Master thesis

The United States Constitution:

An Aesthetic Analysis

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HØGSKULEN I VOLDA

Abstract

In this thesis I conduct an aesthetic analysis of the United States Constitution. The commitment of "We the People" in the Preamble "to form a more perfect union" introduces the document that follows as an aesthetic project and my study demonstrates how the Constitution is throughout an aesthetic, as well as a legal, text in the sense that it aspires to give form to a cultural and social reality. My main goal is to test what an aesthetic analysis can contribute to recent studies and narratives about the workings of the US Constitution. I aim in particular to see if and how this approach can shed light on the influential claim made by Michael Warner in his book *The Letters of the Republic* that America "became a nation by developing a new kind of reading public, where one becomes a citizen by taking one's place as writer or reader" (Warner 1990, back cover). For this reason, the thesis consists of two principal chapters: the first on writing; and the second on reading. The focus of the second chapter additionally allows me to explore if this approach can help elucidate Linda Colley's recent observation that these kinds of constitutional documents "were – and are – always more than themselves" (Colley 2021, p.12) and how they became so.

I bring in the Norwegian Constitution as a point of comparison. Like the US Constitution – by which it was in part inspired – this has also achieved an iconic status as a founding document, but the differences between them also enable me to examine the degree to which the United States Constitution is "universal" and reflects the role that writing plays in social and aesthetic formations, and/or the degree to which its workings are more culturally and geographically specific.

The understanding of aesthetics and its relationship to society and politics I employ in this thesis is inspired by Caroline Levine's 2017 book *Forms* and the thinking of Jacques Rancière. I therefore focus especially on the joint aesthetic and political issue of who is "represented" in the Constitution: of who writes and reads as "We the People." By reading the Constitution as a narrative I open up for alternative answers to who "We the People" are, and I explore how they change the way the United States Constitution can be – and has been – interpreted and enacted as a narrative. Reading the constitutions as narratives highlights how democracy has proven to be one of the most challenging forms for it to accommodate. My comparison of the two constitutions' response to democracy indicates that the Norwegian Constitution is more welcoming as it "absorbs" the new form by both debating it publicly and

adjusting its text accordingly. By contrast, in the US, most of the debate about the Constitution's text is located in the Supreme Court, not the Congress - the domain of “We the People” - and I suggest that a reluctance to change the language of the US Constitution might reflect an in-built resistance to democracy.

In these ways, I show how an aesthetic analysis of the US Constitution and its reception can both supplement and test standard approaches to understanding its workings, longevity and limitations. Since this approach has not generally been emphasised in recent scholarship, this thesis therefore contributes both to this field in particular and to an extended understanding of writing and written cultures in society.

Abstrakt

I denne masteroppgåva føretek eg ei estetisk analyse av den amerikanske grunnlova. Eg ser på lovnaden gjeven av "We the People" om å danne ein "meir perfekt union" (more perfect union) som eit estetisk prosjekt, og oppgåva mi syner korleis grunnlova, sett på denne måten, ynskjer å forme ein kulturell og sosial røyndom. Hovudmålet mitt er å sjå om ei estetisk analyse kan vere eit bidrag til eksisterande forsking og medverke til ny og/eller annleis innsikt i korleis den amerikanske grunnlova fungerer, som tekst og som narrativ. Særskilt ynskjer eg å sjå om denne tilnærminga kan kaste lys over påstanden i Michael Warner si bok frå 1990 *The Letters of the Republic.* I den vert det hevda at Amerika "vart etablert som nasjon ved at ein ny type lese publikum utvikla seg, og der ein vart borgar ved å krevje ein posisjon som skrivar eller lesar" (Warner 1990, bakside omslag, [mi omsetjing]). ("became a nation by developing a new kind of reading public, where one becomes a citizen by taking one's place as writer or reader" (1990, bakside omslag). Dei to kategoriane, skrivar (forfattar) og lesar, har også lagt grunnlaget for strukturen i oppgåva mi der det fyrste kapittelet handlar om skriving; det andre om lesing. Fokuset på lesing i kapittel 2, gjev meg i tillegg høve til å sjå om ei estetisk tilnærming også kan vere med på å gjere greie for Linda Colley sitt syn, når ho vurderer at konstitusjonelle dokument (grunnlover) "var og er - alltid meir enn seg sjølve" (Colley 2021, s. 12, [mi omsetjing]) (were – and are – always more than themselves) og på kva måtar dei kunne bli det.

