

Alexander Hagen, November 25, 2012, Montara Ca

Prologue: In J.D. 1 – We discovered that the Declaration of Independence was largely attributable to the ideas of the British philosopher John Locke – who stated that Government existed only by consent of the people, and that J.D. could be traced back to Aristotle, who thought only a society with a broad middle class that was largely un beholden to any master could survive as a Republic. We seek to restore our Republic that finally collapsed with the Patriot Act that violated everything this country was founded on so severely that we can no longer truly regard this as a Republic, but as an autocracy and a dictatorship. From the Libertarian Right these views are articulated by RP and Gary Johnson, from the left people like Gore Vidal and Dennis Kucinich. But rather than resorting to inventing an entirely new system, and perhaps engaging in actual armed resistance to this new tyranny masquerading under its consumerist happy face, we must first review how the Republic was conceived and formed, attempt to redress and remedy the flaw in the system – that led to a 2 party system, where no minority voice could be heard, a conception feared from the beginning but not seen to be sewn into the fabric of the constitution. My research thus far simply shows that democracy was feared, just as we might fear vagabonds breaking into our houses, NOT necessarily but with shades of the assumption was as George Will distastefully pronounced: “Surely in a democracy it's time for us to quit being sentimental and say the question we settle in an election is not whether elites shall rule, but which elite shall rule.” ABC NEWS 2008. I must walk from the days of the original arguments to ratify the constitution forward into the times that caused Jefferson to pronounce his election in 1800 a Second American Revolution – to discover when and if these fatal flaws were detected, and whether the S.A.R. was thought to permanently provide a remedy to them. A small elite of powerful men controlling the destiny of the American Public, who once we reached the limits of our conquest began to fall in standards of living, education and finally... freedom. Their were about 80 Federalist papers published by Madison, Jay and Hamilton under the pen name Publius. The first that is considered significant is Federalist 10 and there we will start. Federalist 10 deals with how to prevent any faction or group or interest from dominating the political life of the country sufficiently to structurally damage the rights of the people and the security of the country. The security meaning the peoples rights to life, liberty and the pursuit of happiness, and the preservation of a Union of free people generally. In some areas Women did vote, in some areas landless citizens did vote, in some areas Blacks did vote¹. As the founders died off gradually all this was reversed. There was a nadir in voting rights from

Conclusion: Madison and Jefferson were thought to carry similar “Anti Federalist Views” – and in fact the arguments espoused by Madison in Federalist 10 that are most troubling are in fact Federalist views, if my understanding that Federalism understood that elites would govern, and Anti Federalists persisted in attempting to protect the free holder as the bulwark of democracy as well as the republic. Hamilton and Jefferson had more in common than in disagreement. They both sought to create a successful vibrant country, with different emphasis on where power lay and was distributed. Here we see elitist assumptions hidden under fine rhetoric that would lay a seed in the union that have born bitter fruit in

my opinion. The fruit of a people first dispossessed of their republic, and second the republic overthrown, with a mere shell as my father said long ago "A corporate dictatorship with a veneer of democracy, and with 9-11 and the Patriot Act, an autocracy and dictatorship that has driven our legal rights back to before 1215 A.D. (The elimination of Magna Carta, Habeas Corpus (1679) and Posse Comitatus (1878)).

Critique of Federalist 10: (double quotes are literal quotes, single quotes are paraphrased nearly identically without archaic language), italics are my suggested ways of describing the 18th century phrases in modern terms.

1. A well constructed union's primary advantage is preventing one faction *or 'power structure'* from dominating.
2. A plan which can protect against this is critical.
3. The American Constitution, which was thought perhaps the best work on popular Government at the time by many, is understood not to be full proof.
4. Can Government be designed to protect the public good in the conflicts between rival **parties**.
5. "measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority."
6. These must be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administrations.
 - a. This also begs the question of whether mankind can be trusted with ever sacrificing the short term for the long term.
7. A faction is any group which unites under some impulse, interest or passion, adverse to the rights of other citizens or the permanent and aggregate interests of the community as a whole
8. There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.
9. **There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.**
10. **Eliminating Liberty to cure faction is to destroy political life itself. The cure is worse than the disease**
11. **Eliminating faction through eliminating differences of opinion is equally impractical. A Government based on equality of opportunity, but not equality of condition, will inevitably lead to different interests and opinion. Each person has different interests and capabilities, which will result in different levels of resources and wealth, which will intensify over time. By protecting the rights of people to obtain property through their efforts, inequality will occur, which will result in different interest groups based on in particular the possession fiddereent degrees and kinds of property.** "As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of

different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.”

