

Democratic Imagination at the Brink

Jason Frank

Cornell University

The political thought of the Founders is essential to understanding American politics: their thinking was embodied in state institutions and set the conceptual parameters of much subsequent political debate. Examining early American political thought allows us to better grasp the fundamental orientations of American political institutions and ideas, and can therefore also illuminate their democratic limitations. Historically situated democratic theory of the kind that I have pursued returns to the political thinking of the Founders not to uncritically praise it, but to better understand its persistence in the present, reveal its hold on the contemporary political imagination, and glimpse political possibilities beyond its horizon. The Federalist offers a canonical case in point, and the essays in this symposium have pushed me to clarify and develop my own thinking on the Founders' authority and its limits; on the relationship between founding, violence, and exclusion; and on the distinctions between radical democracy and liberal constitutionalism.

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The political thought of the Founders is essential to understanding American politics: their thinking was embodied in the institutions of the constitutional state and set the conceptual parameters of much subsequent political debate. While political theorists often exaggerate the Founders' wisdom—"the finest American thought on political matters," proclaimed Martin Diamond—close and critical engagement with their work need not be piously hagiographic.¹ Such examinations allow us to better grasp the fundamental orientations of American political institutions and ideas, and can therefore also illuminate their democratic limitations. Historically situated democratic theory of the kind I have pursued returns to the political thinking of the Founders not to uncritically praise it, but to better understand its persistence in the present, reveal its hold on the contemporary political imagination, and glimpse political possibilities beyond its horizon. My first two books shared this critical orientation, reading the Founders against the grain, and, occasionally, against themselves.

1. Martin Diamond, "Democracy and The Federalist: A Reconsideration of the Framers' Intent," *American Political Science Review* 53 (March 1959): 52–68, at 53.

Publius and Political Imagination turns to the most canonical text in American political thought—*The Federalist*—in order to reconstruct important aspects of its argument that other scholars have neglected or even disavowed, especially the constellation of problems that takes shape around what I have called “the formative political imagination.” Publius, I argue, invoked the formative imagination as a vital and necessary political resource, but also a destabilizing and dangerous one, for confronting the dilemmas of collective self-authorization that I examined in *Constituent Moments*. My *Publius* book explores the different ways *The Federalist* enlisted the formative imagination as a heteronomic support for establishing the practical conditions of democratic self-rule. *The Federalist Papers*’ much-celebrated “new science of politics,” therefore, did not simply offer a disenchanting politics based on the empirical evidence of experience, a liberal constitutionalism committed to the protocols of public reason, and a procedural pluralism organized around the pre-political calculations of interest. It also offered a visionary republicanism that required the public’s antecedent and largely unquestioned investments of a disciplined form of political imagination.

The Federalist, and the Constitution it was written to defend, interpellates readers and citizens into a new order of constitutional authority. As such, it can help contemporary democratic theorists understand more clearly the rhetorical mechanisms, narrative supports, and institutional restraints through which a democratically self-governing people becomes a people in the first place. It can also help us to confront the occlusions, elisions, violences, and remainders that those primary investments entail. In this sense, *Publius and Political Imagination* offers a more historically engaged contribution to the “turn” to imagination and political aesthetics in contemporary political theory.² In their challenging comments on political imagination and the problem of the Founding, McWilliams, Balfour, and Turner engage these arguments from different angles. I can’t do justice to all of their questions and provocations here, but I will offer preliminary responses to what I consider the most pressing of their concerns.

Susan McWilliams’s comments focus on an important—but now largely forgotten—contributor to the debates over constitutional ratification: John Dickinson’s Fabius. McWilliams worries about the inflated authority that *The Federalist* has over our understanding of early American constitutionalism and jurisprudence, political thought, and, indeed, of America itself (see Garry Wills).³ I share this concern and examine it at some length in *Publius*, in particular through

2. See, for example, Chiara Bottici, *Imaginal Politics: Images Beyond Imagination and the Imaginary* (New York: Columbia University Press, 2014); Yaron Ezrahi, *Imagined Democracies: Necessary Political Fictions* (New York: Cambridge University Press, 2012); and the essays in Nikolas Kompridis, ed., *The Aesthetic Turn in Political Thought* (New York: Bloomsbury Publishing, 2014).

3. Garry Wills, *Explaining America: The Federalist* (New York: Doubleday, 1981).

critical examination of the authorizing function of “remembrance” in civic republican political thought, the political dynamics of “veneration” in *The Federalist*, and the democratically debilitating aspects of contemporary American “constitution worship.”⁴ I agree with McWilliams’s overall wariness in the face of yet another interpretation of Publius, however revisionist.