Den norske grunnlova vert brukt som samanlikning. Dette av di den delvis er inspirert av den amerikanske grunnlova, og av at begge grunnlovene deler ein ikonisk status som grunnleggjande, nasjonale dokument. På same tid, gjer ulikskapane mellom dei to grunnlovene det mogleg for meg å undersøke i kva grad den amerikanske grunnlova er "universell" og reflekterer rolla som skriving har i sosiale og estetiske formasjonar, og/eller om måten den verkar på er meir kulturell og geografisk spesifikk.

Forståinga min av estetikk i denne oppgåva, saman med måten estetikk er kopla mot samfunn og politikk, er inspirert av Caroline Levine si bok *Forms* (2017) og Jacques Rancière sine tankar om same tema. Eg fokuserer difor særleg på det felles estetiske og politiske spørsmålet om kven som er "representert" i den amerikanske grunnlova: kven som skriv og les som "folket" (We the People). Ved å ta i bruk narratologi og å lese grunnlova som ei forteljing, opnar det seg alternative svar på kven "folket" er, noko som har konsekvensar for korleis

grunnlova kan bli, og har blitt, tolka over tid. Gjennom å lese grunnlovene som forteljingar kjem det fram at det har vore ei særskild utfordring å tilpasse forma demokrati. Samanlikninga mi av korleis dei to grunnlovene responderer på demokratiet kan tyde på at den norske grunnlova er meir imøtekomande: den "absorberer" den nye forma ved både å debattere den offentleg, samt justerer teksten deretter. I USA derimot, er det meste av debatten rundt teksten i grunnlova lokalisert i Høgsterett, og ikkje hos "folket" i kongressen. Eg antydar at motviljen mot å endre språket i den amerikanske grunnlova kan reflektere at den har ein innebygd motstand mot demokrati.

På desse måtane viser eg korleis ei estetisk analyse av den amerikanske grunnlova, saman med tolkingar og mottakingar av den, både kan supplere og utfordre meir standard tilnærmingar som har vore brukt for å forstå grunnlova si måte å virke på, den lange levetida den har hatt, og også kva avgrensingar som er knytt til den. Sidan ei slik tilnærming ikkje generelt har vore vektlagd i nyare forsking, bidreg denne oppgåva til kunnskap innanfor dette feltet spesielt, samt til ei vidare forståing av skrift- og skriftkulturar i samfunnet.

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I am indebted to all of you - thank you.

Åsgunn

Note on constitutional texts

The editions of the constitutions to which I refer in this thesis are:

- The United States Constitution: Beeman, R. (2010). *The Penguin Guide to the United States Constitution: A Fully Annotated Declaration of Independence, U.S. Constitution and Amendments, and Selections from The Federalist Papers* (Annotated). Penguin Books pp. 21-92.
- Constitution of the Kingdom of Norway Translated pursuant to order of Government, Christiania 1814, printed by Jacob Lehmann: *Constitution of Norway (Unamended) - Wikisource, the free online library*. (n.d.). Retrieved October 11, 2022, from https://en.wikisource.org/wiki/Constitution_of_Norway_(Unamended)
- Constitution for Kongeriget Norge (original version May 1814): *Kongeriket Norges Grunnlov*. (814, May 17). Lovdata. Retrieved May 16, 2022, from https://lovdata.no/dokument/NL/lov/1814-05-17
- The Confederate Constitution (1861): Appendix E in Anastaplo, G. (2012). *Reflections on Slavery and the Constitution (Studies in Marxism and Humanism)*. Lexington Books.

