian system and part of the Eurocentric world at that time.

Therefore, as to the second part of the question, the Federalists did articulate a new view on the requirements of a government to create internal harmony that allowed the state to effectively engage with questions of international security. The crux of this understanding was that sovereignty in the U.S. was not solely vested in the governmental apparatus, but equally divided over multiple entities: the general government (national sovereignty), the state governments (state sovereignty), and the people both in their collective (popular sovereignty) and individual (individual sovereignty) capacities. Popular sovereignty ensured that the government was instituted and upheld with the consent of the people. National sovereignty ensured that the government possessed the necessary and sufficient powers to facilitate internal harmony and external security. State sovereignty kept the general government from becoming tyrannical, by leaving some authorities and powers with the state governments. Similarly, individual sovereignty ensured that the general government did not overextend its powers, by promising the people rights that the government could not infringe upon. The simultaneous and equal existence of these different sovereign entities kept the government balanced between anarchy and tyranny.

The Federalists' conceptualization of the international system and the U.S.' place therein did not necessarily contradict the Westphalian system's conceptualization of the international system. It did prescribe internal prerequisites, with which the realist paradigms are often not concerned. These systems were thus not mutually exclusive, but supplementary. It might even be the strength of the Federalists' views that they do not purport them to be

universalistic. After all, they did not attempt to create a new world order, but “a more perfect Union”.²³⁹

These findings seem to provide plenty of avenues for future research, which can be separated into a historical and IR track but are ideally explored in tandem. First, concerning history, it needs to be researched how these ideals were put into practice. The Federalists acknowledged that while the proposed Constitution was well thought out, it was also experimental and only history could truly prove its success.²⁴⁰ It is well known that the American governmental system changed quite significantly and quickly following the ratification of the Constitution.²⁴¹ The Constitution has nevertheless displayed significant durability, being one of the oldest constitutions in the world still upheld. Second, concerning IR, more research is necessary to determine the conceptual values of sovereignty, federalism, negarchy, and liberalism, and about the theoretical value of the Philadelphian system. Having used the Philadelphian system as an analytical lens to study the founding, it is valuable for IR to remove it from this specific context in future research. The last chapter already succinctly described how the Federalists’ understanding of liberty provided the foundation for different variants of liberalism to later develop. Looking ahead very carefully and preliminarily, the different concepts of sovereignty might have had an influence on U.S. foreign policy in the twentieth century. For example, as part of wilsonianism - that advocated for self-determination, which can arguably be connected to issues of popular or individual sovereignty – or as part of liberal internationalism, which was rooted in supranational ideals possibly rooted in individual sovereignty – such as the free market – shared by states, peoples and individuals across borders. But, again, any definitive conclusions about the theoretical value of these concepts as well as the Philadelphian system must be referred to the future, where they are removed from the specific historic context of the founding and studied throughout different periods of time or even concerning different regions. This will undoubtedly advance the plentiful post-Cold War debates of IR.

²³⁹ National Archives, America’s Founding Documents, The Constitution of the United States: A Transcription, accessed July 2, 2023, <https://www.archives.gov/founding-docs/constitution-transcript>, preamble.

²⁴⁰ Madison, *Federalist No. 14*, twelfth paragraph.

²⁴¹ Purcell, “Evolving Understandings of American Federalism,” 695 – 696; McConnell, “Federalism,” 1485.

Bibliography

Literature

- Adler, Jonathan. “The Administrative Presidency Encounters Opportunistic Federalism.” *Regulation* 44, no. 4 (2022): 59 – 60.
- Amar, Akhil. “Of Sovereignty and Federalism.” *Yale Law Journal* 96, no. 7 (1987): 1425 – 1520.
- Bain, William and Terry Nardin. “International relations and intellectual history.” *International Relations* 31, no. 3 (September 2017): 213 – 226.
- Beer, Samuel. *To make a nation: the rediscovery of American federalism*. Cambridge: Harvard University Press, 1993.
- Behnke, Nathalia and Sabine Kropp. “Administrative Federalism.” In *Public Administration in Germany*, edited by Isabella Proeller, Dieter Schimanke and Jan Ziekow, 35 – 52. Birmingham: Palgrave MacMillan, 2021.
- Bellia, Anthony and Bradford Clark. “The International Law Origins of American Federalism.” *Columbia Law Review* 120, no.4 (2020): 835 – 940.
- Birkland, Thomas, Kristin Taylor, Deserai Crow and Rob DeLeo. “Governing in a Polarized Era: Federalism and the Response of U.S. State and Federal Governments to the COVID-19 Pandemic.” *Publius: The Journal of Federalism* 51, no. 4 (2021): 650 – 672.
- Bodin, Jean. *Les Six Livres de la Republique*. Paris: Jacques du Puys, 1577.
- Buchanan, James. “Federalism and Individual Sovereignty.” *Cato Journal* 15, no. 2 (1996): 259 – 268.
- Butler, Alice. “The concepts of sovereignty at the American founding.” MA Thesis, Texas Women’s University, 2003.
- Cha, Taesuh. “Competing visions of a postmodern world order: the Philadelphian system versus the Tianxia system.” *Cambridge Review of International Affairs* 31, no. 5 (September 2018): 392 – 414.
- Corwin, Edward. “National Power and State Interposition.” *Michigan Law Review* 10, no. 7 (1912): 535 – 551.
- de Carvalho, Benjamin, Halvard Leira and John Hobson. “The Big Bangs of IR: The Myths That Your Teachers Still Tell You about 1648 and 1919.” *Millennium* 39, no. 3 (May 2011): 735 – 758.
- Deudney, Daniel. “The Philadelphian System: Sovereignty, Arms Control, and Balance of Power in the American States-Union, Circa 1787 – 1861.” *International Organization* 49, no. 2 (1995): 191 – 228.
- Diamond, Martin. “The Federalist on Federalism: Neither a National Nor a Federal Constitution, But a Composition of Both.” *Yale Law Journal* 86, no. 6 (1977): 1273 – 1285.