Yet, when we get into the finer details of her remarks, I find much to disagree with. McWilliams claims that “Fabius is concerned not just to persuade the people to support the Constitution, but also to make them consider what it means to be a people in the first place,” and that “much of Fabius’s energy is directed to arguing against an idea that is nearly absent from *The Federalist Papers*: it will be up to the people themselves to imagine and enact what their place in the new nation will be, and, thus, to imagine and enact the new nation itself.”⁵ This latter idea is not “nearly absent” from *The Federalist*, and I engage with a good deal of the evidence of its presence in *Publius*. Indeed, the arc of my book’s argument focuses on how the constituent capacities that Publius invokes in *Federalist* No. 1 are then subdued, institutionalized, and disciplined in much of the rest of the text. This is a structuring tension in Publius’s argument, but that does not mean that the capacities of the people to “constitute themselves” disappear entirely from the text (or from the republic it helped to found); rather, these capacities hauntingly return at several key points in the argument of *The Federalist*. McWilliams seems to miss this. Examples include not only Publius’s invocation of “informal and unauthorized” propositions of constitutional reform in No. 40, but also the final paragraph of the last *Federalist* (No. 85). There, Publius cites David Hume in order to disenthral readers of the very mythic vision of the Founding and the Great Lawgiver that McWilliams critically identifies in the text:

To balance a large state of society whether monarchical or republican, on general laws, is a work of so great difficulty, that no human genius . . . is able by mere dint of reason and reflection to effect it. The judgments of many must unite in the work: experience must guide the labor; time must bring it to perfection; And the feeling of inconvenience must correct the mistakes which they inevitably fall into, in their first trials and experiments.⁶

Several arguments that McWilliams admires most in Fabius can be found in *The Federalist*. “Before he talks about the Constitution,” she claims, “Fabius insists we

4. Jason Frank, *Publius and Political Imagination* (Lanham, MD: Rowman and Littlefield, 2014), 1–9, 56–59, 153–54.

5. Susan McWilliams, “Finding Foundings: The Case of Fabius,” *Polity* 47 (October 2015): 542–49, at 544.

6. *The Federalist*, ed. Jacob E. Cooke (Middletown: Wesleyan University Press, 1961), 594. On authors and founding authority in *The Federalist*, see also Simon Gilhooley, “The Framers Themselves: Constitutional Authorship during the Ratification,” *American Political Thought* 2 (Spring 2013): 62–88.

talk about how we should talk about the Constitution.”⁷ In Federalist No. 1, Publius does exactly the same thing, framing the principles that should guide the discussion, urging “candor” and that readers not allow the identities and purported motivations of participants to distract attention and distort deliberation—setting a high standard of public debate that Publius himself did not always follow. McWilliams argues that, unlike Publius, Fabius insists the Constitution is “dependent on the constant aid and sustenance of a vibrant and conscious civic energy.”⁸ Yet, as I argue in Chapter 3, Publius relies on the existence of the continued presence of popular vigilance and popular “jealousy of power,” even as he worries about their dangerous excesses and defends the Constitution’s institutional safeguards against those excesses.

McWilliams also claims that Fabius makes reliance on the formative political imagination “explicit,” and claims that Publius leaves it “implicit.” However, to make that point convincing, she would not only have to provide some evidence of that explicitness in Fabius, but also to engage with some of my arguments to the contrary in regards to Publius (especially in Chapter 2). My argument is not only that Publius rhetorically enlists the political imagination of his text’s readers, but also that he was a reflective theorist of the role of political imagination in republican politics. McWilliams’s contrast between Publius and Fabius instead presumes something like the realist interpretation of *The Federalist* that I criticize in the book. We agree on the importance of proliferating voices and perspectives on the meaning of founding—the need to “find other foundings, for the reconsideration and rejuvenation of our political life.”⁹ This was an important goal of *Constituent Moments*, as McWilliams notes. In *Publius* I have attempted to find these resources for revitalizing the democratic imagination and contesting exceptionalist “stories of peoplehood” in a surprising place: the canonical text in American political thought best known for stultifying democracy and setting the narrative frame for an expanded settler empire.¹⁰

Lawrie Balfour identifies a persistent focus in my work on the intimacy, and ambiguity, of the relationship between democratic and antidemocratic practices.¹¹ She rightly notes that a central concern of *Publius* was to examine how *The Federalist* invokes the constituent capacities of a sovereign people, while then working to “subdue” or “discipline” those capacities in different ways across the text, especially through the mechanisms of veneration, national identification,

7. McWilliams, “Finding Foundings,” 545.

8. *Ibid.*, 545

9. *Ibid.*, 547

10. Rogers Smith, *Stories of Peoplehood: The Politics and Morals of Political Membership* (Cambridge: Cambridge University Press, 2003); see, for a brief example, Sheldon Wolin’s interpretation of *The Federalist* in “The People’s Two Bodies,” *Democracy* 1 (January 1981): 9–16.

