TEXTING A NATION?

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Trish Loughran, *The Republic in Print: Print Culture in the Age of U S. Nation Building, 1770–1870* (New York: Columbia University Press, 2007)
Eric Slauter, *The State as a Work of Art: The Cultural Origins of the Constitution* (Chicago: University of Chicago Press, 2009)

Since its publication in 2007, Trish Loughran's *The Republic in Print* has earned a reputation as a trenchant critique of the vision of the pre-1876 United States as a state whose national integrity depended upon the dissemination of print. Commentators fixed particularly on its argument that the early republic never manifested that degree of integration of internal improvements, roads, print technology, and local interests to materialize the Federalist vision of nationhood. In some circles it was hailed as a salutary counter to historians who embrace Benedict Anderson's account of the national imaginary—a virtual nationhood irradiating citizens' imaginations through reading newspapers and novels that impute national being. Loughran marshaled evidence that no newspaper, certainly no novel, and not even that most legendarily popular imprint, Thomas Paine's Common Sense, enjoyed sufficiently broad distribution to invoke even a coherent fantasy of national identity. In print-culture studies she has emerged as the most vocal chronicler of the fragmented republic. She has earned the respect of those political historians who have pondered the incapacity of public-sphere historiography to account for the republic's drift into the contending sections of the 1830s and the warring states of the 1860s.

The Republic in Print combines an investigation into the printing and distribution of two founding texts, Paine's Common Sense and The Federalist, to demonstrate that any claim that they gave voice to "the people" calling into being a consensus on behalf of independence or ratification has little concrete evidence supporting it. Calling into doubt Paine's claims about the number of copies of pamphlets printed and their universal availability before 4 July 1776, Loughran charts the reprintings, mailings, excerptings, and citings of Paine's

work, in a systematic, empirical way that recalls the work of William J. Gilmore.¹ The evidence bears out her main contention: Common Sense did not invoke a continental popular opinion on behalf of independence—it was never read by or to enough people to do so. Rather, it supplied a rhetorical superstructure that gave representatives of the Continental Congress sufficient warrant to favor independence as a responsible course. Loughran here gives some material heft to a kind of argument that has enjoyed currency among literary scholars—I think of Robert Ferguson's discussion of the rhetoric of public documents in the American Enlightenment particularly—that attends to the strategies for eliding present conflict in favor of future comity, particular interests in favor of general principles and desires.2

Loughran finds more guile than Ferguson does in the prospective character of Common Sense. For Loughran it inaugurates an effort at virtual nationbuilding that would mature in the Federalist strategy to exploit the distances and inefficiencies of communication in America to design a centrally administered extensive republic in the control of an eastern white propertied elite. If you proclaim a continental public and repeatedly invoke it in print, it will become the imagined space that they will inhabit whenever they can lift their minds out of the local ambit of self-interest and neighborhood anxiety.

Loughran sees Federalism as a politics that employed media and ideology to eradicate the range of mediating communal formations between the self and the public, the provincial locale and the metropolitan center whence print emanated. Legislation, knowledge, news, and opinion did not so much circulate in these schemes as disseminate from a center, with ineffective means of returning people's ideas to the center. Print—particularly the eighteenth-century newspaper—was in Loughran's view an ineffectual vehicle of public debate, or even dissemination.

Loughran's assault on the effectiveness of print as a medium of information and opinion is coupled with a critique of Michael Warner's picture of the anonymous authority of print—that influential discussion in Letters of the Republic which found in authorial anonymity and pseudonymity a means of abstracting the self (and self-interest) of the author from the text, freeing it to be taken up by a reading public as a disinterested or abstract presentation.³ By citing several incidents in the publication of the Federalist series, wherein readers, particularly anti-Federalist rivals, attempt to discern the particular persons

William J. Gillmore, Reading Becomes Necessity of Life: Material and Cultural Life in Rural New England, 1780–1835 (Knoxville: University of Tennessee Press, 1993).

Robert Ferguson, The American Enlightenment, 1750-1820 (Cambridge, MA: Harvard University Press, 1997), 124-49.