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Introduction

The purpose of this thesis is to conduct an aesthetic analysis of the United States Constitution. This will consist of two elements. First, I will analyse its aesthetic composition as a piece of writing and identify the artistic and political forms it affords and projects; and second, I will demonstrate how different reading practices and changes in society have in turn reshaped some of the prevailing interpretations and perceptions of the Constitution.

I take as my starting point the argument made in Michael Warner's 1990 book *The Letters of the Republic*. As the back cover of the book presents it:

> The subject of Michael Warner's book is the rise of a nation. America, he shows, became a nation by developing a new kind of reading public, where one becomes a citizen by taking one's place as writer or reader (Warner 1990, back cover).

Warner's book has been highly influential in shaping what is currently a standard narrative about the United States Constitution. In this narrative, the formation of the United States as a nation relies to a large degree upon the printed nature of its constitution, which enables a reading audience to imagine themselves as part of a unified whole, even though they may never meet one another. This way of thinking connects well with Benedict Anderson's theories about nation building. In his book *Imagined Communities* (2016), Anderson claims that print-capitalism "made it possible for a rapidly growing number of people to think about themselves, and to relate themselves to others, in profoundly new ways" (Anderson 2016, p. 36).

Warner's emphasis on the printed nature of this constitution is key and has helped cement the idea that its status as a written document has been crucial for its workings and longevity. However, in his discussion he highlights the idealistic possibilities of print but takes much less account of the actual material conditions of print culture. Such "material" considerations are a focus of Trish Loughran's book *The Republic in Print* from 2007. Loughran does not deny the idealistic importance of written documents but questions the degree to which they were produced and then distributed to a geographical widespread audience. Her book, she

contends, “tells a different story about the production of both printed texts and the American nation” (Loughran 20017, p. 3). She argues that the “United States” existed only as a rhetorical fiction and, quite contrary to Warner’s view, that it was the lack of national infrastructure that enabled the nation to be imagined as a unified whole between 1776 and 1790. When the material realities caught up with the fiction, she continues, the illusion of a union could no longer be upheld, and this contributed to secession and civil war (p. 5).

Loughran and Warner are two of my main reference points for this thesis. Even though they are not explicit about this, they both in practice show a particular interest in the Constitution as an aesthetic object through its existence as a printed document, but neither of them places aesthetics at the centre of their discussions. This is what sets my approach apart from theirs: aesthetics will be my focal point and I contend that the Preamble to the Constitution presents the document that follows as an aesthetic projection: “We the people, in order to form a more perfect union”. The key word here is “form” and the definition of form as “To construct, frame; to make, bring into existence, produce” (The *Oxford English Dictionary*), makes the Constitution a tool for forming this union.

A third main reference point for me is Caroline Levine and her book *Forms* (2017). “Things take forms,” Levine argues, “and forms organize things” (Levine 2017, p. 19). In keeping with this, I will in this thesis consider both the forms the Constitution itself has taken across time and the manner in which it has organised social, political and other formations. In presenting itself as a form of speech, moreover, in which – in the words of the Preamble again – “We the People … do ordain and establish this Constitution for the United States of America,” I understand the US Constitution to adopt a special position as an aesthetic, as well as a legal, text in the sense that it attributes to it the capacity to form a cultural and social reality. This quality has to a degree largely escaped attention, and this thesis therefore both supplements and questions existing scholarship.

This aesthetic approach leads me to read the Constitution as, among other forms, a narrative. This seems an unusual approach, but I am not the only one who links constitutions to literary forms. Linda Colley, for instance, says:

> A constitution, after all, like a novel, invents and tells the story of a place and a people. These documents were - and are - always more than themselves, and more too than a matter of law and politics (Colley 2021, p.12).

