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VIRGIL AND THE CONSTITUTION

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All three legends on the Great Seal of the United States are adaptations of verses attributed to the Roman poet Virgil—reflecting Virgil's status as the unofficial "poet laureate" of the American founding. This Article examines how Americans employed Virgil's poetry during the debates over the United States Constitution. It also explains how the selected passages implicate constitutional meaning.[1]

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The Author acknowledges the research assistance of Ellie Carson, an Independence Institute intern. Unless otherwise indicated, translations from the Latin language are by the Author. The Author's translations are rendered from the Latin text in R.A.B. Mynors' Oxford edition; Latin quotations or Latin-to-English translations found in works cited by this Article are rendered from other Latin texts.

[1] *Bibliographical footnote*. This footnote collects sources cited more than once:

THE DOCUMENTARY HISTORY OF THE FIRST FEDERAL CONGRESS, MARCH 4, 1789–MARCH 3, 1791 (Charlene Bangs Bickford et al. eds., 2019) [hereinafter FIRST CONGRESS].

THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION AND THE BILL OF RIGHTS (John P. Kaminski et al. eds., 1976–2025) [hereinafter DOCUMENTARY HISTORY] (thirty-nine of forty-one volumes in the online edition).

AELIUS DONATUS, LIFE OF VIRGIL (David Scott Wilson-Okamura trans., rev. ed. 2014), http://virgil.org/vitae/ (on file with the Regent University Law Review) (cited by traditional chapter number).

THE ECLOGUES, GEORGICS, AND MORETUM OF VIRGIL (George Stuart ed., Philadelphia, Eldredge & Brother rev. ed. 1885) [hereinafter MORETUM].

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ALISON KEITH, VIRGIL (2020).

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INTRODUCTION

During the founding era, Americans informally adopted the Roman poet Publius Vergilius Maro[2] (70–19 B.C.E.) as their poet laureate. This Article focuses on how Americans employed Virgil's work while the proposed Constitution was being debated in and outside the state ratifying conventions. The period covered is between September 17, 1787, when the Constitution was signed and released to the public, and May 29, 1790, when Rhode Island became the thirteenth state to ratify—the most relevant period for seeking the Constitution's original understanding or original meaning. How the debate participants used Virgil's works sheds

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Robert G. Natelson, *What the Constitution Means by "Duties, Imposts, and Excises"—and Taxes (Direct or Otherwise)*, 66 CASE W. RSRV. L. REV. 297 (2015).

M. VALERII PROBI IN VERGILII BUCOLICA ET GEORGICA COMMENTARIUS [THE COMMENTARY OF M. VALERIUS PROBUS ON VIRGIL'S BUCOLICS AND GEORGICS] (Heinrich Keil ed., Halle, Eduard Anton 1848) [hereinafter PROBUS].

CARL J. RICHARD, THE FOUNDERS AND THE CLASSICS: GREECE, ROME, AND THE AMERICAN ENLIGHTENMENT (1994).

SARAH RUDEN, VERGIL: THE POET'S LIFE (2023).

GAIUS SUETONIUS TRANQUILLUS, VITA VERGILI [LIFE OF VIRGIL] (J.C. Rolfe trans., 1914) [hereinafter SUETONIUS] (cited by traditional chapter number).

1 COMMENTARII IN VERGILIUM SERVIANI [THE COMMENTARIES OF SERVIUS ON VIRGIL] (H. Albertus Lion ed., Göttingen, Vandenhoeck & Ruprecht 1826) [hereinafter SERVIUS].

VIRGIL, AENEID, *in* P. VERGILI MARONIS, OPERA [THE WORKS OF PUBLIUS VERGILIUS MARO] 306 (R.A.B. Mynors ed., 5th prtg. 1980) [hereinafter AEN.] (cited by traditional book and line number).

VIRGIL, ECLOGUES, *in* P. VERGILI MARONIS, OPERA [THE WORKS OF PUBLIUS VERGILIUS MARO] 9 (R.A.B. Mynors ed., 5th prtg. 1980) [hereinafter EC.] (cited by traditional book and line number).

VIRGIL, GEORGIC, *in* P. VERGILI MARONIS, OPERA [THE WORKS OF PUBLIUS VERGILIUS MARO] 29 (R.A.B. Mynors ed., 5th prtg. 1980) [hereinafter GEO.] (cited by traditional book and line number).

THEODORE ZIOLKOWSKI, VIRGIL AND THE MODERNS (1993).

[2] About the name: *Publius* was the poet's first or given name. The Romans called this a *praenomen*. The second name, *Vergilius*, was his *nomen*. It designated his extended family or clan. *Maro,* his *cognomen,* designated the branch of the family or clan. In English, the poet's name is rendered either "Vergil" or "Virgil," with the latter being more traditional and more common. "Virgil" was the spelling employed by English speakers during the founding era, and I have adopted that form.

light on their ratification procedure and on the meaning of the Constitution to them.

I. WHY VIRGIL?

A. The Great Seal

Pick up a dollar bill and turn it to the reverse side. On the left is the back of the Great Seal of the United States. It features two Latin phrases: *Annuit coeptis* and *Novus Ordo Seclorum*. The first means "He [i.e., God] has approved our undertakings." The second means "A new order of the ages."

Annuit coeptis is an abbreviation of two selections from the poetry of Virgil: an invocation in the *Georgics* to the future divinity of the Roman emperor Augustus[3] and a prayer in the ninth book of the *Aeneid*.[4] *Novus Ordo Seclorum* is a shortened version of a verse from Virgil's *Eclogues*.[5]

Now examine the right side of the back of the bill. It depicts the front of the Great Seal, with the phrase *E pluribus unum*—"out of many, one." This phrase derives from a Latin poem called *Moretum* ("Salad" or "Pesto").[6] Although scholars now believe that *Moretum* probably was composed by another person,[7] until recently it was attributed to Virgil.[8] Thus, when the 1782 Confederation Congress adopted legends for the new country's Great Seal, it turned to Virgil for all three.[9]

B. Virgil in the Founding-Era Literary Canon

The legends on the Great Seal reflect the centrality of Greek and Latin literature generally, and of Virgil specifically, in the eighteenth-century educational canon.[10] Greek and Latin literature had dominated

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[3] GEO., *supra* note 1, at 1.40 (*da facilem cursum atque audacibus adnue coeptis*—"grant an easy course and approve our bold undertakings").

[4] AEN., *supra* note 1, at 9.625 (*Iuppiter omnipotens, audacibus adnue coeptis*—"Almighty Jupiter, approve our bold undertakings").

[5] EC., *supra* note 1, at 4.5 (*magnus ab integro saeclorum nascitur ordo*—"a great order of the ages is born anew").

[6] MORETUM, *supra* note 1, 1.102–03, at 101–02 (*paulatim singula vires/Deperdunt proprias; color est e pluribus unus*—"gradually each element loses its own properties; the color is, out of many, one").

[7] GRIFFIN, *supra* note 1, at 10 (implying that it is unlikely Virgil wrote *Moretum*). *But see* RUDEN, *supra* note 1, at 75–76 (arguing that Virgil likely wrote *Moretum*).

[8] *See, e.g.*, MORETUM, *supra* note 1, at 226 ("The *Moretum* is one of Virgil's minor poems.").

[9] 22 J. CONT. CONG. 338–40 (June 20, 1782).

[10] GUMMERE, *supra* note 1, at 2 (noting that American educators retained the classically-based curriculum prevailing in England); *id.* at 58–59 (describing the classical curriculum in grammar schools); *accord* RICHARD, *supra* note 1, at 20 (adding that the curriculum derived from the European trivium and quadrivium).

Western education for centuries. But people of the eighteenth century thought of themselves as living in a particularly classical age, and the American Founding occurred near the very apex of classical consciousness.[11]

Founding-era schoolboys typically began the study of Latin at age eight.[12] "Grammar school students commonly studied the classics every morning from eight to eleven and every afternoon from one until dark."[13] Among the authors read were Sallust, Tacitus, Horace, Ovid,[14] and—preeminently—Cicero and Virgil.[15] Classical writing was a source of lessons in literary style (poetry, written prose, and oratory), history,[16] political science, morals, "natural philosophy" (science), and other subjects. Educators also relied on classical heroes and leaders as positive and negative behavioral models.[17]

The minority of boys who hoped to attend college knew that to be admitted they would have to pass a test requiring proficiency in Latin and a basic knowledge of Greek.[18] If they did attend college, they studied theology, mathematics, modern history, and, increasingly, modern science—but advanced classical work took most of their time.[19]

Although only a minority of men (and no women) attended college, the influence of the college-educated on eighteenth-century American life

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[11] GUMMERE, *supra* note 1, at 1–2 (stating that in the third quarter of the eighteenth century, England and America were at the height of their classical period); *id.* at 174 ("The delegates to the Constitutional Convention assembled at a time when the influence of the classics was at its height.").

[12] RICHARD, *supra* note 1, at 12.

[13] *Id.* at 13.

[14] *E.g.*, *id.* at 18 (describing James Madison's basic education); *see also* Letter from Thomas Jefferson to Peter Carr (Aug. 19, 1785), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Jefferson/01-08-02-0319 (on file with the Regent University Law Review) (telling his nephew, "In Greek and Latin poetry, you have read or will read at school Virgil, Terence, Horace, Anacreon, Theocritus, Homer.").

The methods of instruction were not always the best. *See* Letter from Francis Hopkinson to Benjamin Franklin (May 24, 1784), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Franklin/01-42-02-0175 (on file with the Regent University Law Review) ("We seldom see common School-masters, those Haberdashers of Moods & Tenses, possess'd of the least Feeling or Taste for the Authors they teach, much less are they able to write with Urbanity in the Language they profess—What would Virgil think could he hear his beautiful Poem fritter'd into it's [sic] grammatical component Parts in one of our Schools . . . [?]").

[15] *E.g.*, RICHARD, *supra* note 1, at 19 (describing college entrance requirements as including "Tully" [Cicero] and Virgil).

[16] *See* GUMMERE, *supra* note 1, at 4 (showing that the classics were used as a source of historical lessons and expressions). For example, one lesson from oppressive taxation was the fate of tyrants. *Id.*

[17] RICHARD, *supra* note 1, at 53–54.

[18] *Id.* at 12–13; GUMMERE, *supra* note 1, at 56, 58–59 (describing classical entry requirements for college).

[19] GUMMERE, *supra* note 1, at 63–64 (describing college curricula).

was very great.[20] For example, during the late colonial era, alumni of colleges and of the English Inns of Court produced widely-read pamphlets arguing the American cause against the British government. These pamphlets copiously cited classical sources.[21] John Dickinson had attended London's Middle Temple. His *Letters from a Farmer in Pennsylvania*, the most influential of the colonial pamphlets, included references to Plutarch, Demosthenes, Tacitus, Sallust, and Cicero as well as Virgil.[22] Additionally, Dickinson's *Farmer* essays featured numerous unattributed Latin phrases—among them, Virgil's *infelix vates*[23] ("unfortunate seer") and *apparent rari nantes in gurgite vasto*[24] ("scattered swimmers appear in the immense whirlpool"), and Persius' *venienti occurrite morbo*[25] ("confront the sickness when it begins"). Men with higher education also comprised a disproportionate share of the signers of the Declaration of Independence, of the commissioners to the Constitutional Convention, and of political leaders in general.[26]

Even those who never attended college absorbed impressive amounts of classical learning.[27] As mentioned above, Latin and Greco-Roman literature was taught from the elementary school level.[28] Moreover, the American public was highly literate[29] and thus absorbed knowledge by reading. Much of what they read was infused with the classics.[30] Among the most popular publications were almanacs—often written and edited by college graduates and sprinkled with classical references.[31] So, it is not

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[20] *Id.* at 55, 66 (stating that in the colonies, "an astonishing preponderance of college men" were political leaders).