Michael Warner, The Letters of the Republic: Publication and the Public Sphere in Eighteenth-Century America (Cambridge, MA: Harvard University Press, 1992), 97-117.

and interests operating behind the mask of Publius, Loughran indicates that pseudonymity was a more difficult condition to achieve that Warner suggests. A point well taken. Less well substantiated is her claim that certain persons suspected anonymity as a cowardly hiding of one's views. In sum, "Too many people did not read or did not have access to the same texts or, in some regions, to very many texts at all, and far too many people mistrusted printed accounts." While it is true that after the rise of Grub Street in the 1690s, that truth was not automatically linked in English-speaking territories to printedness, the consumer of information nonetheless recognized a meaningfulness in what came off the press. The fact that someone capitalized the representations made in print automatically raised them in importance over rumor, for "talk is cheap." Nigel Smith, in his discussion of the emergence of the newspaper during the English Civil War, made the point that the newspaper became popular precisely in distinction to the chaotic welter of talk.4 That someone would bankroll an item of intelligence gave it a raw kind of credit—not necessarily as truth, but as a register of wish or conviction. It is a kind of political knowledge to be acquainted with the current bankable views.

I see little evidence in the 1780s or 1790s of any marked resistance to print qua print. Indeed, the scarcity of imprints in parts of the interior so scrupulously documented by Loughran had the effect of vesting metropolitan items with curiosity value. What was problematic on the margins was the market for materials by the country printer. Did the coastal cities yearn to hear the voice of the frontierspeople? Dubious. One way to test Loughran's characterizations of the print world of the early republic is to turn the focus away from such canonical expressions of national/metropolitan vision as Common Sense and The Federalist. Consider, instead, the testimony of Philip Freneau, the most traveled writer/editor/publisher/printer in the early republic, who opposed the consolidating program of Hamilton and John Adams. In 1793, in the midst of a paper war with the Washington-Adams contingent over the attempts of Martha Washington to create national consciousness by creating a national governing class by marriages between the states' great families (the provocation for the spate of aristocracy scare stories of the period), Philip Freneau, editor of the Jeffersonian democratic National Gazette, published his "The Country Printer," nominating the rural pressman as the binding force of the republic, not the attendees of Martha's Republican Court.⁵ His portrait was decidedly antiheroic, and in many regards validates Loughran's picture of print culture. The country printer inhabits an interior town—a minimal place—tavern, mill, blacksmith's

Nigel Smith, Literature and Revolution in England, 1640-1860 (New Haven: Yale University Press, 1994), 54-8.

Philip Freneau, "The Country Printer," Poems Written between the Years 1768 and 1794 (Monmouth: Philip Freneau, 1795), pp. 421-4.

shop, meetinghouse, and a market house built on spec, but a stillborn enterprise, "its fabric mouldering down." The printer is not a representative citizen, but "an odd and curious wight" who loves his native place, yet hungers for the three weekly visitations of the stage, the "printer's harvest-time of news." He engages strangers in conversation, but most covets glimpses of the contents of the postboy's leather budget. "All is not Truth ... that Travellers tell," but his readers want stories, more than facts. "If he prints some lies, [they] his lies excuse. / Earthquakes and battles, shipwrecks, myriads slain / If false or true-alike to him are gain." The scope of the news is "whate'er is done on madame Terra's stage." He gives the world to the locality. "One while, he tells of monarchs run away; / and now, of witches drown'd in Buzzard's bay." Freneau is no mouthpiece for Enlightenment platitudes about the press as the instrument of reason and guardian of truth. So far Freneau limns a Loughranesque world, yet in the final stanzas of his portrait Freneau offers something more; the country printer had been "the patriot" in the town, who incited his neighbors to Revolution: "Rous'd by his page, at church or court-house read, / From depths of woods the willing rustics ran." The narrative breaks off to directly address officials of the American government:

Since to the pen and press so much we owe Still bid them favour freedom's sacred cause. From this pure source, let streams unsullied flow; Hence, a new order grows on reason's plan, And turns the fierce barbarian into-man.

What does Freneau reveal in these lines? First, despite the ineffectuality of print and the desuetude of the provinces, writing and print remain the chief instrumentalities of the civilizing process. Second, freedom is the pure source from which reason emerges. Freneau conceived reason in terms of judgment, order, measure. Only in the untrammeled contestation between various views, interests, could human judgment improve beyond ferocity, instinct, and barbarism. The greatest danger to this freedom lay in the laws that the legislators frame. Print, being historically more tractable to legal control and curtailment than conversation, was particularly vulnerable.