11. Lawrie Balfour, “Reading Publius with Morrison and Melville,” *Polity* 47 (October 2015): 550–57.

interest formation, and the narrowing of legitimate forms of political action. Balfour's central critique—which she derives from the writing of Herman Melville, on the one hand, and Toni Morrison, on the other (although I also hear echoes of Michael Rogin and Richard Slotkin)—is challenging and perceptive. While acknowledging my examination of the “unjustified” constitutive exclusions of women, slaves, and indigenous people in a Constitution built on the presumed authority of “We the People,” and my discussion of how “the mandate for conquest” (Morrison) was mobilized through Publius's vision of “Providential nationality,” Balfour argues that I too often analyze these exclusions through the framework of originary violence and its disavowal, and do not focus enough attention on how they are aestheticized and “figured as a positive feature of the national project.”¹² Rather than exposing a *gap* in the legitimacy of the constitutional order, Balfour argues, in other words, we must instead engage with how these violences and remainders have been openly invoked—managed and alchemized—to *promote* the legitimacy of that order.¹³

This is a serious indictment that could be easily supported with a wealth of historical evidence; as Balfour notes, I have tried to raise similar issues in my work on Melville. But can we say that these violences serve as “an unowned, but essential, resource of the Federalists' rhetorical project?”¹⁴ Here I am less sure. In order to respond to Balfour's challenge, each boundary of exclusion would have to be separately examined in detail, which I can't do here. Settler colonization and indigenous conquest are certainly important components of the myth of “Providential nationality” envisioned by Publius, and central to *The Federalist's* imperial vision of America's future. Slavery (as Balfour's insightful reading of Federalist No. 54 also suggests) is fraught with more tragic ambiguity in the text derived from what Publius describes as the slave's “mixt character” as “person” and “property.”¹⁵ Gender equality is only made legible through its absence. Federalists were often portrayed by their Anti-Federalist opponents as anti-republican imperialists hell-bent on expanding the power of the national government and restoring the social hierarchies shaken by the egalitarian radicalism of the Revolution; Cato called them “vultures of power.”¹⁶ It may be that the pressure to refute these common characterizations during the “great national discussion” made the open affirmation of violence as a positive resource more difficult to discern than Balfour suggests, but these would be interesting questions to pursue further.

In his challenging remarks, Jack Turner does not criticize my characterizations of the traditions of American political thought, nor my interpretations of important

12. Balfour, “Reading Publius with Morrison and Melville,” 552.

13. *Ibid.*

14. *Ibid.*, 553.

15. *The Federalist*, 368.

16. Cited in Frank, *Publius and Political Imagination*, 83.

works making up those traditions. He worries instead about the troubling consequences of these characterizations and interpretations for contemporary democratic theory, and, by extension, contemporary democratic politics. Turner is interested in the underlying normative commitments of the radical democratic position he claims that I endorse. He argues that I have been ungenerous to liberal constitutionalism, have misunderstood it, in fact, and that, for all of my “pessimism about the American condition,” my embrace of radical democracy remains sentimentally naïve at best, and dangerously inattentive to its violent propensities at worst.¹⁷

This is not the place to unpack the theoretical and historical entanglements of liberal constitutionalism and radical democracy, nor even to make a full case that this is a meaningful distinction worth preserving for contemporary democratic theory. I do want to clarify my disagreements, however, with Turner’s characterization of my position, of liberal constitutionalism, and with his efforts to integrate (and domesticate) radical democracy within a corrected view of a liberal constitutionalism more capacious than the “rigid, status-quo-biased embodiments” defended by such prominent advocates as Rawls and Habermas (with whom, I believe, Turner shares much more in common than his critical remarks suggest).¹⁸