[21] *Id.* at 104–10 (reporting uses of Virgil during the colonial era by Daniel Dulaney and John Dickinson); RICHARD, *supra* note 1, at 30–31 (reporting John Adams' use of Virgil); *id.* at 43 (reporting Alexander Hamilton's use of Virgil); *id.* at 204 (reporting use by Benjamin Rush); *id.* at 210 (reporting use by Benjamin Franklin).

[22] JOHN DICKINSON, LETTERS FROM A FARMER IN PENNSYLVANIA TO THE INHABITANTS OF THE BRITISH COLONIES 30 (Boston, Mein & Fleeming 1768) (Plutarch); *id.* at 72, 140–41 (Tacitus); *id.* at 78 (Demosthenes); *id.* at 121 (Sallust); *id.* at 122 (Cicero); *id.* at 131 (Virgil).

[23] *Id.* at 131 (quoting AEN., *supra* note 1, at 3.246).

[24] *Id.* at 135 (quoting AEN., *supra* note 1, at 1.118).

[25] *Id.* at 100 (quoting the sixty-fourth line of Persius' third *Satire*).

[26] GUMMERE, *supra* note 1, at 66 (reporting that twenty-seven of the fifty-six signers of the Declaration of Independence had at least some college education, as did twenty-three of the thirty-nine signers of the Constitution); *id.* at 174 ("Most of the convention delegates were at home in Latin and in some cases Greek."); *id.* at 66–67 (describing other indicia of college influence).

[27] *E.g.*, *id.* at 62–63 (citing the examples of Edmund Pendleton, George Wythe, and Patrick Henry).

[28] *Supra* notes 12–15 and accompanying text.

[29] GUMMERE, *supra* note 1, at 62.

[30] *See id.* at 60.

[31] *Id.* at 5–8 (discussing the composition and prevalence of almanacs and their role in disseminating classical knowledge).

surprising that in such an environment, a person in polite society unfamiliar with the works of Virgil might find himself the subject of mockery.[32]

Naturally, the popularity of particular classical authors ebbed and flowed. Statistical evidence suggests, however, that during the eighteenth century, Virgil grew in favor.[33] His tripartite impact on the Great Seal—to the exclusion of all other classical authors—is further testimony to that.

II. VIRGIL'S LIFE AND WORKS

The ancient world did not produce a full-length biography of Virgil—at least none presently extant. However, we do have biographical sketches written by authors during the time of the Roman Empire. The reputed author of the first was Marcus Valerius Probus, a grammarian (scholar and teacher) who wrote late in the first century.[34] Probus authored a commentary on two of Virgil's works, and he prefixed it with a biography.[35]

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[32] *See, e.g.*, MACLAY, *supra* note 1, at 135 (reflecting negatively on a fellow guest at a dinner with President Washington who referred to Aeneas "leaving his wife and carrying his father out of flaming Troy" without knowing the name of the story's author).

[33] An initial clue to Virgil's growth in popularity appears in GUMMERE, *supra* note 1. Professor Gummere summarized classical influences in rough chronological order from the early seventeenth to the late eighteenth centuries, but references to Virgil occur disproportionately in the latter part of that era. *Id.* at 227 (indexing references). I ran English-language searches in the Gale database *Eighteenth Century Collections Online* over successive decades using the keyword "Virgil" (while excluding it as another's proper name). *Eighteenth Century Collections Online*, GALE, https://go.gale.com (on file with the Regent University Law Review) (last visited Jan. 8, 2026). In the tabulation below, the first figure indicates the number of references to Virgil, and the second the approximate number of works, derived by search for the common word "book":

1751–1760: 2,572 of 11,386
1761–1770: 3,019 of 14,131
1771–1780: 3,598 of 15,680
1781–1790: 3,890 of 18,343
1791–1800: 5,058 of 27,283

Thus, the number of references to Virgil in British and American writing approximately doubled, nearly retaining the same proportion of the total number of works—an extraordinary outcome, in view of the expansion of subjects treated during this era of rapid scientific progress.

Further, a search of the *ProQuest American Periodicals* database for references to "Virgil" in American magazines produced only 13 between 1751 and 1780, but 66 during the decade 1781–1790, and 211 in the ensuing decade. PROQUEST, https://www.proquest.com (on file with the Regent University Law Review) (last visited Jan. 8, 2026). The keyword "Virgil" probably captures only a minority of references, since authors assumed their audiences would recognize unattributed quotations.

[34] 22 ENCYCLOPÆDIA BRITANNICA 408 (11th ed. 1911) (entry on "Marcus Valerius Probus").

[35] PROBUS, *supra* note 1. I have not been able to locate an English translation; the edition cited here is in Latin and was published in Germany.

Suetonius Tranquillus (c. 70–130 C.E.)—famous for his lengthy "lives" of the first twelve Caesars—also produced a short free-standing "life" of Virgil,[36] of which a copy has been preserved by Aelius Donatus, a fourth-century grammarian.[37] A fourth- or fifth-century grammarian known to us only as "Servius" also introduced his commentary on Virgil's poems with a biographical sketch.[38]

To reconstruct Virgil's life in more detail, we must supplement those summaries with deductions from the text of his poems, from archeological finds, from references by his friend and fellow-poet Horace, and from our knowledge of contemporaneous events.[39] Following is an outline of what we think we know:

Publius Vergilius Maro was born on October 15, 70 B.C.E., in northern Italy.[40] Servius reports that he was from Mantua.[41] Suetonius and Probus identify his specific birthplace as Andes, apparently a small town in Mantuan territory.[42] The area was then classified as part of Cisalpine Gaul; it was not until Virgil was twenty-one that its residents received Roman citizenship.[43]

Virgil's family was "respectable but not at all grand."[44] He received the name "Vergilius"—and presumably "Maro"—from his father. His mother's name apparently was Magia Polla.[45] He is reported to have had at least two full brothers[46] and a half-brother.[47]

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[36] SUETONIUS, *supra* note 1.

[37] DONATUS, *supra* note 1.

[38] SERVIUS, *supra* note 1, at 1–2. Servius' detailed work is the last available commentary by a native Latin speaker on Virgil, and scholars still refer to it. Servius sometimes is identified as "Maurus Servius Honoratus," but there is no reliable evidence for the *praenomen* or *cognomen*.

[39] *See* KEITH, *supra* note 1, at 1–15 (employing these sources in reconstructing Virgil's life).

[40] SUETONIUS, *supra* note 1, ch. 2.

[41] SERVIUS, *supra* note 1, at 1.

[42] SUETONIUS, *supra* note 1, ch. 2; PROBUS, *supra* note 1, at 1 (stating that it was 30 Roman miles—about 27.6 English miles—from Mantua, which, for several reasons too involved to review here, seems improbably far).

[43] GRIFFIN, *supra* note 1, at 1.

[44] *Id.* By one account, his father was a potter or a court officer. SUETONIUS, *supra* note 1, ch. 1; *cf.* PROBUS, *supra* note 1, at 1 (stating that he was raised in *tenui facultate*—in slender circumstances). See also RUDEN, *supra* note 1, at 22–29, discussing his father's possible station in life, and KEITH, *supra* note 1, at 3–4, discussing his family's class status.

[45] SERVIUS, *supra* note 1, at 1 (attesting "Magia"); PROBUS, *supra* note 1, at 1 (attesting "Magia Polla").

[46] SUETONIUS, *supra* note 1, ch. 14. *But see* KEITH, *supra* note 1, at 12 (stating that some scholars believe the full brothers to be fictitious).

[47] A younger half-brother, Proculus, was a beneficiary of Virgil's will. PROBUS, *supra* note 1, at 1. On Proculus' status as a half-brother, see SUETONIUS, *supra* note 1, ch. 37.

Virgil's father had, through his diligence, acquired a modest estate,[48] which he apparently lost during the land redistributions arising from the civil wars.[49] Nevertheless, the family retained enough money to educate Virgil in Cremona (about thirty-eight miles west of Mantua), Mediolanum (Milan), and in Rome.[50] Suetonius reports that Virgil composed poetry while still a boy and lists as written at age sixteen most of the productions in the collection traditionally called the *Appendix Vergiliana*.[51] Although the *Appendix Vergiliana* includes *Moretum*, none of the ancient biographers credit Virgil with that production.[52]

Virgil's verified output consists of three major works: *Bucolica* ("cattle-herding matters"), *Georgica* ("agricultural matters"), and *Aeneis*. In this Article, we shall refer to them by the names most commonly applied today: the *Eclogues*, the *Georgics*, and the *Aeneid*.

The first of these three works consists of ten poems (*eclogues*—"selections") composed during the years 43–37 B.C.E—that is, roughly the time when their author was between twenty-seven and thirty-three years old.[53] They are based on the pastoral verse of the Greek author

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[48] SUETONIUS, *supra* note 1, ch. 1.

[49] SERVIUS, *supra* note 1, at 1. The first eclogue alludes to innocent people's loss of their farms. *See* EC., *supra* note 1, at 1.

[50] SUETONIUS, *supra* note 1, ch. 6–7. He may also have received some schooling in Naples. SERVIUS, *supra* note 1, at 1 (*nam et Cremonae et Mediolani et Neapoli studuit*). Supposedly, Virgil was a follower of the Epicurean school of philosophy. PROBUS, *supra* note 1, at 1 (*secutus Epicuri sectam*); *accord* KEITH, *supra* note 1, at 4–5.

[51] SUETONIUS, *supra* note 1, ch. 17, 19 (listing six poems in the *Appendix Vergiliana* as definitely composed by Virgil and a seventh, *Aetna*, as disputed); SERVIUS, *supra* note 1, at 1 (listing those six and two others). Some modern scholars doubt that any of the poems in the *Appendix Vergiliana* are by Virgil. GRIFFIN, *supra* note 1, at 10; G.P. Goold, *Introduction* to VIRGIL: ECLOGUES, GEORGICS, AENEID I–VI, at 2 (G.P. Goold ed., H. Rushton Fairclough trans., rev. ed. 1999). *But see* RUDEN, *supra* note 1, at 65–78 (arguing that some, but not all, of the poems are genuine).

An interpolation in DONATUS, *supra* note 1, ch. 46, claims Virgil also authored several shorter poems—one of which John Adams quoted in a letter to James Searle, a former member of the Continental Congress, Letter from John Adams to James Searle (Dec. 26, 1781), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Adams/06-12-02-0108 (on file with the Regent University Law Review) (reciting *Sic vos non vobis vellera fertis oves*—"Thus you [sheep] bear fleece, but not for your own benefit"). *See* Frank J. Miller, *On a Translation of Vergil's Quatrain* Sic Vos Non Vobis, 15 CLASSICAL J. 174 (1919) (discussing that short poem).