I am interested that the most voluble anti-Federalist detected in print—and print in the territorial margins particularly—is a necessary instrument to the health of the "new order" (he does not use the term "nation"). Why so important in 1790? Since I approach Loughran's account of the early republic from a knowledge of the transatlantic print world of the colonial era, and not from the viewpoint of someone concerned with the literature of the United States (whether from a national or a transnational perspective), I am puzzled by the felt need for print in the last quarter of the eighteenth century. For me that answer to the first of her inaugurating questions, "how do we account for nation formation in the material absence of a national print culture," is readily answered by the old imperial formula—by a code of written laws, administered by an officialdom, and enforced by some armed company, whether army, militia, or constabulary. During the colonial era the frontier disorders occasioned by the lack of these structures provoked the Regulator agitations and the formation of an armed posse comitatus that forced coastal oligarchies to extend courts and protection to the interior.

The potency of law did not depend upon print, for the colonial legislature's journal of its Proceedings and Acts possessed determinative authority as the legal record. All subjects/citizens were obliged to abide by the provisions whether they read the record or not, and liable to punishment for any violation; ignorance was no defense. Print might enhance conformity to law by making its provisions broadly available; it might amplify the prestige of the legal code, by collecting and designing the laws in impressive volumes, such as Thomas Bacon's 1765 Compilation of Laws for Maryland. Yet the mere fact that summary collections of statutes did not appear until 1710 for New York, 1730 for Rhode Island, 1732 for New Jersey, 1733 for Virginia, 1736 for South Carolina, 1742 for Pennsylvania, and 1765 for Maryland indicates that these polities operated for decades without needing printed codes. Some colonies never printed their legal code—Georgia, North Carolina, New Hampshire. Something happens with the Revolution perhaps the anxiety over legitimacy may explain the strange compulsion toward published constitutions and the employment of the press both as an instrument of government and a medium for public expression.

I take the strange case of the failed state of Franklin (1784-8). A group of settlers in the Wautaga basin of present-day Tennessee found themselves so far removed from the institutions of North Carolina, Virginia, and South Carolina that they compacted themselves, declared independence from North Carolina, gathered to organize a government, and composed two Constitutions. The Constitution was prepared by a local scrivener and copies were distributed to the local militia companies, the most coherent institutional structure with which to communicate information on the frontier. The citizenry gathered in convention to ratify the document. The initial Constitution was deemed untenable after the Confederation Congress failed to approve Franklin's petition for admission as a state. A second was prepared, on the model of Vermont and Pennsylvania, with a unicameral legislature to promote egalitarianism. But what was most fascinating about this charter was its provision that the press be the vehicle for insuring the say of the People in government. It would enable a plebiscite democracy of sorts, with participation rather than representation. Two key provisions:

Sec 6. The votes and proceedings of the General Assembly shall be printed weekly, during their sitting, with the Yeas and Nays on any question, vote, or resolution ... when two members require it.

Sec 7. That the laws, before they are enacted, may be more maturely considered, and the danger of hasty and injudicious determinations as much as possible prevented, all Bills of a public and general nature shall be printed for the consideration of the people, before they are read in the General Assembly the last time, for debate and amendment; and except on occasions of sudden necessity, shall not be passed into laws before the next session of the Assembly.6

Later, to insure that the citizenry understood the Constitution, the legislature had to employ someone to create a catechism for use in schools. Furthermore, the state would insure that "a sufficient number of the Constitution be printed, and that each citizen may have one, as the inviolable charter of his privileges" (Sec. 42). These constitutional mandates required printing to be a function of the process of citizen assent when no press and no pressman existed in the territory declaring independence. In as radical an imagined democratic polity as existed in the early republic, the press was envisioned as the engine or order.

My point is this: while Loughran rightly charts the fantasy among Federalists of print culture as the means of developing a national public tractable to administration, radical democrats also had their fantasy of the press as the medium by which citizens might be aggregated into the People to participate in government and legislation. Writing on printed drafts of laws, submitting them to the district registers (a local official who instructed elected representatives), presented expressions of popular will inscribed over the representations of legislatures that might be incorporated into law. This was the other potentiality elaborated in early national politics. The press seemed bound to the political future in the imaginations of a broad spectrum of political actors in the 1780s and 1790s. In their visions print would bind the local to the general.