Warner, influenced by Anderson, also makes this connection between story and place through his focus on the idealised printed text and his investment in the notion that readers are thereby brought into a community with one another through their reading of an identical text, albeit at different times and in different places. When a text is idealised in this way, it can further give the impression that the text never changes. My treatment of the text as a narrative that is both told and read pays attention to how the narratives it tells and is believed to tell evolve over time. Through reading and interpreting the Constitution as an aesthetic phenomenon, I aim to explore the degree to which its aesthetic dimension is one of the ways in which it (in Colley's words) "was - and is - always more than itself." By doing this, I will shed some light over its working, its longevity, but also on some of the challenges it has faced and continues to face today.

Theories

This thesis probes the relationship between a written text on the one hand and aesthetic and political forms on the other. It does so, moreover, in part by exploring how the United States Constitution can be – and has been – interpreted and enacted as a narrative. In this section I will therefore set out some of the theoretical paradigms I have found useful in working through my three areas of concern: language, forms, and narrative. These three categories also deliberately structure my two chapters. This structure will allow, both me and the reader, to more easily detect any connections and/or differences in what happens to each of them when I shift my focus from the writing of the Constitution in chapter 1to the reading/re-writing of its text in chapter 2.

Language

I find John Searle's book from 2010, *Making the Social World* to be highly relevant in my exploration of the relationship between language and social forms. It is "concerned with the creation and maintenance of the distinctive features of human society and therefore, of human

civilization" (Searle 2010, p. 3). Searle's claim is that in order to create institutional facts "we use one formal linguistic mechanism, and we apply it over and over with different content" (p. 7). This distinctive feature of human social reality is what he calls *status functions* and is described as humans imposing functions on people and objects that cannot be performed solely in virtue of their physical structure (p. 7). These functions need to have a collectively recognized status. So, for example a president, or a dollar bill can only "perform" their function if they are collectively recognised as such, if not, they would be an ordinary person or piece of paper. Applying this to the Constitution, there can be no doubt that this is an object in possession of a status function, and it comes with the potential powers to create and constitute a society. However, Searle continues, claiming a status function is not enough. In order to make it work there must also be a collective intentionality. That is, "there must be a collective acceptance or recognition of the object or person as having that status" (p. 8). Time has shown that the Constitution certainly is collectively accepted and recognised, so I therefore understand it to be attributed a status function. As chapter 2 will show, what it is accepted and recognised to say differs and can be a source of contention.

All status functions carry what Searle calls *deontic powers*, that is rights, duties, obligations, requirements, and so on. Arguably, the Constitution awards itself this power; describing rights, duties, obligations, and so on held by the federal and state governments, as well as by the individual citizen. Because status functions carry deontic powers, they also create *independent reasons for action*, that is "they provide the glue that holds human civilization together" (p. 9). Private property, for instance, creates a right for the owner: "do not take this without my permission," and an obligation for everyone else: "I cannot appropriate that property unless I am allowed." "Once recognized they provide us with reasons for acting that are independent of our inclinations and desires" (p. 9). Based on Searle's principal ideas on status functions and deontic powers, the Constitution undeniably carries a status function, and so the next question is, how does this come into existence? The answer, according to Searle, is that: "all institutional facts, and therefore all status functions, are created by speech acts of a type that I in 1975 baptized as "Declarations"" (p. 11).

In this thesis I treat the Constitution as a "declaration" of this kind based, partly, on its use of the verb "declare" in the Preamble. "Declare" is what Searle classifies as a "specific

performative verb" (p. 85). Declarations are one of five different possible types of speech acts: assertives, directives, commissives, expressives, and declarations. However, declarations stand out because:

> *there is no prelinguistic analogue for the Declarations. Prelinguistic intentional states cannot create facts in the world by representing those facts as already existing. This remarkable feat requires a language"* [original emphasis] (Searle 2010, p. 69).

Language itself is what is actually needed to create a reality: "Once you have the capacity to represent, you already have the capacity to create a reality by those representations, a reality that consists in part of representation" (p. 84). On the one side, language is capable of creating a reality, but it is also dependant on other people's acceptance:

> A person who can get other people to accept this Declaration will succeed in creating an institutional reality that did not exist prior to that Declaration (Searle 2010, p. 85).