I do argue that radical democracy should be understood as a distinctive and relatively autonomous tradition in American politics and American political thought, one that cannot be simply integrated within the more familiar frameworks, for example, of liberalism and civic republicanism. I nowhere argue, however, that this tradition exists in pristine isolation from the others. As with liberalism and civic republicanism, there is no essence to radical democratic thought and practice, only a bundle of “family resemblances” articulated in different locations and times and yet which cohere into a meaningfully distinct and legible—that is, useful—portrait. Turner seems to think that my efforts to illuminate the distinctiveness of this tradition, and to endorse the more power-sensitive and radically egalitarian civic challenge it offers to culturally authoritative liberalism, invest me in a sentimental populism where the constituent people are seen as “forces of original goodness doing battle against original evil.” Leaving aside the adequacy of Turner’s interpretation of the Arendt/Baldwin encounter that he invokes to make this point, I reject the idea that my work on the sometimes extralegal and agonistic repertoires of radical democratic politics invests me in such naïvely romantic or dangerously Manichean views. Indeed, the emphasis that each of the commentators (including Turner!) has rightly placed on my attention to the tragic double binds and paradoxical dilemmas of popular democratic enactments attenuates this criticism. If “the people” is never more than a

17. Jack Turner, “The Constitution of Radical Democracy,” *Polity* 47 (October 2015): 558–65, at 561.

18. Turner, “Constitution of Radical Democracy.”

provisional and deeply contested claim, we must accept that there is never a unitary expressive or fully authorized innocence to such claims. In this sense, I wholly agree with Marc Stears, who argues that radical democrats, mobilized against radical inequalities of wealth and power, are continually faced with tragic occasions of political judgment, where “buoyant, crusading, militant,” and sometimes undemocratic political action must be employed to serve democratic ends.¹⁹ If anything, I would argue that it is Turner’s abstract and dehistoricized portrait of constitutional liberalism that is guilty of naïve romanticism, not the neo-realist radical egalitarianism I have tried to defend, which brings me to my second point.

Rather than focusing on thick, actually existing, institutionally specific embodiments of liberal constitutionalism, Turner argues that it “is better understood as a set of moral commitments preceding and transcending all particular institutional embodiments.” He continues:

These commitments consist of what we now regard as banalities: the dignity and equality of individuals; their rights to life, liberty, and equal voice in the co-creation of their world; and the general superiority of the rule of law over the rule of men. These admittedly vague commitments give rise to more specific rights: free speech, free assembly, free association, privacy, due process, equal protection, and arguably a guaranteed economic basis for self-development and political initiative (though this last is controversial).²⁰

It is not exactly clear to me how this decontextualized and highly idealized portrait of liberal constitutionalism differs in its essentials from the deontological liberalism of theorists like Rawls and Habermas in providing what Turner calls “the invisible constitution” to which radical democrats must pre-commit themselves to deserve the democratic designation.²¹ Arguments like these have been employed historically to serve the regulatory aims of reasonable political contest, that is, to confine radical democratic claims within the bounds of “normal politics.” When Turner asks radical democrats to either openly affirm their fidelity to liberal constitutionalism or risk abandoning the normative commitments that he lists above, he engages in a rhetorical sleight-of-hand that should be rejected. To paraphrase, and slightly modify, a well-known phrase of Michel Foucault’s, we might describe this kind of argument as the blackmail of liberal constitutionalism.²² Turner’s qualifier “within the bounds of normal

19. Marc Stears, *Demanding Democracy: American Radicals in Search of a New Politics* (Princeton: Princeton University Press, 2013), 5. He is citing John Dewey’s “Democracy is Radical,” *Common Sense* 6 (1937): 10–11.

20. Turner, “Constitution of Radical Democracy,” 565.

21. *Ibid.*, 565.

22. Foucault invokes the “blackmail of the Enlightenment” in “What is Enlightenment?” in *The Essential Works of Foucault, Volume I: Ethics, Subjectivity, and Truth*, ed. Paul Rabinow (New York: The New Press, 1997).

politics” is telling,²³ since the radical democratic politics that I have largely focused on are precisely forms of politics and political action that contest the authorized boundaries and established terms of “normal politics,” both in the goals to which democratic actors aspire and in the means with which they experiment in order to achieve them.

In my view, democratic theorists would do well to examine more closely historical debates over the legitimate *means* of political action, or how debates over *who* the democratic self-authorizing people are have been historically entangled with debates over *how* the people can legitimately act. Late eighteenth-century Americans, for example, drew upon a remarkably diverse set of contentious repertoires to express their dissent from established authorities and to enact their will. These included the circulation of opposition newspapers and political pamphlets, the petitioning of governors and acts of jury nullification, but also the collective resistance of mobbing and armed regulation. While these repertoires were widely accepted as legitimate and were essential to the popular mobilizations culminating in the Revolution of 1776, they came under increasing scrutiny from elites during the post-revolutionary years, including Publius. By the time of the Philadelphia Convention in 1787, and in the wake of Shays’s Rebellion, many elites argued that some of these repertoires, especially those focused on the enactment and enforcement of the law by the people acting “out of doors” were wholly illegitimate in the newly republican context of representative political institutions based in popular consent. Disputes over the boundaries of legitimate political action and the appropriate means of expressing popular dissent remained central points of conflict during the first decade of the Early Republic, and they continue to animate democratic politics up to the present day, as the current debates over the legitimacy of rioting in the wake of the Ferguson protests vividly demonstrate. I would argue that accepting the legitimacy of ongoing political contention around these issues is a defining aspect of democratic thought, not to mention radical democratic thought.