12. Opinions and interests differ in matters of religion, Government and many other matters in theory as well as in practice. Attachments to different leaders and personalities, have divided mankind into parties and inflamed animosity, and conflict has more often been the case than cooperating for the common good. So strong are these divisive tendencies, that even the most minor frivolous issue can cause great conflicts and controversies to break out.
13. Wealth inequality is the most common source of division. Additionally the different industries have different interests. The regulation of these competing and interfering interests is the principle task of legislation. "The most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of the government.”
14. No person is allowed to be the judge in their own case, as they would deliver both a biased judgement and have their integrity corrupted. And what is legislation except effectively a succession of judicial verdicts not on individual cases but on the rights of whole sections of society? And what are the legislators but advocates and parties to the causes they determine? “Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail.”
 - a. “Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number, is a shilling saved to their own pockets.”
15. We cannot rely on enlightened statesmen, because those in office may not always be wise. And even if they are they may not be able to see long term and all the implications of their policies in the heat of the moment.
 - a. In fact the theme of much of this is that by having a larger pool of people to select representatives from, better quality will occur. However that “right size, neither so large as to render the average voter powerless, as could be argued is the case today, nor so small as to not provide a diverse enough talent pool is one question. I would think no

less than 10,000 voters and no more than 500,000 should be acceptable boundaries. And Here is the real problem. The virtual monopoly incumbents appear to possess, while simultaneously an incredibly low opinion of Congress: (perhaps only other people's congresspersons, not ones one.^{i ii}

16. Therefore we cannot safeguard against factions stripping the rights and the liberty of other groups or the people as a whole through either ensuring a uniformity of opinion, nor of banning certain points of view outright (attacking these factions rights). Therefore we must control and mitigate the effects of factions coming to power. 'The causes of factions cannot be removed, relief can only be found in controlling their effects'.
17. If the faction is not a majority politically, then the majority can prevent politically harmful legislation through a simple majority vote. "It may clog the administration, it may convulse the society, "But it will be unable to mask the effects of its violence under the forms of the constitution".
18. When the majority itself is the faction, democracy would permit it to harm both the public good and the rights of other citizens (minorities, not necessarily racial, but anyone not supporting the majority faction which seeks to impose its will in a harmful way).
19. 'To secure the public good and private rights, against the danger of a majority faction, and at the same time to preserve democratic Government, is then the objective'
20. The only 2 ways to prevent oppression by a majority temporarily in power, would be to either convince them their actions are harmful (dissuade them) or to construct the republic in such a way as to limit their ability to harm the public welfare and rights of minorities. "render them unable to conduct their schemes of oppression"
21. It therefore must be admitted that a pure democracy is powerless against a majority who seek to oppress others, "to sacrifice a weaker party or an obnoxious individual". This is why such democracies have historically been volatile and unstable. They have been short lived and have often ended violently. Theoreticians have mistakenly thought that by providing perfect equality in political rights, people would at the same time develop equality in their possessions, opinions and passions. A republic, meaning a system of representative Government can solve this problem. A system of representative government can prevent the tyranny of a majority.
22. Ideally a system of representatives will select the best people in the country. However it can have the opposite effect. A small number of people may form a cabal and betray the interests of the people. This brings the question of scale, would the betrayal of the public trust be more likely in a small or large republic? ⁱⁱⁱ *At the time of this writing about 3 million people lived in America. The states had populations of 50,000 to 500,000 people. The scale they were dealing with were totally unlike we are dealing with now. One could infer from these numbers that a representative having 250,000 people in his district would have been the maximum conceivable. Today a Senator from California would have nearly 100 times the population conceived of by the framers in their time.*
23. There is a golden mean to be found, if too great a population be assigned to a representative, that person would be out of touch with their constituents local interests, and if too small, then not

capable of comprehending issues on the national and international scales. The Federal Constitution addresses this. ² The great issues to the national and the local to the state legislatures.