A word about Loughran's concept of locality. While she is thoroughgoing and self-conscious in her demythologizing of the idea of the pre-1830 United States as an integral nation, she maintains a mystique of the local. In her argument, locales possess materiality, fixity, actuality, integral identity, and separation. They are inhabited by specific humans moved by discrete interests. This is not necessarily the view held by current theorists of American material culture. "Presence of place" in locales, according to Bernard L. Herman, author of important works on urban material conditions (*Town House*) and rural situations (*The Stolen House*), is found in "comportment"—the particular ordering in space of materials and

Samuel Cole Williams, History of the Lost State of Franklin (Baltimore: Geneaological Publishing Company, 2009), 301-3.

practices to a set of conditions on the ground and perceived functions.⁷ Much of what characterizes a building in any locality partakes of a general customary practice (the size and manufacturing method of bricks, the size of wood shingles, the rafter system, and so on) that is altered only incidentally in local application. So locality is irradiated with generality. It is not so isolate and autochthonous as Loughran would have us believe, if we are to think about it materially.

Loughran's reconstruction of the Federalist ideology of expansion into the continental interior is curiously constrained by the kind of internal, national perspective that she critiques. The international, diplomatic dimensions of the questions who will occupy the continent and how will the territory be governed are sidelined. The weakness of the Spanish administration of Louisiana in the 1780s and 1790s; the anxiety that French designs to take over the territory, particularly during the Genet episode, inspired; the perceived threat of the closure of the Mississippi River as a conduit of transport for agricultural goods produced in the interior regions of the United States; the fear of secret diplomatic negotiations transferring vast North American territories—all gave the question of extension a fateful weight. It is for this reason the Jeffersonians as much as the Federalists opted for expansion. If the United States government did not take the initiative, certain adventurers would. We must not forget that filibustering was almost a pathological enterprise during the period Loughran treats, with a high percentage of US and state officials as principle movers—senator William Blount's conspiracy in Florida, Aaron Burr's march on New Orleans, the West Florida revolution, William Bowles's Muskogee republic, the Natchez republic. Generals George Rogers Clark and James Wilkinson, Senator Adair of Kentucky, Governors Quitman and Sam Houston all grew impatient with American diplomatic policy, and surrendered to their inner Napoleon.8

I have laid out these two major conceptual shortcomings of Loughran's book—here myopia about the political communities backing expansion and her inattention to the binding power of law in polities regardless its being printed not with the desire to confute her thesis. From the viewpoint of colonial printculture studies, her claim that a transregional infrastructure and printing industry of sufficient scale to constitute a national public did not exist until the 1830s seems sensible. That public intellectuals in the last quarter of the American eighteenth

Bernard L. Herman, Town House: Architecture and Material Life in the Early American City, 1780-1830 (Chapel Hill: University of North Carolina Press, for the Omohundro Institute of Early American History and Culture, 2005), 3-5; idem, The Stolen House (Charlottesville, VA: University Press of Virginia, 1992).

David S. Shields, "'We Delare You Independent Whether You Wish It or Not'": The Print Culture of Early Filibusterism," in David S. Shields and Carolina Sloat, eds., Liberty, Egalite! Independencia! Print Culture, Enlightenment, and Revolution in the Americas, 1776-1838 (Worcester: American Antiquarian Society, 2007), 13-30.

century imagined a national public and an extended republic also seems amply supported. I do not, however, think faith in print's power to bind localities to metropolis, and state to state, a peculiarly Federalist belief. As to the additional claim that when a national print culture did emerge it gave rise to a consciousness of difference, and promoted sectional identity rather than national, I think that the case cannot be proven conclusively by focusing on the printed literature that most aggravated sectional sentiment. The controversial literature over slavery and the Fugitive Slave Law should not be the sole evidentiary corpus. Loughran may ultimately be correct, but that cannot be determined until another print corpus, less explicitly divisive, is examined. I would nominate the literature of agriculture, since every region of the United States depended upon grazing and farming, since the 1830s to 1860s saw the vast expansion in titles, journals, and authors; since a fair amount of cross-regional re-publication of articles took place; and since it recognized in its contents local, regional, national, and international registers of discussion.