This is precisely the project of the US Constitution as it defines and constitutes the institutions that will govern the new union, and the creation of this new reality is achieved in and through its written language. An important part of my language discussion will revolve around the kind of language used, and its effects. How can it be said to have helped legitimise and seek a collective recognition, both when it was written, but also in its later reading? In this interrogation, I will engage in the long, and ongoing, debate about *how* the Constitution constitutes through its language, a debate that is very much centred on the question of constative versus performative language.

I understand my aesthetic approach to the Constitution allows me to address the relationship between language and social forms as framed by Searle, but unlike him and his particular attention to language, I will conduct this analysis with a specific focus on forms.

Forms

Given that language is used to create social and political realities, it enables these realities to take certain forms. It is this specific relationship between artistic and social/political forms that will be the focal point in this section. In my reading of the studies by Anderson, Searle, Warner and Loughran, I understand the interrelationship of writing and society to be of considerable importance. My interpretation, however, does presuppose a specific definition of the word aesthetics - the one articulated by, for instance, Jacques Rancière. Rancière suggests that:

> [A]esthetics can be understood in a Kantian sense - re-examined perhaps by Foucault - – as the system of a priori forms, determining what presents itself to experience. It is a delimitation of spaces and times, of the visible and the invisible, of speech and noise, that simultaneously determines the place and stakes of politics as a form of experience (Rancière 2013, p. 13).

Rancière thus connects politics specifically to aesthetics, since both are involved in determining who, in a society, is allowed to be seen and not seen, heard, and not heard. This relationship between politics and aesthetics is further developed by Caroline Levine in her book *Forms* (2017). Her understanding of forms is the one I will be deploying in this thesis: "form" will therefore be taken here to "mean all shapes and configurations, all ordering principles, all patterns of repetition and difference" (Levine 2017, p. 3). This is a wide definition, but it is exactly what is needed in order to analyse the broad range of different forms afforded by and attributed to the United States Constitution. Like Rancière, Levine considers form to be the "stuff of politics," because it works to make order, and she likewise draws on Rancière in her definition of politics as "a matter of distributions and arrangements" (p.3). Political struggles, she suggests, therefore "include ongoing contests over the proper place for bodies, goods, and capacities" (p. 3). A constitution is a tool that has significant influence over these kinds of social distributions and arrangements.

Aesthetic forms are not distinct from political forms. Instead, forms as a general concept can be used about both. Levine's broadening of forms to include experiences of social patterns has methodological consequences:

> The traditionally troubling gap between the form of the literary text and its content and context dissolves. Formalist analysis turns out to be as valuable to understand sociopolitical institutions as it is to reading literature. Forms are at work everywhere (Levine 2017, p. 2).

I will introduce my own formalist approach to the United States Constitution subsequently but following Levine's argument that "forms are at work everywhere," I would like to emphasise that there is one aesthetic formation I have found to be especially important in my work with this thesis, namely "unity."

> Totality. Unity. Containment. Wholeness. For many critics, these words are synonymous with form itself. To speak of the form of a work of art is to gesture to its unifying power, its capacity to hold together disparate parts (Levine 2017, p. 24).

Unity is at work in both art and politics. The Preamble, for example, expresses unity to be the goal for the Constitution: "in order to form a more perfect union." Furthermore, Levine's recognition that "form" is often treated as synonymous with "unity" makes her formalist approach seem especially promising for the analysis of a nation that defines itself as a unity in its very name: The United States of America. The Constitution, then, the written text whose purpose is to create the "perfect union," would be *the form*. I understand most constitutions, not only the American, aspire to work in similar ways, as they seek to define, organise, and help unify the different elements that together form a nation. In exploring how unity was achieved and experienced in and through the United States Constitution, I will therefore focus in particular on the same set of dominant forms as Levine: bounded wholes, rhythms, hierarchies, and networks. These forms are also present both in Warner's influential reading of the Constitution and in the theoretical work of Benedict Anderson that underpins it, so they are useful for evaluating his – and related – interpretations too.