24. The proposed constitution also provides a strong framework for adding new territories to the Union. And as these territories are added, the prospect of a single faction dominating are lessened. (*With the advent of enormous groups and corporations this strikes one as somewhat more hollow today.*)
25. The smaller the society the fewer number of factions and parties. (*Here it is made clear that the 2 party trap we laid for ourselves was not seen in F-10.*) Extend the sphere and more parties and interests must be incorporated, making it less likely that a single faction will dominate. (*Yet today we seem to have a paralyzed system, and the larger it gets, the harder it is for the middle and lower classes to influence the whole.*) If such a common motive existed to oppress others under a single faction, it will be more difficult for the oppressing faction to act in unison. (*Consider how the Republican party re-wrote its rules to function entirely as a centralized command, after the Ron Paul movement in effect rebelled from the centralized leadership, in fact with modern technology, the larger the scale, the easier to dominate in some cases at least.*)
26. Additionally where there is a conscious awareness of dishonorable purpose, communication is checked by distrust in proportion to the number whose concurrence is necessary. (*This is the main argument against conspiracies. In fact what we hear is that in cases of Governmental criminal misconduct, such as seems to have occurred in the Kennedy assassination, the rank and file are simply told to keep their mouths shut – about some piece of the puzzle they are involved with, without telling the policeman or agent the entire dimensions of the conspiracy.*)
27. A large republic's advantage over a small one: (My critique in this section is not necessarily of Madison directly here, as he conceived of a congress where a single representative would represent between 10,000 and 100,000 people – rather than now as many as 19 million (Feinstein) and an average of 750,000).

1. ² *Indeed it originally specified not more than 1 representative for each 30,000 residents. When the House first convened there were 60,000 per representative. **This would mean a House of 5,000 would be required to fit the original scale.*** ² *I am of the opinion that rather than simply increase the house to 2,500 to 5,000 members, we should indeed set a maximum limit per representative of 100,000 people, and that it should no longer be assumed they will all sit in a room together, but that they could work as the rest of us do, via online methods, but that would we should add a 3rd chamber that is not bound by state that permits voting nationally and that each representative in the Parliament or National Assembly represent exactly as many votes as he obtains, with a minimum number of votes being set at 60,000 the original number. People voting for people who do not get elected would be allowed a second round, or perhaps simply be fractional representatives, in which case no person would ever 'lose'. Your vote would always delegate your political power successfully. This Internet Congress could include voting for yourself. Rules could be set in place that some minimum level of participation occur, and the office would not necessarily have any budget or salary.*