- Dickinson, Harry. "Disputes on Sovereignty During the American Revolution." *EurAmerica* 52, no. 2 (June 2022): 295 – 372.
- Elazar, Daniel. "From Statism to Federalism: A Paradigm Shift." *Publius* 25, no. 2 (1995): 5 – 18.
- Gagnon, Alain. "Multinational federalism: challenges, shortcomings and promises." *Regional & Federal Studies* 31, no. 1 (January 2021): 99 – 114.
- Geenens, Raf. "Sovereignty as Autonomy." *Law and Philosophy* 36, no. 5 (October 2017): 495 – 524.
- Gutierrez, Robert. "Our Federalist Roots: A Neglected Past?" *Theory & Research in Social Education* 31, no. 2 (April 2003): 218 – 242.
- Hendrickson, David. *Peace Pact: The Lost World of the American Founding*. Lawrence: University Press of Kansas, 2003.
- Hofstadter, Richard. *The American Political Tradition: And the Men Who Made it*. New York: A.A. Knopf, 1973.
- Inoguchi, Takashi. "Peering into the Future by Looking Back: The Westphalian, Philadelphian, and Anti-Utopian Paradigms." *International Studies Review* 1, no. 2 (1999): 173 – 191.
- Jackson, John. "Sovereignty-Modern: A New Approach to an Outdated Concept." *The American Journal of International Law* 97, no. 4 (2003): 782 – 802.
- Kaplan, Morton. *System and Process in International Politics*. Essex: ECPR Press, 2005.
- Kazimi, Muhammad. "The Evolution of Federalism as a System of Governance in South Asia: A Historical Appraisal." *Journal of History and Social Sciences* 10, no. 1 (2019): 1 – 13.
- Keohane, Robert. "Ironies of Sovereignty: The European Union and the United States." *JCMS: Journal of Common Market Studies* 40, no. 4 (2002): 743 – 765.
- Kincaid, John. "The Eclipse of Dual Federalism by One-Way Cooperative Federalism." *Arizona State Law Journal* 49, no. 3 (2017): 1061 – 1089.
- Kyrydon, Alla and Sergiy Troyan. "International relations as a system and a discipline: From the westphalian to the post-westphalian world order." *Studia i Analizy Nauk o Polityce* 1 (2021): 107 – 122.
- Maritain, Jacques. "The Concept of Sovereignty." *The American Political Science Review* 44, no. 2 (1950): 343 – 357.
- McConnel, Michael. "Federalism: Evaluating the Founders' Design Book Review." *University of Chicago Law Review* 54, no. 4 (1987): 1484 – 1512.
- McLaughlin, Andrew. "The Background of American Federalism." *American Political Science Review* 12, no. 2 (1918): 215 – 240.
- Menon, Anand and Martin Schain. *Comparative Federalism: The European Union and the United States in Comparative Perspective*. Oxford: Oxford University Press, 2006.