[52] See SUETONIUS, *supra* note 1, ch. 17–19; SERVIUS, *supra* note 1, at 1; PROBUS, *supra* note 1, at 1–2, all omitting *Moretum* from the list of Virgil's poems. *Compare* RUDEN, *supra* note 1, at 75–76 (arguing that *Moretum* is likely Virgil's), *with* GRIFFIN, *supra* note 1, at 10 (implying that this is unlikely).

[53] *See* KEITH, *supra* note 1, at 8.

Theocritis.[54] Their publication made Virgil a celebrity[55] and attracted the patronage of Gaius Julius Caesar Octavianus—the young man who later became Caesar Augustus. Octavian may have given Virgil a gift of land, enabling him to settle near the Bay of Naples.[56]

The *Georgics* was likely published in 29 B.C.E, when Virgil turned forty-one.[57] It is a single long poem whose agricultural theme reportedly was suggested by Gaius Maecenas, Augustus's informal minister of culture.[58] One of Virgil's models was the poetry of the Greek poet, Hesiod.[59]

Virgil next began the *Aeneid,* a long epic celebrating the origins of the Roman people. The idea for this project likely came from Augustus himself.[60] More information on the *Aeneid* and Virgil's other two publications appears in Part III.

Virgil never married[61] or participated in political or military affairs. He was not physically robust[62] and was reportedly shy[63]—although both ill-health and shyness may have been merely purported reasons for retiring from society so he could accomplish his work.[64]

In 19 B.C.E., he became ill while on a trip to Greece.[65] He returned to Italy but died on September 21 after landing at Brundisium (Brindisi).[66] He had never quite completed the *Aeneid* to his satisfaction and left

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54 GRIFFIN, *supra* note 1, at 4.

55 *Id.* at 10. One indication of Virgil's continued popularity in the Roman Empire is that his eclogues commonly were appropriated for singing on the stage. SUETONIUS, *supra* note 1, ch. 26. Another is that quotations from, and variations on, his poetry appear in more than fifty graffiti in the uncovered portions of Pompeii, a city destroyed nearly a century after his death. MARY BEARD, SPQR: A HISTORY OF ANCIENT ROME 470–71 (2015).

For Virgil's popularity in later periods, see KEITH, *supra* note 1, at 133–50 (outlining Virgil's reception through the ages); ZIOLKOWSKI, *supra* note 1 (describing Virgil's influence in twentieth century Europe and America). *See also supra* note 33 and accompanying text (documenting Virgil's influence during the founding era).

56 *See* GRIFFIN, *supra* note 1, at 11.

57 *See id.*

58 SERVIUS, *supra* note 1, at 1.

59 GRIFFIN, *supra* note 1, at 11.

60 SERVIUS, *supra* note 1, at 1–2.

61 RUDEN, *supra* note 1, at 13. He may have been a homosexual. *See* SUETONIUS, *supra* note 1, ch. 9 ("He was especially given to passions for boys . . . ."); RUDEN, *supra* note 1, at 109–10 (citing Suetonius and opining that "the notion of Vergil as a pederast would not in itself have shocked the Romans").

62 SUETONIUS, *supra* note 1, ch. 8; *cf.* SERVIUS, *supra* note 1, at 1 (stating *omni vita probatus uno tantum morbo laborabat: nam inpatiens libidinis fuit*—"all his life he suffered under but one disease, for he was impatient of physical pleasure"). Virgil doesn't seem to have enjoyed activities that others enjoyed.

63 Supposedly, if he was recognized at Rome, he would dodge into the nearest house to avoid human contact. SUETONIUS, *supra* note 1, ch. 11.

64 RUDEN, *supra* note 1, at 140, 151.

65 KEITH, *supra* note 1, at 9.

66 SUETONIUS, *supra* note 1, ch. 35.

instructions that it be burnt.[67] However, the *Aeneid*'s rough edges are insignificant. Augustus earned the gratitude of contemporaneous and future generations by ordering that it be preserved after minor editing.[68] The editors added nothing, but they purportedly deleted a four-line introduction and twenty-three lines (566 through 588) in Book Two.[69] Servius preserved the deleted portions for us, and in modern editions, the twenty-three lines removed from Book Two are restored.[70] Virgil was buried on the Via Puteoli, near Naples.[71]

III. RATIFICATION-ERA USES OF VIRGIL

A. This Article's Organization, Translations, and Orthography

There are several possible ways of organizing ratification-era references to Virgil's poetry. One is by constitutional subject matter. Or one could proceed chronologically, according to the progress of the constitutional debates. I have elected to arrange them according to the chronological order of the poems in which they appear. Thus, I treat references from the *Eclogues* first, followed by those from the *Georgics*, and finally those from the *Aeneid*. This plan enables us to place the quotations in the same poetic context in which founding-generation Americans read them, thereby better communicating the unspoken associations carried by each.

Unless otherwise indicated, all translations are my own. When rendering Latin verse into English, I have tried to reproduce poetic sound

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[67] *Id.* at ch. 38–39; PROBUS, *supra* note 1, at 2; SERVIUS, *supra* note 1, at 1–2.

[68] SUETONIUS, *supra* note 1, ch. 41; SERVIUS, *supra* note 1, ch. 42; PROBUS, *supra* note 1, at 2.

[69] SERVIUS, *supra* note 1, at 2; SUETONIUS, *supra* note 1, ch. 42. Many scholars doubt that the four introductory lines were genuinely Virgil's. *See, e.g.*, Patrick Finglass, *A False Start to Virgil's Aeneid*, OXFORD SCHOLARLY EDS. ONLINE (Oct. 7, 2015), https://www.oxfordscholarlyeditions.com/newsitem/113/a-false-start-to-virgils-aeneid (on file with the Regent University Law Review).

[70] The lines are omitted—perhaps to save space?—in SERVIUS, *supra* note 1, at 162, but appear in an internet version of Servius' commentary: MAURUS SERVIUS HONORATUS, COMMENTARY ON THE AENEID OF VERGIL (Georgius Thilo, ed.), https://www.perseus.tufts.edu/hopper/text?doc=Perseus:text:1999.02.0053 (on file with the Regent University Law Review) (last visited March 5, 2026) (listing the lines).

[71] His epitaph was as follows:

> *Mantua me genuit, Calabrii rapuere, tenet nunc*
> *Parthenope: cecini Pascua, rura, duces.*
>
> "Mantua bore me, the Calabrians tore me away, Naples now
> holds me: I sang of pastures, the countryside, and leaders."

SUETONIUS, *supra* note 1, ch. 36; *accord* PROBUS, *supra* note 1, at 1; SERVIUS, *supra* note 1, at 1.

and sense. But if poetic force clashed unduly with the literal meaning, I chose the literal meaning.

On orthography: The Romans of Virgil's time employed the letter "i" to signify both our "ee" sound and our consonantal "y" (as in "yes"). They employed "v" to signify both our sound "oo" and our consonantal "w" (as in "wind"). The Romans spelled the diphthong that is our long "i" as "ae." During the founding era, however, writers commonly rendered consonantal "i" (our "y") as "j" and printed "ae" as "æ." Like the Romans, founding-era writers rendered consonantal "u" (our "w") as "v."

More recently, editors have, while retaining "i" for consonantal "i" (our "y"), replaced "v" with "u". Many also have adopted archaisms, as by spelling the "es" in regular third declension accusative plurals as "is."

For this Article, I had to choose among spelling conventions. Here are the results:

I left unchanged all quotations from eighteenth century sources. If "j" appeared in the original, then it also appears in this text. Further, I retained eighteenth-century transcription errors, which often arose because the author was reciting from memory. I have indicated such errors where they appear.

When reproducing classical passages directly rather than from eighteenth-century sources, I generally have followed the 1980 edition of R.A.B. Mynors' Oxford text.[72] However, I have changed the spelling to the forms I believe most accessible to American readers—and most common in American Latin textbooks and in modern inscriptions. Thus, consonantal "i" remains "i" and consonantal "u" is written "v."

I abandoned confusing archaisms, particularly the practice of spelling accusatives as if they were nominatives. Thus, the accusative of the Latin word for "citizens" is not *civis* or *ciuis* but *cives.*

B. The Eclogues

The *Eclogues* are ten pastoral poems averaging eighty-three lines each. They were mandatory reading in founding-generation schools. A legend from the first eclogue adorned the first seal of the Commonwealth of Virginia, apparently designed by George Wythe—later a delegate to the 1787 convention and a leading ratifier.[73] As noted above,[74] a shortened

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[72] P. VERGILI MARONIS, OPERA (R.A.B. Mynors ed., 5th prtg. 1980).

[73] GUMMERE, *supra* note 1, at 14, claims that George Mason designed the first Virginia state seal, featuring EC., *supra* note 1, at 1.6 (*Deus nobis haec otia fecit*—"God [or a god] has created this leisure [i.e., this idyllic existence] for us."). However, this claim does not seem to be accurate; Mason served on the designing committee, but it was Wythe who proposed the design. Lyon G. Tyler, *The Seal of Virginia*, 3 WM. & MARY COLL. Q. HIST. PAPERS 81, 91 (1894). In any event, the legend was soon replaced. *Id.* at 92.

[74] *Supra* Part II.

version of a verse from the *Eclogues* also appears on the Great Seal of the United States.

The *Eclogues* are organized in subtle patterns. The late Oxford University classicist Jasper Griffin explained:

> The *Eclogues* are ten separate poems but they are also carefully arranged into an elegant whole. . . . [At the end of the fifth poem] there is a moment of pause and retrospection at the centre of the book. . . . Evidently the central division is meant to be felt. The poems alternate in form, the odd-numbered ones being in dialogue . . . while the even-numbered poems are narratives for a single speaker. The two longest *Eclogues* are the Third and Eighth, which come in the middle of the two halves of the book, and each contains eight lines in praise of Pollio, Virgil's patron. The three poems which depart furthest from the ordinary pastoral style are numbers 4, 5, and 6, placed together in the centre; and the two poems in which Virgil's friend the poet Gallus plays a role are 6 and 10, framing the second half of the collection. There are other patterns and connections which may be discovered by the reflective reader.[75]

Thus, the collection is variously divided into halves, thirds, and quarters.

Gouverneur Morris, the primary drafter of the finished Constitution and sole drafter of the Preamble, was conversant with the *Eclogues*,[76] and he seems to have constructed the Preamble in a broadly similar way: The Preamble's meter and structure feature distinct divisions into halves, thirds, and quarters, all forming a balanced whole.[77]

The *Eclogues* were an important source for participants in the 1787-1790 constitutional debates. George Mason drew on them when opposing the Constitution at his state's ratifying convention. Understanding how he used the *Eclogues* requires some background:

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[75] GRIFFIN, *supra* note 1, at 23–24. **Error! Main Document Only.**The *Aeneid* displays a similar pattern of division and balance. R. DERYCK WILLIAMS, *Introduction* to VIRGIL, AENEID, BOOKS I-V, at xx (R. Deryck Williams ed., Bristol Classical Press 1996) (1972) (explaining the divisions into halves and thirds and other organizational parallels).