If Loughran combines a hermeneutic focus on a relatively few texts and a broad survey of local scenes of print production and reception to explore the disparity between imagined nationhood and materialized community, Eric Slauter in his The State as a Work of Art explores the US Constitution as a text that depends greatly on a body of images and ideas about artifice and works of art shared by a transatlantic community of writers in order to construct a state. If Loughran entertains an anti-Federalist suspicion of the artifices of imagination in Federalist Constitution making, Slauter takes it for granted, and indeed naturalizes it as an appropriate means of making a nation. Besides shared material practices and shared manners, many Euro-Americans had a shared aesthetics. To reveal the employments of this aesthetics Slauter follows an expository method different from those of the many legal historians and historians of political ideas. If one were to describe the form of Slauter's scholarship, J. G. A. Pocock's term "a scholarly ecology" would best suit. Each chapter has a thesis, but the point is demonstrated by something more historical and symbological than thick description. An argument takes place by the intensive exploration of an image or a term—"representation" in chapter 3, for instance—showing the range of usages in both the central and peripheral writings of the various contestants over the Constitution. From these usages Slauter identifies two prevailing models of representation: the miniature painting and the oral transcript. Then Slauter supplies a detailed history of the theory and practice of miniature painting and the transcription of institutional proceedings. Circulating through texts, paintings, and transcribed proceedings, Slauter reveals the way political controversy pulled

J. G. A. Pocock, Barbarism and Religion: The Enlightenments of Edward Gibbon, 1737–1764, vol. 1 (Cambridge and New York: Cambridge University Press, 1999), 10.

the terms in various directions. The slippages, "inconsistencies," and ambiguities reveal the degree to which consensus or dissensus reigned in the framing of a plan for the national edifice.

Slauter's method of plotting a map of expressive possibility around the language of the United States Constitution is purposely less denotative in its approach to the meaning of the text than the parsings of terms and survey of applications found in constitutional history and legal history. It does, however, bear some relation to the terminological contextualizations found in the thickdescription practitioners of the history of political thought, Quenten Skinner and J. G. A. Pocock. What distinguishes Slauter is his willingness to range into discursive areas farther afield than those examined by thick contextualizers. Indeed, his willingness to explore the eighteenth century's penchants for linguistic and visual wit has him pondering the sexual innuendos of the founders' choice of the word "erection" to characterize state building and their iconographic obsession with representing states as standing or tumbling columns. For those who regard the country's founding charter as quasi-sacred writ and its authors as men of single-minded seriousness (B. Franklin excepted, of course), Slauter's free way of bringing contemporary lexical and graphic usages to bear on the text will no doubt seem aggravatingly messy to some scholars. Yet like word-cloud analysis of texts or Ludwig Wittgenstein's later philosophical investigations circulating through the plethora of common language uses of terms, Slauter's ecology of aesthetic expression performs the service of bringing to view dimensions of a text not remarked heretofore. When Slauter recalls the way "representation" comprehended "transcription" and "report" it develops ambiguities of inflection that make its political meaning something other than cut and dried. The refreshment of the language of the Constitution is a remarkable achievement since the text has been subjected to analysis by generations of brilliant expositors.

Perhaps the most conventional dimension of his analysis is his lexical inventory of terms employed by the framers of the Constitution that expresses their work on that compact as an artificial construction. His exploration of terms in this inventory reveals the extent to which the written Constitution captured the taste, manners, mores, and sensibilities of its transatlantic Euro-American culture. What are the consequences to Slauter's recovery of the Federal Constitution as a compact that conceived the state as a work of art? It depends on your investment in the concern about the framers' original intent, for he demonstrates that the framers originally intended the Constitution to change. If the national compact was designed to register the manners, tastes, and culture of a people, and if those manners and tastes change, as history indicates they invariably do, then the compact should change. Slauter's recontextualization of the original conception of the Federal Constitution as an artificial construction discovers an "original intent" that does not fix provisions into legal or political dogma—into the sacred

writ of an American civil religion. This finding will be of interest to more than literary scholars, intellectual historians, and students of American culture.

Other persons have attempted to show the interpenetration of American culture of the Revolutionary era and the political ideals imbedded in the United States' founding charters—Kenneth Silverman in The Cultural History of the American Revolution (1976) and Robert Ferguson in The American Enlightenment (1997) come immediately to mind. Slauter's account surpasses Silverman's classic work with the elegance, orderliness, and economy of its argument, and eclipses Ferguson's with its range of reference and greater attentiveness to the issues of race, slavery, and the place of God in Constitutional discourse. It shares with both works a lucidity of style that invites readers from beyond the disciplines of literary study and political thought.