- Miller, Geoffrey. "Liberty and Constitutional Architecture: The Rights-Structure Paradigm Legacy of the Federalist Papers." *Harvard Journal of Law & Public Policy* 16, no. 1 (1993): 87 – 94.
- Miller, Joshua. "The Ghostly Body Politic: The Federalist Papers and Popular Sovereignty." *Political Theory* 16, no. 1 (February 1988): 99 – 119.
- Mueller, Sean and Alan Fenna. "Dual versus Administrative Federalism: Origins and Evolution of Two Models." *Publius: The Journal of Federalism* 52, no. 4 (2022): 525 – 552.
- Nye, Joseph and David Welch. *Understanding Global Conflict and Cooperation: An Introduction to Theory and History*. New York: Pearson, 2012.
- Nye, Joseph. "Neorealism and Neoliberalism." *World Politics* 40, no. 2 (1988): 235 – 251.
- Osiander, Andreas. "Sovereignty, International Relations, and the Westphalian Myth." *International Organization* 55, no. 2 (2001): 251 – 287.
- Patrick, John. *Liberty and Order in Constitutional Government: Ideas and Issues in the Federalist Papers*. Charlottesville: The Virginia Jefferson Association, 1989.
- Paul, Darel. "Sovereignty, survival and the Westphalian blind alley in International Relations." *Review of International Studies* 25, no. 2 (April 1999): 217 – 231.
- Petersmann, Ernst-Ulrich. "State Sovereignty, Popular Sovereignty and Individual Sovereignty: from Constitutional Nationalism to Multilevel Constitutionalism in International Economic Law?" *EUI Working Paper Law* 45 (2006): 1 – 31.
- Pettit, Philip. "A Brief History of Liberty – And Its Lessons." *Journal of Human Development and Capabilities* 17, no. 1 (January 2016): 5 – 21.
- Pocock, John. *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: Princeton University Press, 1975.
- Postell, Joseph. "Regulation during the American Founding: Achieving Liberalism and Republicanism." *American Political Thought* 5, no. 1 (2016): 80 – 108.
- Powell, H. Jefferson. "The Oldest Question of Constitutional Law." *Virginia Law Review* 79, no. 3 (1993): 633 – 689.
- Purcell, Edward. "Evolving Understandings of American Federalism: Some Shifting Parameters." *New York Law School Law Review* 50 (2006): 635 – 698.
- Quirk, Joel and Darshan Vigneswaran. "The construction of an edifice: the story of a First Great Debate." *Review of International Studies* 31, no. 1 (January 2005): 89 – 107.
- Rahe, Paul. *Republics Ancient and Modern: Inventions of prudence: constituting the American regime*. Chapel Hill: University of North Carolina Press, 1994.
- Reagan, Michael and John Sanzone. *The New Federalism*. Oxford: Oxford University Press, 1981.
- Reus-Smit, Christian. "Theory, History, and Great Transformations." *International Theory* 8, no. 3 (2016): 422 – 435.

- Richard, Carl. *The Founders and the Classics: Greece, Rome, and the American Enlightenment*. Cambridge: Harvard University Press, 1995.
- Riley, Patrick. “Martin Diamond’s View of “The Federalist”.” *Publius* 8, no. 3 (1978): 71 – 101.
- Rink, Jonah. “A Republic in its Own Time: The Re-Imagining of Republican Theory in the Federalist Papers.” *WWU Honors College Senior Projects* 411 (2020): 1 – 64.
- Schmidt, Brian. “The Historiography of Academic International Relations.” *Review of International Studies* 20, no. 4 (October 1994): 349 – 367.
- Schouenborg, Laust. “Exploring Westphalia’s Blind Spots: Exceptionalism Meets the English School.” *Geopolitics* 17, no. 1 (January 2012): 130 – 152.
- Shoemaker, Robert. ““Democracy” and “Republic” as Understood in Late Eighteenth-Century America,” *American Speech* 41, no. 2 (1966): 83 – 95.
- Smelser, Marshall and Joan Gundersen. *American History at a Glance*. New York: Barnes & Noble Books, 1978.
- Strange, Susan. “The Westfailure system.” *Review of International Studies* 25, no. 3 (July 1999): 345 – 354.
- Stromberg, Joseph. “Sovereignty, International Law, and the Triumph of Anglo-American Cunning.” *International Law* 18, no. 4 (Fall 2004): 29 – 93.
- Wilson, Peter. “Idealism in International Relations.” In *Encyclopedia of Power*, edited by Keith Dowding, 332 – 333. Thousand Oaks: SAGE, 2011.
- Wolfe, Christopher. “On Understanding the Constitutional Convention of 1787.” *The Journal of Politics* 39, no. 1 (February 1977): 97 – 118.
- Wood, Gordon. “Ideology and the Origins of Liberal America.” *The William and Mary Quarterly* 44, no. 3 (1987): 628 – 640.

Primary Sources

- Library of Congress. Research Guides. Main Reading Room. Federalist Papers: Primary Documents in American History. Accessed June 29, 2023. <https://guides.loc.gov/federalist-papers/full-text>.
- National Archives. America’s Founding Documents. Declaration of Independence Transcript. Accessed June 29, 2023. <https://www.archives.gov/founding-docs/declaration-transcript>.
- National Archives. America’s Founding Documents. The Constitution of the United States: A Transcript. Accessed June 30, 2023. <https://www.archives.gov/founding-docs/constitution-transcript>.

National Archives. Milestone Documents. Articles of Confederation (1777). Accessed June 29, 2023. <https://www.archives.gov/milestone-documents/articles-of-confederation>.

National Archives. Milestone Documents. Treaty of Paris (1783). Accessed July 1, 2023. <https://www.archives.gov/milestone-documents/treaty-of-paris>.

Appendix I:

Radboud Statement on Fraud and Plagiarism

Undersigned

Gaby Craninckx, s1026901

Master student at the Faculty of Art of Radboud University Nijmegen,

declares that the submitted thesis is completely original and written exclusively by him/herself. For all information and ideas derived from other sources, the undersigned made explicit and detailed references to the locations. The research data presented therein were collected by the undersigned him/herself in the manner described in the thesis.

Nijmegen, 03-07-2023

[signature redacted]