[76] *E.g.*, Letter from Gouverneur Morris to John Jay (Aug. 6, 1783), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Jay/01-03-02-0017 (on file with the Regent University Law Review) (reciting the line *nimium ne crede Colori* from EC., *supra* note 1, at 2.17–18, which is part of a couplet that is a caution against race prejudice: *o formose puer, nimium ne crede colori; //alba ligustra cadunt, vaccinia nigra leguntur*—"O handsome boy, don't trust too much to color; white privet berries [merely] fall, while black blueberries are gathered").

Lord Mansfield reportedly recited the verse leading to the couplet when delivering the judgment in *Somerset v. Stewart* (1772) 98 Eng. Rep. 499; Lofft 1 (KB) (holding that slavery did not exist in England). JOHN CAMPBELL, THE LIVES OF THE CHIEF JUSTICES OF ENGLAND 318 (New York, Cockcroft & Co. 7th ed. 1878) (quoting EC., *supra* note 1, at 2.16).

[77] Robert G. Natelson, *Understanding the Constitution: The Style of the Preamble*, EPOCH TIMES (Aug. 8, 2021), https://i2i.org/understanding-the-constitution-the-style-of-the-preamble/ (on file with the Regent University Law Review).

The Constitution prohibits both the federal government and the states from adopting ex post facto laws.[78] Prior to the Supreme Court decision in *Calder v. Bull*,[79] many believed that the Ex Post Facto Clauses banned not only retroactive criminal laws but also retroactive civil laws.[80] If so, the ex post facto ban would void curative statutes that, while technically retroactive, actually protected rather than impaired reliance interests.

Before the Revolution, much of Virginia's "northern neck" was owned by England's Fairfax family. Once the war started, Virginia adopted statutes confiscating much of the Fairfax estate. Virginia then sold parts of the estate to settlers and to land companies (particularly the Indiana Company), which sold to settlers. Mason argued that the federal courts might consider these Virginia statutes to be ex post facto laws, thereby causing thousands of Virginians to lose their land.

Because the first eclogue begins with a lament from a character who lost his own farm in the Roman civil wars, it presented an opportunity for Mason:

> I dread the ruin that will be brought on 30,000 of our people with respect to disputed lands. . . .
>
> . . . Many settled on them, on terms which were advertised. How will this be with respect to *ex post facto* laws? We have not only confirmed the title of those who made the contracts, but those who did not, by a law in 1779, on their paying the original price . . . . Three or four counties are settled on the lands to which [the Indiana] company claims a title[] and have long enjoyed it peaceably. All these claims before those [c]ourts, if they succeed, will introduce a scene of distress and confusion never heard of before. Our peasants will be like those mentioned by *Virgil*, reduced to ruin and misery, driven from their farms, and obliged to leave their country.—*Nos patriam fugimus—et dulcia linquimus arva.*[81] ("We flee our homeland and leave our sweet fields.")

Members of the founding generation often quoted the classics from memory,[82] and that seems to have been the case here: The original wording is *nos patriae fines et dulcia linquimus arva*—"we depart from the borders of our country, we leave our sweet fields."[83] But Mason's

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[78] U.S. CONST. art. I, § 9, cl. 3 (banning federal ex post facto laws); *id.* § 10, cl. 1 (banning state ex post facto laws).

[79] 3 U.S. (3 Dall.) 386 (1798).

[80] *See generally Retroactivity, supra* note 1 (discussing historical and founding era understandings of retroactivity).

[81] George Mason, *Remarks at the Virginia Ratifying Convention* (Jun. 19, 1788), *in* 10 DOCUMENTARY HISTORY, *supra* note 1, at 1407–09.

[82] GUMMERE, *supra* note 1, at ix ("Texts were often quoted from memory and occasionally altered to suit the circumstances.").

[83] EC., *supra* note 1, at 1.3.

quotation was close enough, and it would have communicated to his audience powerful associations engendered from reading Virgil in childhood.

Another controversial portion of the Constitution was the grant of power to Congress to enact "direct taxes"—that is, levies on heads (capitations), assets, incomes, and livelihoods.[84] When imposed on heads and assets, direct taxes were considered "dry taxes"—that is, there was no revenue stream to pay for them.[85] They could inflict hardships on farmers, who often were land rich but cash poor.

The Anti-Federalist essayist "A Farmer" (probably John Francis Mercer, who had served briefly as a Maryland delegate to the Constitutional Convention) attacked the direct tax power with a line from the third eclogue.[86] That poem depicts a conversation among three shepherds, one of whom decries how another shepherd is treating ewes whose owner entrusted him with their care:

> *hic alienus ovis custos bis mulget in hora,*
> *et sucus pecori et lac subducitur agnis*.[87]

"A Farmer" translated these verses for his readers as, "This hireling keeper milks his ewes twice an hour, and the flock are robbed of strength and the lambs of milk."[88] It buttressed the point that direct taxes hit the poor hardest.

Another use of the third eclogue occurred in an odd newspaper exchange between "News-Monger" and a person who wrote a column satirizing him. "News-Monger" alluded to Virgil's slighting reference to a

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[84] U.S. CONST. art. I, § 8, cl. 1 (authorizing direct taxes). For explanations of which levies were direct taxes and "dry taxes," see *What the Constitution Means, supra* note 1, at 335–36; Robert G. Natelson, *More Evidence that "Direct Taxes" Include Levies on Wealth and Income*, REASON: VOLOKH CONSPIRACY (July 19, 2024, at 9:00 ET), https://reason.com/volokh/2024/07/19/more-evidence-that-direct-taxes-include-levies-on-wealth-and-income/ (on file with the Regent University Law Review).

[85] *See What the Constitution Means*, *supra* note 1, at 311–12, 318, 335 n.216 (discussing early American opinions about direct taxation and examining uses of the phrase "dry tax" in early American literature).

[86] *A Farmer III (Part 2)*, BALT. GAZETTE, Mar. 18, 1788, *reprinted in* 11 DOCUMENTARY HISTORY, *supra* note 1, at 388, 392.

[87] EC., *supra* note 1, at 3.5–6. The author of "A Farmer III (Part 2)" rendered it as "*Oves [custos] bis mulget in hora, et succus pecori / et lac subducitur agnis*," without appreciable change of meaning.

[88] *A Farmer III (Part 2)*, BALT. GAZETTE, Mar. 18, 1788, *reprinted in* 11 DOCUMENTARY HISTORY, *supra* note 1, at 388, 392 & 393 n.4.

poet named Bavius to indicate how his satirist would be remembered.[89] An anonymous third person responded in rhyme, mocking "News-Monger" for enlisting Virgil:

> Shou'd you lack wit—steal Virgil's—raise a noise,
> Nor b'lieve one scabby sheap the flock destroys.[90]

Additionally, a Maryland Federalist also employed Virgil's line about Bavius to express his contempt for an Antifederalist opponent.[91]

In still another reference to the third eclogue, an opponent of the Constitution employed a particularly famous verse to warn that the Society of the Cincinnati was a "snake lurking in the grass."[92] The society consisted of former Continental Army officers and was hereditary;[93] Antifederalists considered it to be a nursery for a dangerous American aristocracy.

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[89] *To the Author of the Parody of the* News-Monger's Song, LANSINGBURGH N. CENTINEL, Dec. 18, 1787, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 110, 113 (N.Y. Supp.). The relevant lines are from EC., *supra* note 1, at 3.90–91:

> *Qui Bavium non odit, amet tua carmina, Maevi*
> *atque idem iungat vulpes et mulgere hircos*
>
> "If someone doesn't hate Bavius, let him love your songs, Maevius,
> and also harness foxes and milk billygoats."

In other words, anyone who likes Bavius should be cursed with hopeless tasks. "News-Monger" also quoted from the ninth book of the *Aeneid*. *See infra* notes 161–162 and accompanying text.

[90] *To the Author of the News-Mongers' Song*, LANSINGBURGH N. CENTINEL, Jan. 1, 1788, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 126, 126 (N.Y. Supp.).

[91] *Hambden*, MD. J., Apr. 25, 1788, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 39, 41 (Md. Supp.). *Hambden* also quoted HORACE, SATIRES 2.5.64 and HORACE, ODES 3.1.1, attributing the passage from the *Satires* to Horace himself, *Hambden*, *supra*, at 39, the one from the *Odes* only to "the poet," *id.*, at 41, and Virgil's verse to "the Mantuan Bard," *id*.

[92] *Algernon Sidney IV*, PHILA. INDEP. GAZETTEER, Apr. 23, 1788, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 1215, 1215 (Pa. Supp.) (referencing EC., *supra* note 1, at 3.92–93, which reads as follows: *Qui legiris flores et humi nascentia fraga,/ frigidus—o pueri (fugite hinc!), latet anguis in herba*—"Ye who gathers flowers and earth-born strawberries—O, lads, flee from here—a snake lures in the grass!"). John Jay referred to the same passage when writing to Charles Gravier, comte de Vergennes, the French foreign minister. Letter from John Jay to Vergennes (c. Sep. 11, 1782), *in* 3 THE SELECTED PAPERS OF JOHN JAY DIGITAL EDITION (Elizabeth M. Nuxoll ed., 2014), https://rotunda.upress.virginia.edu/founders/JNJY-01-03-02-0043 (on file with the Regent University Law Review).

[93] *Society of the Cincinnati*, ENCYC. BRITANNICA (July 17, 2014), https://www.britannica.com/topic/Society-of-the-Cincinnati (on file with the Regent University Law Review).

An additional use of the third eclogue appeared after New York had ratified the Constitution but before Rhode Island had done so. A New York Antifederalist applauded the decision of his state's legislature to evict from that assembly all officeholders in the new federal government—apparently because they were "snakes in the grass."[94]

The fourth eclogue related the birth of a child who would herald a new golden age. It frequently is called the "Messianic Eclogue," and for many years it was "accepted as a prophecy of the birth of Christ."[95] During the founding era, it remained a subject of some interest.[96]

In Roman mythology, Jupiter was king of the gods. He had been preceded by his father Saturn. Although Saturn eventually became identified with the Greek god Chronos, originally Saturn was an ancient Italian agricultural deity (*Satum* is a form of the verb meaning "to sow."). Romans looked back to Saturn's reign as a golden age. Employing the poetic plural, the fourth eclogue calls the reign of Saturn *Saturnia regna.*[97]

While the Constitution's ratification was pending, some Federalist newspapers printed cartoons depicting thirteen columns representing the thirteen states. As each state ratified the Constitution, its column rose from a prostrate to a vertical position, producing a growing colonnade. Thus, on June 11, 1788, the Massachusetts *Centinel* celebrated the predicted ratification by Virginia with a cartoon showing vertical columns for the eight states that already had approved the Constitution together with Virginia's column in a forty-five-degree position.[98] Above the columns was the fourth eclogue's phrase, *REDEUNT SATURNIA REGNA*—"the reign of Saturn returns."[99] However, New Hampshire ratified before Virginia and thereby became the crucial ninth state.[100] So, the June 25, 1788 edition of the *Centinel* printed another cartoon showing nine vertical

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[94] *A Citizen to the Citizens of New York*, N.Y. DAILY GAZETTE, Apr. 7, 1790, *in* 19 FIRST CONGRESS, *supra* note 1, at 1075, 1075.

