

Notes — Week 12

Michael Brodskiy

Instructor: Mr. Bradshaw

Period 3

- Anti-federalists wanted a guarantee of rights, which manifested itself in the form of the Bill of Rights
- States wanted amendments
- Federalist Papers #10 was the answer to Brutus #1
- The Federalist Papers: No. 10
 - A free republic can not succeed over a country of such immense extent (in reference to Baron de Montesquieu, *Spirit of Laws*, chap. xvi. vol. I [book VIII])
 - Popular governments — Pure democracy
 - “The instability, injustice, and confusion introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished”
 - Failure is necessary in a free republic
 - “...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”
 - “Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency”
 - Factions arise from human nature (as does property, which may cause factions)
 - Source of factions is the “various and unequal distribution of property”
 - “Enlightened statesmen will not always be at the helm”
 - Majority rule with minority rights
 - Pure democracy limited by the majority

- “Hence it is that such democracies [pure democracies] have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths”
- “Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions”
- “You have the right to remain silent” — Part of the Miranda rights (and fifth amendment)
- The fifth amendment comes from the Star Chamber, where people would be tortured into confession (John Lilburn)
- “If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.” — Fed. 51
- The fundamental starting point of the US justice system is “innocent until proven guilty”
- The United States has an adversarial system of justice