Turner celebrates liberal constitutionalism as an idealized normative horizon that prevents social conflict from devolving into violence. I have been much more interested in the institutionally specific procedures of liberal constitutionalism and how they have worked to routinize political life and to sustain radical inequalities of wealth and power within the bounds of “normal politics.” Turner sees in liberal constitutionalism normative “inhibitions” that serve the ends of democratic life;²⁴ I see regulatory mechanisms that work to delegitimize more radically egalitarian claims against established powers. Turner sees rights claims fostering a more expansive democracy; I think we need also to examine the ways that rights

23. Turner, “Constitution of Radical Democracy,” 565.

24. *Ibid.*, 563.

historically have been employed in order to legally entrench forms of domination. I worry that Turner's idealized liberalism prevents us from seeing the troubling history of actually-existing liberalism. As Balfour notes in her essay,²⁵ I have focused attention on the political thought of Herman Melville partly because he so clearly recognizes the double binds of that history, how the ideals that liberals invoke to criticize the failings of American society (freedom, rights, independence) have been complicit in the political pathologies (forms of conquest and subordination) that they are called upon to critique.²⁶

This brings me to a final point of disagreement. Turner's move to get radical democrats to accept, affirm, and articulate their hidden liberal commitments seems driven by an urge to have all emancipatory political views accommodated within one more capacious (invariably liberal) framework. In this, too, his work echoes the bad liberals he critiques, with their shared fear of deep and fundamental disagreements. For Turner, liberal constitutionalism and radical democracy are not dichotomies but "reciprocally related";²⁷ he even invokes the Habermasian language of "co-originality" to describe the relationship.²⁸

I resist the foundational language of "co-originality," but I am willing to accept the weaker invocation of "overlap," if only because that is just how traditions develop, through complex historical entanglements, not through the incommensurable paradigms that scholars retrospectively attribute to them. Dichotomies and distinctions are valid or productive to the extent that they allow us to see things we might not otherwise see. In the context of contemporary democratic theory and contemporary democratic politics, the reconciling drive advocated by Turner, the urge to integrate radical democratic challenges within the framework of an ever-more capacious liberalism, operates to more surely secure liberalism's hegemony. I worry that this theoretical endeavor diminishes the contemporary political imagination, so severely bereft of alternative political visions. I agree with Duncan Bell that most of us, whether we like it or not, are "conscripts of liberalism," which over the past half century "has expanded to encompass the vast majority of political positions regarded as legitimate."²⁹ Turner operates within the terms of this bias, I think; by contrast, insisting on the deep disagreements and antagonism between liberalism and radical democracy pushes against it, while not being able to fully escape its terms. Delineating these differences is a way of attaining a more clear-eyed and chastened appreciation of the strengths and weaknesses of

25. Balfour, "Reading Publius with Morrison and Melville."

26. I elaborate on this point in "Pathologies of Freedom in Melville's America," in *Radical Future Pasts: Untimely Essays in Political Theory*, ed. Rom Coles, Mark Reinhardt, and George Shulman (Lexington: University Press of Kentucky, 2014), 435–58.

27. Turner, "Constitution of Radical Democracy," 562.

28. Jürgen Habermas, "Constitutional Democracy: A Paradoxical Union of Contradictory Principles?" *Political Theory* 29 (August 2001): 766–81.

29. Duncan Bell, "What is Liberalism?" *Political Theory* 42 (December 2014): 682–715, 689.

each tradition. Division and disagreement can be politically as well as intellectually productive. I have certainly found them to be so in this exchange.

Jason Frank is professor of government at Cornell University. He is author of *Constituent Moments: Enacting the People in Postrevolutionary America* (Duke University Press, 2010), *Publius and Political Imagination* (Rowman & Littlefield, 2013), and editor of *A Political Companion to Herman Melville* (University of Kentucky Press, 2013). His current project explores the political aesthetics of popular sovereignty and is titled *The Democratic Sublime: Political Theory and Aesthetics in the Age of Revolution*. The author may be reached at jf273@cornell.edu.