[95] GRIFFIN, *supra* note 1, at 26.

[96] *See, e.g.*, SAMUEL HENLEY, OBSERVATIONS ON THE SUBJECT OF THE FOURTH ECLOGUE, THE ALLEGORY IN THE THIRD GEORGIC, AND THE PRIMARY DESIGN OF THE AENEID OF VIRGIL (London, J. Johnson 1788) (responding to another interpretation). The author was a correspondent of Thomas Jefferson, to whom he sent at least one of his publications. Letter from Samuel Henley to Thomas Jefferson (Mar. 18, 1786), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Jefferson/01-09-02-0300 (on file with the Regent University Law Review).

[97] EC., *supra* note 1, at 4.6.

[98] Illustration of States as Pillars: Redeunt Saturnia Regna, MASS. CENTINEL, June 11, 1788, *reprinted in* 10 DOCUMENTARY HISTORY, *supra* note 1, at 1747, 1747.

[99] *Id.* (quoting EC., *supra* note 1, at 4.6).

[100] CONG, RSCH. SERV., R47747, ADMISSION OF STATES TO THE UNION: A HISTORICAL REFERENCE GUIDE 3 (2026) (listing the order of ratification by the states); U.S. CONST. art. VII (providing that the Constitution becomes effective upon the ratification of nine states).

columns, Virginia's column still in the forty-five-degree position, and with the legend ACTUM EST—"it is done."[101]

The following day, the Boston *Independent Chronicle* commemorated New Hampshire's adherence to the Union with a similar cartoon, this one with nine vertical columns, Virginia's column in the forty-five-degree position, and New York's still lying prostrate.[102] The legend over this cartoon was the fourth eclogue's line, *INCIPIENT MAGNI PROCEDERE MENSES!*—"The great months will now begin!"[103]

On July 22, a New Hampshire paper published an "Anniversary Ode" both to commemorate independence and to celebrate the Constitution.[104] It was prefixed with yet another excerpt from the fourth eclogue:

> *Talia s[a]ecla, suis dixerunt, currite, fusis*
> *Concordes stabili fatorum numine Parca[e].*[105]
>
> "'Such an epoch hasten on,' said the Fates to their spindles
> In agreement with the firm spirit of destiny."

The use of the *Eclogues* in the popular press—invariably in the original Latin—testifies to the place of these poems in the consciousness of the founding generation.

C. The Georgics

The *Georgics* consist of four "books" (scrolls) totaling 2,188 lines. They celebrate farming, rural life, rustic virtues, and the Italian countryside. A subordinate theme is that agriculture created the character of the Roman people: virtuous, tough, fit to conquer.[106]

Americans cited the *Georgics* to glorify agriculture and the rustic virtues.[107] The *Georgics*' phrase

> *O fortunatos nimium, sua si bona norint,*

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[101] Illustration of States as Pillars: Actum Est, MASS. CENTINEL, June 25, 1788, *reprinted in* 10 DOCUMENTARY HISTORY, *supra* note 1, at 1747, 1747.

[102] *The Ninth PILLAR Erected!*, BOS. INDEP. CHRON., June 26, 1788, *reprinted in* 28 DOCUMENTARY HISTORY, *supra* note 1, at 403, 403.

[103] *Id.* (quoting EC., *supra* note 1, 4.12).

[104] *Anniversary Ode, for July 4th, 1788*, N.H. SPY, July 22, 1788, *reprinted in* 28 DOCUMENTARY HISTORY, *supra* note 1, at 437, 437.

[105] *Id.* (quoting EC., *supra* note 1, at 4.46–47).

[106] GUMMERE, *supra* note 1, at 8 (discussing the theme that Roman agricultural toil made Roman conquest possible).

[107] The *Georgics* was not the only Virgilian work cited to achieve this end. *See, e.g.*, 1 JOHN ADAMS, DEFENCE OF THE CONSTITUTIONS OF GOVERNMENT OF THE UNITED STATES OF AMERICA 159 (London, John Stockdale 1794) (discussing Francis Bacon's citation to AEN., *supra* note 1, at 1.531 to support the proposition that political power follows land ownership).

agricolas![108]

"O, too-fortunate farmers, if you only knew how good you have it!"

appeared in a 1767 plea for agriculture as the secret to colonial happiness.[109] Americans continued to use the *Georgics* that way in subsequent years.[110]

Thus, the New York City procession celebrating the Constitution's ratification featured a plow drawn by six oxen and bearing the slogan *Fortunati agricola*.[111] Although the slogan's grammar was garbled,[112] the fact that the Latin phrase appeared in a popular parade at all indicates the public's familiarity with the poem.[113]

In the *Georgics*, Virgil admitted he was writing on agriculture partly to secure his own fame:

temptanda via est, qua me quoque possim
tollere humo victorque virum volitare per ora[114]

"This way must be tried by which I also can
rise from the earth and, victor among men, fly across their lips."

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[108] GEO., *supra* note 1, at 458–59.

[109] GUMMERE, *supra* note 1, at 7.

[110] *E.g.*, Letter from Richard Peters to George Washington (July 16, 1794), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Washington/05-16-02-0283 (on file with the Regent University Law Review); Letter from Thomas Jefferson to Edward Rutledge (Dec. 27, 1796), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Jefferson/01-29-02-0189 (on file with the Regent University Law Review).

[111] Noah Webster, *Description of the New York City Federal Procession*, N.Y. DAILY ADVERTISER, Aug. 2, 1788, *reprinted in* 21 DOCUMENTARY HISTORY, *supra* note 1, at 1630, 1630–33.

[112] If the slogan was an address to a single farmer, it should have read *Fortunate agricola*. If to more than one farmer, then *Fortunati agricolae*. If it was merely a recital that farmers were fortunate, then, again, *Fortunati agricolae*. The error may not have been that of the sign-maker but of Webster in reporting what he saw or of the printer in transcribing it.

[113] There are various other founding-era uses of the *Georgics*. *See, e.g.*, Letter from John Wendell to Benjamin Franklin (Oct. 30, 1777), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Franklin/01-25-02-0080 (on file with the Regent University Law Review) (using a variation of the *fortunatos agricolas* passage to communicate that the British people did not understand their own interests); Letter from David Hartley to Benjamin Franklin (May 1, 1782), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Franklin/01-37-02-0174 (on file with the Regent University Law Review) (reciting GEO., *supra* note 1, at 4.237–38, which refers to the conduct of angry bees, and paraphrasing AEN., *supra* note 1, at 1.291).

[114] GEO., *supra* note 1, at 3.8–9.

The Antifederalist writer, "A Republican," employed this line to justify his defense of New York Governor George Clinton.[115] Rather than recite the Latin, however, he quoted John Dryden's 1697 translation:

> New ways he must attempt, his grovling name
> To raise aloft, and wing his flight to fame.[116]

Although educated members of the founding generation admired this agricultural poem, they cited it less than the *Eclogues* or the *Aeneid* during the ratification debates. A principal reason may have been the technical nature of its subject matter.

D. The Aeneid

The *Aeneid* is an epic consisting of nearly 10,000 lines in twelve "books" (scrolls). It was structured loosely on Homer's *Iliad* and *Odyssey*, although in contrast to its predecessors it treats wandering first and warfare second. It celebrates the achievements of Octavian/Augustus by narrating the exploits of his reputed ancestor. That ancestor was Aeneas, the son of a union of Anchises, a mortal, and the goddess Venus.

Aeneas appears repeatedly in the *Iliad* as a Trojan hero.[117] According to Virgil's story—borrowed from pre-existing Roman legend—during the Greek sack of Troy, he made his way out of the city, leading his wife and son and carrying his aged father. His wife was lost in the melee, but the rest of them joined with other Trojan refugees, divinely instructed to establish a new homeland in Italy. In the first half of the *Aeneid*, the group is forced (by storms, among other mishaps) to wander from place to place, finally arriving in Latium. In the second half, they must fight to establish themselves in their new home. The leader of their Latin opponents is Turnus, whom Aeneas eventually kills. The Trojans then merge with the Latins to form the hybrid group that eventually becomes the Roman people.

Although a warrier of great prowess, Aeneas is not a mere killing machine like Turnus. He is thoughtful and empathetic and generally tries to do the right thing. His chief attribute is *pietas*—a word usually translated as "piety" but more akin to dutifulness.[118] He is *pius* toward the

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[115] *A Republican*, N.Y.J., Sep. 6, 1787, *reprinted in* 19 DOCUMENTARY HISTORY, *supra* note 1, at 16, 16.

[116] THE WORKS OF VIRGIL: CONTAINING HIS PASTORALS, GEORGICS, AND ÆNEIS (John Dryden trans., London, Jacob Tonson 1697). In Dryden's translation, which is more poetical than literal, this quotation can be found in the *Georgics* at 3.13–14.

[117] *See* HOMER, THE ILIAD bks. 2, 5, 6, 8, 11–17, 20, 23 (Andrew Lang, Walter Leaf & Ernest Myers trans., London, Macmillan & Co. 1883).

[118] Bernard Knox, *Introduction* to VIRGIL, THE AENEID 1, 13–15 (Robert Fagles trans., 2006).

gods, toward his people, toward his family, and toward his mission.[119] *Pietas* forces him to make painful choices, some of which have ugly consequences, in part because of his own mistakes.

By succeeding in Italy, Aeneas founds a people destined to rule the world. Of these, Jupiter says:

> *[H]is ego nec metas rerum nec tempora pono:*
> *imperium sine fine dedi.* [120]
>
> "On them I place no bounds of space or time;
> to them I have given rule without end."

One can see how this tale might have appealed to founding-era Americans: Aeneas leads a group forced to leave their home. They proceed under divine guidance to a new and fruitful Western land. They endure great struggles. In their final triumph, they are free, and they have divine assurance of a magnificent future.

But it is not only the narrative that appealed to founding-era Americans. To explain this, I must share a personal observation: Unlike the traditional student of Latin, who begins in high school or earlier, I did not embark upon the language until I was in my thirties and had studied three other foreign languages. I had read the *Aeneid* in English as a young man and found the story interesting, but nothing more. But after studying Latin for a year or two, I was introduced to the epic in its original language, and since that time, I have read and written out all of it—much of it again and again.

Its beauty and its power are astonishing.

It was that power and beauty, as well as the story and its length, that rendered, among the Constitution's ratifiers, the *Aeneid* the most-quoted poem of all.[121]

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[119] KEITH, *supra* note 1, at 100 ("Virgil redefines the nature of epic heroism, moving away from the Homeric conception of a singular pre-eminent warrior's martial prowess or an extraordinary individual's intrepid resourcefulness to the Roman communitarian ethic of overlapping responsibility to gods, society and family captured in the Latin word *pietas*, 'dutiful respect.'"); *cf.* Letter from Benjamin Franklin to Jared Eliot (Sep. 12, 1751), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Franklin/01-04-02-0057 (on file with the Regent University Law Review) (arguing that self-praise is not always wrong and quoting AEN., *supra* note 1, at 1.378–79—*Sum pius Aeneas . . . fama super aethera notus*—in which Aeneas was addressing a young woman he suspected was a goddess—that is, Venus, his mother).