- a. A single faction is less likely to dominate. *(Hitler, Stalin, Corporatism). Tyranny is in fact no less likely to occur on vast scales, and in fact is more likely).*
 - b. The representatives are more likely to carry enlightened views and virtuous sentiments, superior to local prejudices. *(Yet if absolute power corrupts absolutely, does not great power also corrupt greatly?)* It is likely that the National Representatives will have these qualities.
 - c. Does it consist in greater obstacles opposing the accomplishment of secret wishes of an unjust and interested majority? *(Worse than that, money and power hoodwink the majority into clamoring for their own oppression by a plutocratic minority). The question is how does scale prevent a faction from doing violence to the public good and the peoples freedom? What is the correct scale? I believe one attractive approach is strong local voluntary solutions with a light weight libertarian superstructure.* In this time of alienation and centralization the impulse is to the opposite end of the spectrum, yet the central government at whatever scale it is envisioned must keep in check any one group from dominating the others. However it is possible that if we can restore freedom and liberty we can do it by reclaiming the resources, land and property stolen from us through corruption and fraud, certainly into the trillions of dollars, and being careful to buy and trade with local businesses and institutions that treat their employees or are owner operated or worker owned. Then from there carefully buy from companies that have the same values that are larger, and simply cease feeding the behemoths that use our profits to buy our representatives.
28. Factional leaders may kindle a flame in a region, but will be unable to spread to all regions. Religious sects may degenerate into a political faction in a region, but on sufficient scale the number of faiths and sects will prevent any one sect from dominating. *(Rise of the evangelical right).* A rage for paper money, or the equal distribution of property, or the abolition of debts or any other violation of the rights to property of the citizenry will be less likely to come to pass in a larger union. *(Here he is right, a revolution of the poor is harder to accomplish with a more powerful state!)* A Federal Republic will best address these issues. *(This final note ends powerfully enough. But it is a matter of how this Federal Republic is organized. We currently are strangled and immobilized by vast power structures, factions who prevent anyone from entering office not in either of the 2 parties, meaning anyone not choosing these pseudo choices has his political voice strangled. This was not intended. That the same interests fund both of these two parties to ensure that they cannot lose regardless of the appearance of a transfer of power. A Federal Republic in and of itself is workable, but not one where the minority always loses elections to 2 parties owned by monied interests, that control the presses, and the minds of the citizens, by spending whatever amount of money is necessary to prevent their own loss of ever greater accumulation of wealth at the expense of the poor and the middle class through non productive activities – such as stimulating the appetite for products. Consumption is not production. This is a fallacy, less consumption is greater wealth in many cases not less wealth. Corrections, Military Spending Disaster Capitalism all show that what we call the economy is something that only exists because we are not self sufficient. If we were self sufficient we would not need ‘jobs’, that is an allocation of a small crumb of massive corporations production. I must end on the note: 75% of our economy does not produce real wealth, and non productive*

activities actually destroy wealth. Many occupations at the right scale are necessary, but as each seeks to expand their empire they spread like cancers. The Military, Spying, Bureaucracy, disaster medical capitalism (diabetes), Finance run amok, Insurance being more than 1 or 2 % at max of our overall economy, food becoming fake, real food becoming prohibitively costly, Real Estate at greater than 1 or 2 % of our economy, the loss of manufacturing and industry, inflation of 8% in Education and Medicine, while savings pay an interest of 1 or 2%, all these are example of a fluff “busy work economy” rather than the peace and quiet of a self sufficient free citizenry that sells their services rather than their time. The Yeoman Freeholders of old had a family business for buying luxuries and manufactures, and a wholly owned farm and homestead for their basic needs. We can achieve this in modern times with technology. We could live extremely well all of us – if we spend 10 or 20 years rebuilding and restructuring our Republic and our “economy”

i

The screenshot shows the OpenSecrets.org website with the following content:

- Browser address bar: www.opensecrets.org/bigpicture/reelect.php
- Navigation menu: Politicians & Elections, Influence & Lobbying, News & Analysis, Resources, Take Action, About Us, Donate!
- Breadcrumbs: Home » Politicians & Elections » Historical Elections » Reelection Rates Over the Years
- Section Header: **Reelection Rates Over the Years**
- Text: "Few things in life are more predictable than the chances of an incumbent member of the U.S. House of Representatives winning reelection. With wide name recognition, and usually an insurmountable advantage in campaign cash, House incumbents typically have little trouble holding onto their seats—as this chart shows."
- Figure 1: **US House Reelection Rates, 1964-2010**. A bar chart showing reelection rates for House members. The y-axis ranges from 0% to 100%. The x-axis shows election cycles from '64 to '10. Rates are consistently high, mostly between 80% and 100%.
- Text: "Senate races still overwhelmingly favor the incumbent, but not by as reliable a margin as House races. Big swings in the national mood can sometimes topple long time office-holders, as happened with the Reagan revolution in 1980. Even so, years like that are an exception."
- Figure 2: **US Senate Reelection Rates, 1964-2010**. A bar chart showing reelection rates for Senate members. The y-axis ranges from 0% to 100%. The x-axis shows election cycles from '64 to '10. Rates are generally high but show more volatility than House members, with a notable dip around 1980.