Part of the success of Slauter's historicized aesthetic analysis lies in his strategy of conducting concurrent iconographic and tropological investigations. Findings in the graphic art of the period confirm discoveries made in his search of texts about, for instance, the supplanting of images of the state as a body politic with that of a building (chapter 1), or the participation of women in the judgments of taste, and the role of taste in understanding the character of representation in its manifold political and aesthetic significances (chapter 2). As a decoder of images, Slauter has an acumen like that possessed by the best of the newer scholars of the American fine arts—on a par with art historians Maurie McInnis at the University of Virginia and Wendy Bellion at the University of Delaware. The readings of John Trumbull's painting The Declaration of Independence and the European mezzotint Washington Giving the Laws to America strike me as being particularly masterful, deploying a newer, more nuanced understanding of the multiform ways that neoclassicism became a figurative mirror for the framers' ambitions. This iconographic expertise is matched by a deep knowledge of the current scholarship in material-culture studies and early American visual culture.

Among the sharpest delights of Slauter's book are the self-contained historical set pieces, such as the learned survey of the transatlantic history of transcribed deliberations of public bodies, or the reconstruction of how neoclassical imitation became identified with enslavement. From chapter to chapter a reader encounters different topoi and different zones of specialized knowledge, and sometimes a different methodological tool.

While I admire the extraordinary ingenuity and labor evinced in this book, there remain parts of it that stand improvement. Why was there no citation of the ample mid-eighteenth-century Masonic literature linking building and civic organization? Surely this literature was familiar to more than a few of the framers. While Slauter usefully explores the way in which the Pauline picture of the church as the body of Christ predisposes colonial constructions of the body politic, he forgets that scripture also presents the body of Christ as a building, "This Temple . . ." So scripture warrants to a certain extent the transmutation of

bodies into buildings. There are works of secondary literature, too, that should appear, for instance Vincent Carretta's important piece on the black savant "Francis Williams"¹⁰ (who figures in Slauter's argument in chapter 4), or the 1981 article "Happiness in Society" in chapter 5, "Being Alone." These are minor points. No one-no historian nor legal expositor of the Constitution (and I include Jack Rackove in this assessment) has read as deeply in the controversial literature directly concerned with the ratification, and as broadly in those texts and pictures that illuminate the terms of argument in the controversy. This is a book that creates new knowledge about both of the key documents of the American founding.

In Part II of *The State as a Work of Art*, Slauter touches upon the concern that will drive his next major project and has engendered a preliminary meditation, "Written Constitutions and Unenumerated Rights"—the spread of the conviction among every class of persons in Anglo-America that they possessed innate rights. Slauter's proposed "A Cultural History of Natural Rights in America, 1689-1789" promises to use the same procedures used in his first book to discover how women, disenfranchised white males, resident aliens, African American slaves, and even Native Americans over the course of the eighteenth century absorbed and refracted a body of beliefs about rights and applied them to their political circumstances. While I think that Slauter overstates the restricted nature of current inquiry into the history of natural rights (Michael Zuchert's investigations strike me as particularly wide-ranging and supple),12 I do not doubt that he could produce a study that would revise our understanding of the relationship between local context, universal norms, and political modernity provided Slauter exercises the same sort of skeptical inspection of local scenes and attentiveness to the imperfect transmissions of texts and ideas through American space that Loughran has displayed in The Republic of Print. The one danger of expressive ecology as a method is that it pays insufficient regard to the material connections between speech acts, occasions, and texts. Only the boots-on-theground analysis of transmission and communication conducted by the materialist wing of the book-history movement can counteract the tendency to vaporousness that expressive ecologies inflate into. Fortunately, Slauter has spent sufficient time at the American Antiquarian Society and done the sorts of quantitative and spatial work that would be required. So I hope for the best.

Vincent Carretta, "Who Was Francis Williams?", Early American Literature 38/2 (2003), 213-37.

David S. Shields, "Happiness in Society: The Development of an Eighteenth-Century American Poetic Ideal," American Literature 55/4 (Dec. 1983), 541-59.

Michael Zuchert, "Natural Rights and Imperial Constitutionalism," in Ellen Frankel Paul, Fred Dycus Miller, Jeffrey Paul, eds., Natural Rights: Liberalism from Locke to Nozick (Cambridge and New York: Cambridge University Press, 2005), 28-55.