[120] AEN., *supra* note 1, at 1.278–79.

[121] On the other hand, we should discount one story of alleged influence. At least two authors have claimed that George Washington ordered a statue of Aeneas carrying his father out of Troy for Mount Vernon. ZIOLKOWSKI, *supra* note 1, at 147; GUMMERE, *supra* note 1, at 15. In fact, Washington ordered a statue of Julius Caesar, not of Aeneas. His European

The first book of the *Aeneid* begins with a frightful storm that shipwrecks Aeneas and his followers and destroys part of their fleet. In the aftermath,

> *apparent rari nantes in gurgite vasto,*
> *arma virum, tabulaeque, et Troia gaza per undas.*[122]
>
> "Scattered swimmers appear in the vast whirlpool,
> the weapons of men, planks, and Trojan treasure through the waves."

John Adams reflected the founders' low opinion of human capacity when he used the first of those two lines to describe the rarity of great political talent in the recurrent shipwreck of political life. Among Adams' "scattered swimmers" was Oliver Ellsworth, a delegate to the 1787 Federal Convention, one of Connecticut's first two Senators, the principal author of the Judiciary Act of 1789, and later the Chief Justice of the United States.[123]

To return to the story: Those remaining among Aeneas' followers find themselves on the coast of Africa, where Queen Dido, formerly a Phoenician princess, has founded the new city of Carthage. Aeneas makes his way into Carthage, and the queen offers him and his followers permanent sanctuary.

The ratification debates include several references to Book One, particularly on the subject of hardship. Some writers quoted a version of Aeneas' effort to cheer up his forlorn men:

> *revocate animos maestumque timorem*
> *mittite: forsan et haec olim meminisse iuvabit.*[124]
>
> "Recover your spirits, set aside your sorrow and

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supplier, unable to find a suitable statue of Caesar, sent a statue of Aeneas instead, hoping the substitution would be satisfactory. PAUL LELAND HAWORTH, GEORGE WASHINGTON: FARMER 46–47 (Juliet Sutherland & Charlie Kirschner eds., 2020) (1915), https://www.gutenberg.org/cache/epub/11858/pg11858-images.html (on file with the Regent University Law Review); Worthington Chauncey Ford, *Prefatory Note* to INVENTORY OF THE CONTENTS OF MOUNT VERNON, at v, xv–xvi (Worthington Chauncey Ford ed., 1909) (1810). When an inventory was made of Mount Vernon in 1810, the Aeneas statue was not present, indicating that either Washington or his successors had disposed of it. *See generally* INVENTORY OF THE CONTENTS OF MOUNT VERNON, *supra* (not listing an Aeneas statue). Indeed, there was almost nothing in Washington's library to suggest interest in the Greco-Roman classics—not even a work by the otherwise omnipresent Cicero. *See id.* at 14–40 (listing Mount Vernon library holdings).

[122] AEN., *supra* note 1, at 1.118–19.

[123] Letter from John Adams to William Tudor (May 9, 1789), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Adams/06-19-02-0311 (on file with the Regent University Law Review).

[124] AEN., *supra* note 1, at 1.202–03.

fear: perhaps someday it will be pleasing to remember even this."[125]

Likewise, a North Carolina essayist writing a pamphlet signed "A Citizen and A Soldier" portrayed the lamentable results of his state's preliminary decision to stay out of the Union with the remark Aeneas made on seeing that Troy's sad fate was known even in faraway Carthage: *sunt lacrimae rerum*—"There are tears for things."[126]

On a more upbeat note was the decision of the *New York Packet* newspaper to choose as its motto Queen Dido's promise of refuge and equal treatment: *Tros Tyriusque mihi nullo discrimine agetur*[127]—"Whether Trojan or Phoenician, for me there will be no difference."[128]

At the end of the first book, Dido invites Aeneas and some of his leading men to a banquet and urges him to tell his story. As he begins to do so, Book Two opens with the words *Conticuere omnes*[129]—"they all fell silent." These were the words with which Charles Thomson, the secretary to the Continental and Confederation Congresses, described audience reaction when Patrick Henry began to speak.[130]

In Book Two, Aeneas begins by regretting the task of narrating the story of the fall of Troy, asserting that even the savage Myrmidons and Dolopians of uncultivated Thessaly might weep at the retelling:

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[125] A letter from Charles Thomson to William Ellery quotes the same passage:

> Sensible of our inexperience in the art of government and of the self sufficiency of those who would probably take the reins I dreaded the mischiefs that might flow from a wanton abuse of power and liberty too easily acquired. I confess we have escaped better than I expected. I am therefore encouraged to hope for a favourable issue and to conclude with "forsan et heec olim meminisse juvabit" . . . .

Letter from Charles Thomson to William Ellery (May 26, 1788), *reprinted in* 24 DOCUMENTARY HISTORY, *supra* note 1, at 264, 264–65 (quoting AEN., *supra* note 1, at 1.203). Thomson was the secretary of the Continental and Confederation Congresses. Ellery, from Rhode Island, was a signer of the Declaration of Independence and the Articles of Confederation. For other citations to the same line, see, for example, Letter from John Adams to Henry Marchant (Aug. 18, 1789), *reprinted in* 25 DOCUMENTARY HISTORY, *supra* note 1, at 569, 570; Letter from John Adams to Elbridge Gerry (Sep. 5, 1783), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Adams/06-15-02-0117 (on file with the Regent University Law Review).

[126] A CITIZEN AND SOLDIER (1788), *reprinted in* 31 DOCUMENTARY HISTORY, *supra* note 1, at 527, 544 (quoting AEN., *supra* note 1, at 1.462) ("Thus rejected by the union, and without any legal government, you must soon be the sport of a wicked set of paper-money plunderers, and subject to every caprice that abandoned counsel can direct. *Sunt lachrymæ* [*sic*] *rerum*." (italics added)).

[127] AEN., *supra* note 1, at 1.574.

[128] 19 DOCUMENTARY HISTORY, *supra* note 1, at lx–lxii (editor's commentary) (reporting use of the motto).

[129] AEN., *supra* note 1, at 2.1.

[130] GUMMERE, *supra* note 1, at 18.

Infandum, regina, iubes renovare dolorem . . .
quaeque ipse miserrima vidi
et quorum pars magna fui. Quis talia fando
Myrmidonum Dolopumve aut duri miles Ulixi
temperet a lacrimis?[131]

"It is unspeakable, O Queen, that you order me to relive
the pain
such unhappy things I have seen
And in which I played a large role. Who in speaking of
such things
—even Myrmidons or Dolopians or that harsh soldier
Ulysses—
could refrain from tears?"

But he forges ahead and relates the story of the Trojan horse. His narrative, as told by Virgil, is our primary source for this episode, not the *Iliad* or the *Odyssey*.[132]

The Trojans find that the Greeks have abandoned their siege and left a huge wooden horse behind. When some propose wheeling the structure into the city for religious purposes, the elderly priest Laocoon warns, "I fear Greeks even when bearing gifts"—*Timeo Danaos et dona ferentes*.[133] But Juno sends twin sea serpents, which kill Laocoon and his sons and intimidate almost everyone else. Then, a Greek agent pretending to be a deserter persuades them to bring the horse within the walls. That night, the equine effigy opens, and Hellenic soldiers emerge. The soldiers open the city gates, and they and their comrades capture and destroy the town. After relating the tale of the Trojan horse, Aeneas tells how he fought the invaders until the Trojan cause became hopeless. Then, instructed by the shade of his dead wife, he escapes with his father and son to rendezvous with other Trojan refugees and begin their voyage to a new home.

Participants in the constitutional debates used Book Two in various ways. A personal example appears in a letter from John Jay to John Witherspoon, a signer of the Declaration of Independence and President of the College of New Jersey (today, Princeton University). Jay recalled an unhappy sea voyage with the words: "With Respect to the disagreable [sic] voyage in which your Son shared with us, I wont [sic] say *jubes*

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131 AEN., *supra* note 1, at 2.3–8.

132 The account in the eighth book of Homer's *Odyssey* is rather brief.

133 AEN., *supra* note 1, at 2.49.

renovare dolorem" [134]—part of "It is unspeakable, O Queen, that you order me to relive the pain."

An essayist writing as "A Foreign Spectator" thought there was much to be gained by reliving the fall of Troy. His (or her) essay explained why a popular republic should rely more on state militias rather than a standing army for defense.[135] The argument is too extensive to summarize here, but at one point the author carefully distinguished the respective qualities that create citizen soldiers as opposed to professionals.[136] Entertainment has a role in creating the necessary qualities for militiamen:

> To patriotic and solemn minds heroic tragedies are the finest entertainments and extremely useful in republics, with history, epic poetry, and odes of the same spirit. . . . While the world remains brave patriots will sigh over Hector, dragged at the wheels of a cruel foe, mangled and steeped in blood, round the walls he had so long defended with a valiant arm; and will hear the sweetest music in these words of Virgil; that represent his ghost weeping over the conflagration of Troy.[137]

Antifederalists believed the Constitution would open the door to aristocracy, and they relied on the story of the Trojan horse to slam home their message. In their opinion, the Constitution, featuring excessive federal powers and lacking a bill of rights, was a part of a plan to gull Americans. "Philadelphiensis" recalled Virgil's account of the Trojans erecting the wooden beast in the city:

> *Instamus tamen immemores, caecique furore*
> *Et monstrum infelix sacrata sistimus arce,*[138]

which the author translated as

> Thus we, by madness blinded and o'ercome,
> Lodge the *dire monster* in the sacred dome.[139]

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[134] Letter from John Jay to John Witherspoon (Apr. 6, 1784), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Jay/01-03-02-0248 (on file with the Regent University Law Review) (quoting AEN., *supra* note 1, at 2.3).

[135] *A Foreign Spectator*, PHILA. INDEP. GAZETTEER, Sep. 8, 1787, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 150, 153 (Pa. Supp.).

[136] *Id.* at 151.

[137] *Id.* The essayist then went on to quote excerpts from the *Aeneid* describing Hector's state. *See id.* at 152 (quoting AEN., *supra* note 1, at 2.270–79).

[138] *Philadelphiensis IX*, PHILA. FREEMAN'S J., Feb. 6, 1788, *reprinted in* 16 DOCUMENTARY HISTORY, *supra* note 1, at 57, 57 (quoting AEN., *supra* note 1, at 2.244–45).