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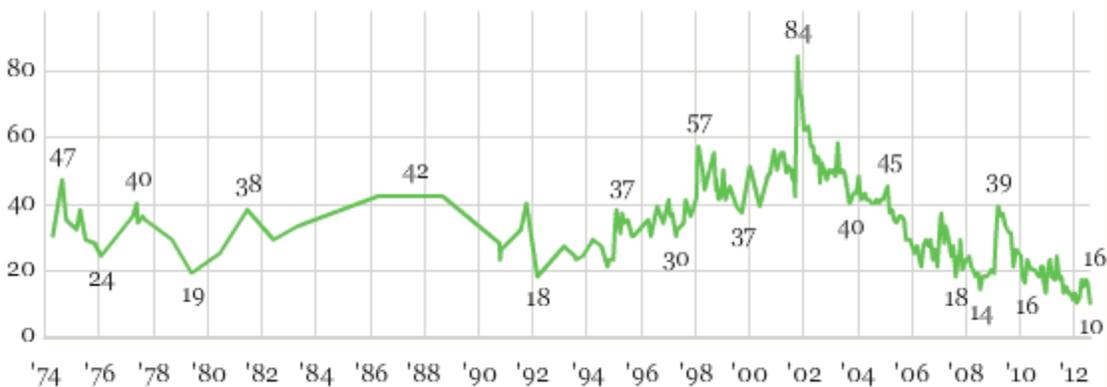
The Paradox of a hated congress and a loved local incumbent:

Are term limits what the people need ? Statistics don't actually tell us. People like their local leaders - but not the overall result apparently. Still the re-election rates vs the general approval rating indicate change is needed of some kind.

EXHIBIT 1: From http://www.huffingtonpost.com/2012/08/14/congress-approval-rating-all-time-low-gallup-poll_n_1777207.html

Do you approve or disapprove of the way Congress is handling its job?

■ % Approve



GALLUP

EXHIBIT 2: From http://livableworld.org/elections/2012/approval_ratings_for_incumbent_senators/

Approval Spread Senator

59/29 +30 Amy Klobuchar (D-MN)

53/29 +24 Scott Brown (R-MA)

56/34 +22 Olympia Snowe (R-ME)

50/34 +16 Jeff Bingaman (D-NM)

50/35 +15 Herb Kohl (D-WI)

42/28 +14 Ben Cardin (D-MD)

49/35 +14 Daniel Akaka (D-HI)

50/37 +13 Dianne Feinstein (D-CA)

45/33 +12 Kay Bailey Hutchison (R-TX)

50/40 +10 Jon Tester (D-MT)

45/36 +9 Tom Carper (D-DE)

47/39 +8 Jon Kyl (R-AZ)

43/37 +6 Jim Webb (D-VA)

42/37 +5 Kirsten Gillibrand (D-NY)

40/37 +3 Sherrod Brown (D-OH)

36/33 +3 Bill Nelson (D-FL)

44/41 +3 Maria Cantwell (D-WA)

41/40 +1 Debbie Stabenow (D-MI)

43/44 -1 Claire McCaskill (D-MO)

36/40 -4 Bob Casey (D-PA)

41/48 -7 John Ensign (R-NV)

33/54 -21 Joe Lieberman (I-CT)

1. ⁱⁱⁱ ? *In our present predicament, we must look at what scale does Government function best. With a mass media, all these factors must be compared to the situation at the founding, where indeed the press also had considerable power. At this point in Federalist 10, one becomes incredulous. In America today, elections are won by a faction often with the majority of money, and then the other faction supplicates those with the money offering equally agreeable terms. Those with money fund both, content that should either be elected, their interests will be given first priority, and it becomes a bidding war, between the very wealthy. Any attempt to upset the majority of financial interests with policies that endanger their self interest will be met with an onslaught of advertisements, so only subtle reforms can proceed, or by appealing to the civic mindedness of the plutocrats, concessions are obtained. In reading this document, I begin to be concerned that the true founders worth their salt might be Aristotle, Cicero and John Locke, and that James Madison could only see as an ordinary man.*