[139] *Id.*

On the other hand, Virginia Federalist Francis Corbin used the same story to signal his contempt for the Antifederalists and their charges of "aristocracy" by comparing them to Virgil's savage Myrmidons and Dolopians:

> But I conceived it to be the business of those who projected themselves on the occasion as *true Federalists*, to evince themselves to be, as much as possible, *True Democrats*; knowing full well that if the Least opening had been given, [Patrick] Henry & his [pack?], "Myrmidonum Dolopumve" would have been open mouth'd agt. Aristocracy.[140]

After Rhode Island—a state widely held in contempt for its redistributionist policies—initially rejected the Constitution, a Federalist essayist from that state expressed relief. "Columbus" wrote:

> Had this State, while prosecuting its present system, sent delegates to the continental convention; had they, agreeably to the requisition, recommended a convention to consider the new constitution, and unanimously ratified it, the other States would have felt some new jealousies; for if Troy had reason "to fear the Greeks even when they offered presents,"[141] how much more would those States which have adopted the new constitution had to fear that there was some latent fraud, some dangerous innovation in order and justice if Rhode-Island had adopted it . . . .[142]

Virgil's narrative of the Trojan horse thus offered fodder for both sides.[143]

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[140] Letter from Francis Corbin to James Madison (Nov. 12, 1788) (second alteration in original), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Madison/01-11-02-0250 (on file with the Regent University Law Review).

[141] AEN., *supra* note 1, at 2.49 ("[*Q*]*uidquid id est, timeo Danaos et dona ferentes*.").

[142] *Columbus*, NEWPORT HERALD, Jan. 17, 1788, *reprinted in* 24 DOCUMENTARY HISTORY, *supra* note 1, at 84, 85–86.

[143] Both before and after the ratification debates, prominent members of the founding generation resorted to another line from the second book of the *Aeneid*. It was spoken as part of Aeneas' encouragement of Trojan resistance after the Greeks were sacking the city:

> *moriamur et in media arma ruamus.*
> *una salus victis nullam sperare salutem.*
>
> "Let us die, and tear into the midst of the fray.
> There is but one safety for the vanquished, and that is to hope for none."

AEN., *supra* note 1, at 2.353–54. See, for example, Letter from Francis Dana to Abigail Adams (June 23, 1798) ("Had Switzerland hearkened to the sage [and] solemn Council of their Countryman Vattel, she might still have preserved her Independence . . . . It is risking everything, only to listen to the least proposition: then they might truly say [']Una salus—

So also did the *Aeneid*'s third book. It recounts the Trojans' early wanderings, along with encounters with Greeks and with other Trojan groups. There is also a visit to the land of the Cyclops.

Aeneas makes an abortive effort to found a colony in Thrace but is warned away by the spirit of the dead Polydorus: *heu fuge crudeles terras, fuge litus avarum*[144]—"Oh, flee this harsh land, flee the shore of greed." Polydorus, it seems, had been commissioned by the Trojan king Priam to carry gold into Thrace, but once Troy was sacked, the Thracian king slew Polydorus and stole the gold:

> *quid non mortalia pectora cogis,*
> *auri sacra fames!*[145]
>
> "What do you not force mortal hearts to do,
> cursed hunger for gold!"

Federalists and Antifederalists enlisted these quotations. "A Citizen" wrote on the Federalist side, "If this new constitution passes . . . I would say to the Europeans, at least the fettered part of them . . . (and three fourths are fettered) 'Heu fuge crudeles, fuge terras littus [*sic*: should be *litus*] avarum.'"[146] On the Antifederalist side was an impressive essay by three authors attacking the Constitution for its concessions to the slave trade, a trade due to "a cursed thirst for gold."[147]

Federalist Theodore Foster borrowed a line from the third book when assailing Rhode Island's use of paper money. Although inflatable paper currency had been issued for the relief of debtors, it also caused great hardship among many. The Constitution sought to cure the problem by

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nullam sperare salutem[']." (quoting AEN., *supra* note 1, at 2.354)), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Adams/04-13-02-0068 (on file with the Regent University Law Review).

144 AEN., *supra* note 1, at 3.44.

145 AEN., *supra* note 1, at 3.56–57.

146 *A Citizen*, HUDSON WKLY. GAZETTE, Jan. 24, 1788, *reprinted in* 20 DOCUMENTARY HISTORY, *supra* note 1, at 652, 652 (quoting AEN., *supra* note 1, at 3.44).

147 *Consider Arms, Malachi Maynard & Samuel Field: Dissent to the Massachusetts Convention*, HAMPSHIRE GAZETTE, Apr. 9 & 16, 1788, *reprinted in* 7 DOCUMENTARY HISTORY, *supra* note 1, at 1733, 1738. Other Founders who resorted to the same quotation at various times included Benjamin Franklin and James Madison. Benjamin Franklin, *The Busy-Body No. 8*, AM. WKLY. MERCURY, Mar. 27, 1729, *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Franklin/01-01-02-0040 (on file with the Regent University Law Review); Letter from James Madison to William Bradford (June 19, 1775), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Madison/01-01-02-0047 (on file with the Regent University Law Review) ("Virgil certainly gave a great proof of his knowledge of human nature when he exclaimed 'Quid non mortalia pectora cogis auri sacra fama?[']" (alteration in original) (quoting AEN., *supra* note 1, at 3.56–57)).

prohibiting state issuance of bills of credit or making any medium other than silver and gold coin legal tender.[148] Foster wrote,

> This Wicked Paper Money System has the Property of Stripping a Man of all his Earnings after a Life of Industry, and resting the Means of his subsistance [sic] in the Hands of Idlers, or Sharpers, without his having it in his Power in any Manner to remedy the Mischief—When he thought by his Industry he had wherewith to live he sees Want rise up before him and perplexity surround him on every side—'*Dei talem Pestem avertite nobis*—'[149] May the Glorious new Constitution come over us like a Mantle and Shield us from the Dire Evils of anarchy and the Triumphs of Despotic Licentiousness and Shayism.[150]

Foster's Latin phrase had been spoken to Aeneas and his men by a marooned crewman of Ulysses, reporting the ravages of the Cyclops. However, the Constitution did not, in fact, rescue the political system from all cyclopean terrors. Very early in the First Federal Congress, Representative Samuel Livermore of New Hampshire, likened an impending bill draft to the blind Cyclops Polyphemus: *monstrum Horrend[um]—cui lumen ademptum*[151]—"the fearful monstrosity, from whom his eye had been snatched."[152]

The *Aeneid*'s sixth book recounts the descent into the underworld by Aeneas and his guide, the Sibyl—a priestess of Apollo. Before their dissent, the Sibyl explains that it is easy to slip into the underworld; the

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[148] U.S. CONST. art. I, § 10, cl. 1. *See generally* Robert G. Natelson, *Paper Money and the Original Understanding of the Coinage Clause*, 31 HARV. J.L. & PUB. POL'Y 1017 (2008) (examining the original purposes of the Coinage Clause).

[149] AEN., *supra* note 1, at 3.620 ("[*D*]*i talem terris avertite pestem*!").

[150] Letter from Theodore Foster to Dwight Foster (Aug. 7, 1788), *reprinted in* 25 DOCUMENTARY HISTORY, *supra* note 1, at 380, 380–81.

[151] AEN., *supra* note 1, at 3.658.

[152] Letter from Samuel Livermore to John Pickering (July 11, 1789), *in* 16 FIRST CONGRESS, *supra* note 1, at 1005 (quoting AEN., *supra* note 1, at 3.658). Virgil's entire passage is a magnificent example of onomatopoeia, employed to mimic the gait of the thumping monstrosity:

> *Vix ea fatus erat summo cum monte videmus*
> *ipsum inter pecudes vasta se mole moventem*
> *pastorem Polyphemum et litora nota petentem,*
> *monstrum horrendum, informe, ingens, cui lumen ademptum.*

AEN., *supra* note 1, at 3.655–58. Note the repetition of the letter "m," which at the end of a word had a nasal quality in Roman speech. Elisions between words make the pace of the third and fourth lines very slow. The passage means, "Hardly had he spoken, when we saw the shepherd Polyphemus himself, moving his immense mass among his flocks from the top of the mountain, and seeking the familiar shore—a fearful monstrosity, ugly, huge, from whom his eye had been snatched."

difficulty is in getting out: *hoc opus, hic labor est*[153] —"this is the task, this is the toil." Zabdiel Adams had learned that a similar precept pertained to lending money. Adams had a son at Dartmouth College but was having trouble collecting his debts so as to pay his son's tuition. Adams wrote to John Wheelock, the college president:

> Tho my estate is small, yet I have money already accumulated, and in safe hands [in other words, his debtors were solvent], sufficient, to say the least of it, to defray the expence of my son's education. But to recover it is an Herculean task. *Hic labor, hoc opus est* [sic].—Tender acts, a fear of the emission of paper money, and want of Confidence in Government, have, in their united operation, taken Specie, in a great Measure, out of circulation, & left us to fraud, distress and oppression. Many persons think that the adoption of the new continental government would work an immediate and radical cure of all our difficulties. Be it unto us according to their faith, I think an efficient Government would relieve us from many distresses, make money plentier, and raise the Value of our lands.[154]

Aeneas' journey to the underworld was a source of other lessons as well. During the first session of the First Federal Congress (1789), Senator William Maclay of Pennsylvania reflected on the military organization of former General George Washington's plantation: "Did not the Roman poet understand nature to perfection, who makes his heroes marshal their armies of ghosts in the Elysian Fields; and spirits imitate in shadows the copies of their former Occupation?"[155] The same "Foreign Spectator" who wrote about the virtues of a militia[156] also commented on the role of religion in a republic. Religion could be useful—by, for example, strengthening force of oaths—if it communicated correct ideas about the afterlife.[157] These ideas were not necessarily Christian. "Foreign Spectator" commended Virgil's views on the respective characters of those punished or rewarded after death.[158]

While in the underworld, Aeneas meets Anchises, his father. Anchises predicts in detail the future greatness of Rome and also discusses how the world was created:

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[153] AEN., *supra* note 1, at 6.129.

[154] Letter from Zabdiel Adams to John Wheelock (Jan. 8, 1788), *reprinted in* 4 DOCUMENTARY HISTORY, *supra* note 1, at 642, 643 (quoting AEN., *supra* note 1, at 6.129).

[155] MACLAY, *supra* note 1, at 246–47.

[156] *Supra* note 135 and accompanying text.

[157] *See* Robert G. Natelson, *The Original Meaning of the Establishment Clause*, 14 WM. & MARY BILL RTS. J. 73, 101–12 (2005) (discussing the Founders' view of the interrelationship between oaths and religious belief).

[158] *Foreign Spectator*, PHILA. INDEP. GAZETTEER, Aug. 17, 1787, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 108, 109–10 (Pa. Supp.).

> *Principio caelum ac terras camposque liquentes*
> *lucentemque globum lunae Titaniaque astra*
> *spiritus intus alit, totamque infusa per artus . . . .*[159]
>
> In the beginning the spirit nourished the sky and lands
> and infused the liquid fields [i.e., the sea] and the globe of the moon
> and the Titanian stars, and all the limbs . . . .

In notes for a speech to the Maryland ratifying convention, Charles Carroll of Carrollton predicted that the new Constitution would have the same effect on the entire federal system:

> Whilst a difference of interests, real or supposed, may influence the individual States, occasion temporary disgusts, and a contrariety of views, the spirit of the federal Govt. will be one & entire, it will mix with, pervade, & animate the great body of the confederated Republick.
>
> Spiritus intus alit: totamque infusa per artus
> Mens agitat molem, et magno se corpore miscet.[160]

In other words, just as a central spirit animates the world, the new Constitution would animate America.

We skip to Book Nine. Aeneas and his followers are now in Italy, and in his temporary absence fighting breaks out between the native Latins and the immigrating Trojans. The most memorable episode in the book is the tale of two friends, Nisus and Euryalus—young Trojans who live, fight, and die together. The story was referenced during the newspaper exchange mentioned earlier between "News-Monger," a Federalist, and his Antifederalist Critic.[161] "News-Monger" wrote that he regretted "it is not in his power to give . . . immortality to his Parodist . . . He must therefore take his leave of him in the words of the poet.

> —'*Si quid mea carmina possint*
> *Nulla dies unquam vos memori eximet oevo.*'"[162]

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[159] AEN., *supra* note 1, at 6.724–26.

[160] Charles Carroll of Carrollton, Draft Speech for Maryland Convention (Jan. 23–Mar. 1788), *in* 12 DOCUMENTARY HISTORY, *supra* note 1, at 832, 847–48 (quoting AEN., *supra* note 1, at 6.726–27).

[161] *Supra* note 89 and accompanying text.

[162] *To the Author of the Parody of the* News-Monger's Song, LANSINGBURGH N. CENTINEL, Dec. 18, 1787, *reprinted in* DOCUMENTARY HISTORY, *supra* note 1, at 110, 113 (N.Y. Supp.) (quoting AEN., *supra* note 1, at 9.446–47).

The lines are a shortened version of verses 446 and 447, in which Virgil pays tribute to Nisus and Euryalus:

> *Fortunati ambo! si quid mea carmina possunt,*
> *nulla dies umquam memori vos eximet aevo. . .* [163]
>
> O fortunate pair! If my songs can do anything
> May no day erase them from eternal memory!

Book Eleven depicts more warfare. The Latins' war leader, Turnus, is determined to push the Trojans out, despite the eagerness of some in his own camp for accommodation and peace. One of those in the peace party is Turnus' enemy Dranes, who in a public meeting demands of Turnus, *Quid miseros totiens in aperta pericula cives proicis?*[164]—that is, "Why are you throwing your wretched citizens so many times into obvious danger?"

As we have seen, Antifederalist essayists attacked the Constitution because of its accommodations for slavery.[165] They attributed slavery to Virgil's "cursed lust for gold."[166] They also depicted the Constitution's compromises with slavery as "throwing citizens into obvious danger." The latter passage introduced two successive essays by "Phileutherios" (Greek for "lover of freedom"), appearing in the Hampshire Gazette.[167]

We come now to the twelfth and final book of the *Aeneid*. This depicts the triumph of Aeneas over Turnus and the legal merger of the Latins with the Trojans. At one point, Turnus sees his Latin troops being defeated, so he fights more fiercely than ever:

> *Poenorum qualis in arvis*
> *saucius ille gravi venantum vulnere pectus*
> *tum demum movet arma leo, gaudetque comantis*
> *excutiens cervice toros fixumque latronis*
> *impavidus frangit telum et fremit ore cruento*
> *haud secus accenso gliscit violenta Turno.* [168]

This is a difficult passage. The text compares Turnus to a "*Poenorum . . . leo"*—a Punic or Phoenican lion—but Dryden's free translation,

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[163] AEN., *supra* note 1, at 9.446–47.

[164] *Id.* at 11.360–61.

[165] *Supra* note 147 and accompanying text.

[166] *Supra* note 147 and accompanying text.

[167] *See Phileleutheros*, HAMPSHIRE GAZETTE, May 21, 1788, *reprinted in* 7 DOCUMENTARY HISTORY, *supra* note 1, at 1746, 1746 (opening with Virgil's line about throwing citizens into danger); *Phileluetheros*, HAMPSHIRE GAZETTE, June 4, 1788, *reprinted in* 7 DOCUMENTARY HISTORY, *supra* note 1, at 1748, 1748 (opening with Virgil's line, rendered "*Quid miseros toties in aperta Pericula prosius*").

[168] AEN., *supra* note 1, at 12.4–9.

popular during the founding era,[169] rendered the beast a "Libyan lion," perhaps on the supposition that a Punic lion also could be a Carthaginian creature. Here is Dryden's translation:

> As, when the swains the Libyan lion chase,
> He makes a sour retreat, nor mends his pace;
> But, if the pointed jav'lin pierce his side,
> The lordly beast returns with double pride:
> He wrenches out the steel, he roars for pain;
> His sides he lashes, and erects his main:
> So Turnus fares; his eyeballs flash with fire,
> Thro' his wide nostrils clouds of smoke expire.[170]

On December 6, 1787, the day before Delaware became the first state to ratify the Constitution, one "P. Valerius Agricola" reproduced a poem on the sad condition of the Union. It ended, sarcastically, with the "Libyan lion" phrase from Dryden's version of the *Aeneid*:

> What strength, what firmness guide the public helm,
> How troops disbanded guard the threat'ned realm!
> How treaties thrive, and midst the sons of Ham,
> The LYBIAN LION shrinks before the LAMB![171]

IV. SUMMARY: HOW THE CONSTITUTION'S RATIFIERS USED VIRGIL

Professor Richard Gummere's description of how colonial Americans employed Virgil's works effectively summarizes how ratification-era Americans employed them:

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[169] *See, e.g.*, Letter to Thomas Jefferson from George Jefferson (July 22, 1806), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Jefferson/99-01-02-4073 (on file with the Regent University Law Review) (listing Dryden's translation of Virgil among a list of books sent to Thomas Jefferson). *See generally*, Colin Burrow, *Virgil in English Translation*, *in* THE CAMBRIDGE COMPANION TO VIRGIL 21, 28–31 (Charles Martindale ed., 1997) (explaining that Dryden's 1697 translation was read by almost all later English translators and arguing Dryden's translation defined "what kind of Virgil [became] embedded in English culture").

[170] VIRGIL, AENEID 12.9–12.16 (John Dryden trans., Charles W. Eliot ed., 1909) (1697). Here is my own (more literal) effort:

> As in the fields a Punic lion
> crippled from the hunters' wound,
> at last moves forth his fangs, rejoicing in these companions,
> shakes out the muscles on his neck,
> breaks fearlessly the rascal's spear; and rages through his bloody mouth—
> Not otherwise swelled the ferosity in Turnus.

[171] "P. Valerius Agricola," *An Essay, on the Constitution Recommended by the Federal Convention to the United States*, ALBANY GAZETTE, Dec. 6, 1787, *reprinted in* 19 DOCUMENTARY HISTORY, *supra* note 1, at 361, 366 (capitalization in original).

> Our colonial predecessors did not force their study of the ancient sources into group patterns . . . . [T]hey took from the past whatever was relevant to their own concerns and transmuted the material into their own language . . . .
>
> . . . Texts were often quoted from memory and occasionally altered to suit the circumstances. The colonists played, so to speak, by ear. . . .
>
> . . . .
>
> . . . What the classics did to inspire the American public with intellectual ammunition in the days before the country became a nation might serve as an example of effective realism.[172]

Professor Gummere adds, "The classical program was an intellectual instrument for both conservatives and radicals"[173] and "[t]hemes from antiquity supplied arguments for all sides."[174] This generalization also applies to the ratification debates: Virgil was a source for Federalists and Antifederalists alike.

However, except for the agrarian ideal, the founders could not turn to Virgil—as they turned to Aristotle, Cicero, Polybius, and Plutarch—for political ideas. Rather, they resorted to Virgil to express ideas and sentiments better than they could express those ideas and sentiments themselves. They did so partly because Virgil's language was beautiful and evocative. But they did so as well because their education affixed to each quotation a host of associations far beyond the literal, or even the poetic, meaning of the words.

Nor were these associations purely historical. As explained below, they also helped define the understanding of the ratifiers who gave the document legal effect.[175]

CONCLUSION: RHETORIC AND CONSTITUTIONAL MEANING

In founding-era life and in the constitutional debates of 1787–1790, classical culture was everywhere. The quotations from Virgil collected in this Article comprise only a fraction of the references made during those debates to classical authors—Cicero, Sallust, Horace, Ovid, Tacitus, Aristotle, and many others.

The Greco-Roman classics provided members of the founding generation with common points of reference, with a method of communicating with each other in ways that were not only understood,

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[172] GUMMERE, *supra* note 1, at vii–x.

[173] *Id.* at 68.

[174] *Id.* at 173.

[175] Robert G. Natelson, *The Founders' Hermeneutic: The Real Original Understanding of Original Intent*, 68 OHIO ST. L.J. 1239, 1299 (2007) (quoting James Madison and Elbridge Gerry in the First Federal Congress as stating that the Constitution drew its authority from the ratifying conventions).

but evocative and powerful. Their value to that generation demonstrates the advantages of a common cultural and educational core. Although their particular cultural and educational core was hard to maintain—learning classical languages is far more difficult than watching sit-coms or following memes on social media—the founding generation clearly believed it was worth the struggle.

The manner in which the debaters deployed their Virgilian quotations also tells us something about how they viewed the Constitution. In other words, it sheds light on the Constitution's "original understanding" and "original meaning." From George Mason's depiction, via Virgil, of dispossessed farmers, we better appreciate why the ratifiers ultimately agreed that the Constitution's Ex Post Facto Clauses were limited to retroactive *criminal* laws.[176] From the frustration expressed—again via Virgil—over the havoc and personal pain caused by "debtor relief" measures, we learn that the Constitution's limits on those measures[177] were important rather than incidental components of the constitutional bargain. From the analogy between direct taxes and the over-milking of ewes, we can infer that levies on income as well as on property were classified as "direct."[178]

From the participants' use of Virgilian lines when inveighing against slavery, we find that the Constitution was not a public imprimatur in favor of that institution: In fact, there were slaveholders and abolitionists on both sides. There were even some slaveholders, such as James Madison, who favored gradual abolition.[179] We are reminded, further, that while a large minority of the Philadelphia framers were slaveholders, the overwhelming majority of the ratifiers were not—and that practical accommodations made to preserve the Union and secure domestic peace were bitter pills for people on both sides of the issue.

And again, from references to the Trojan horse and the "snake in the grass," we learn how suspicious many people were of the Constitution and its advocates. As it happened, only the advocates' firm and consistent representations as to the limited scope of Federal power persuaded the

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[176] *Retroactivity, supra* note 1 at 517–21 (describing the steps in the bargain).

[177] U.S. CONST. art. I, § 8, cl. 4 (requiring federal bankruptcy laws to be "uniform"); *id.* art. I, § 10, cl. 1 (prohibiting certain state laws).

[178] *See supra* notes 86–90 and accompanying text.

[179] *See* Letter from James Madison to Robert J. Evans (June 15, 1819), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Madison/04-01-02-0421 (on file with the Regent University Law Review) (detailing Madison's plan for the gradual abolition of slavery).

critical number necessary for ratification—representations at the center of the ratification bargain.[180]

[180] I have outlined these in a series of articles. *See* Robert G. Natelson, *The Enumerated Powers of States*, 3 NEV. L.J. 469, 494 (2003); Robert G. Natelson, *The Founders Interpret the Constitution: The Division of Federal and State Powers,* 19 FED. SOC'Y. REV. 60, 60–61, 65 (2018); Robert G. Natelson, *More News on the Powers Reserved Exclusively to the States*, 20 FED. SOC'Y. REV. 92, 92, 98 (2019).