Anderson's *Imagined Communities* (2016) is one of the most influential works in regard to current scholarship on the forming of nations and the origins of nationalism. In that book,

Anderson suggests that a nation be defined as "an imagined political community - and imagined as both inherently limited and sovereign" (Anderson 2016, p. 6).

Anderson explains the community to be imagined because "the members of even the smallest nations will never know most of their fellow members, meet them, or even hear of them, yet in the mind of each lives the image of their communion" (p. 6). Anderson's definition of the nation as an imagined community is in some ways similar to Searle's theory about language; the "nation" is given a status function by a common intentionality. Like Searle's theory, it also adds credibility to an aesthetic approach because it involves, among other things, perception and imagination. The nation is furthermore imagined as limited because even the largest of them has "finite, if elastic, boundaries, beyond which lies other nations" (p. 7). These boundaries help give a specific form to the nation, even if the shape might change over time. I intend to explore how the elasticity of the US borders influenced, and even changed, forms which the form of the nation encompassed. Finally, Anderson explains how nations can be imagined as communities, because, regardless of any actual inequality and exploitation that may prevail within, "the nation is always conceived as a deep, horizontal comradeship" (p. 7). I understand this to be a highly idealised expression of the nation, and my discussion will show that the notion is contested in the case of the US Constitution as it, in fact, employs hierarchies, competing with the idea of horizontal comradeship.

Included in Anderson's definition of nation is also, importantly, sovereignty:

> The concept was born in an age in which Enlightenment and Revolution were destroying the legitimacy of the divinely-ordained, hierarchical dynastic realm. Coming to maturity at a stage of human history when even the most devout adherents of any universal religion were inescapably confronted with the living pluralism of such religions, and the allomorphism between each faith's ontological claims and territorial stretch, nations dream of being free, and if under God, directly so. The gage and emblem of this freedom is the sovereign state (Anderson 2016, p.7).

The claim they make upon this kind of sovereignty is essential for both the United States Constitution and the constitution I will introduce as a point of comparison: the Norwegian

Constitution. They each seek to legitimise their claim against an opponent, the Norwegian arguably more so than the US, since in Norway the claim of sovereignty was set in motion by the Treaty of Kiel, as it offered Norway to Sweden as punishment for the twin kingdom Denmark-Norway's participation on the losing side of the Napoleonic wars. The Norwegians opposed this, and instead produced a written constitution and proclaimed Norway as a sovereign state.

In America, even though the "people" who "ordained and established" the Constitution, could be said to claim sovereignty, they also sought to minimise and allay fears in regard to sovereignty as a concept. A probable cause for this could be the prevailing view on the concept at the time. Hannah Arendt discusses a connection between sovereignty and absolutism in her book *On Revolution* (1963), where she writes:

> In this respect, the great and, in the long run, perhaps the greatest American innovation in politics as such was the consistent abolition of sovereignty within the body politic of the republic, the insight that in the realm of human affairs sovereignty and tyranny are the same (Arendt 1963, p. 152).

This relationship between sovereignty and tyranny might also help explain why democracy was considered an inadequate form of government. Democracy, in the eighteenth century, was usually understood in the Aristotelian sense as "unrestrained direct democracy" (Gammelgard and Holmøyvik 2014, p. 8), and *Federalist* 10 (Madison 2020) is just one example of a text in which factions are perceived as a major threat to society. "Pure democracies," James Madison claims, are unable to deal with the "mischief of factions:"

> A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of

> government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time be perfectly equalized and assimilated in their possessions, their opinions, and their passions (Madison 2020, p. 51).

Madison, in other words, considers democracies to foster majority tyranny, and his fear is that individual rights will be sacrificed. This specific understanding of democracy gradually changed, and democracy today, is arguably a form present in the US. In chapter 2 of my thesis, I will explore how democracy was introduced and included in the Constitution, and the effect it has had on other social and political forms.

Forms, according to Levine, do "political work in particular historical contexts" (Levine 2017, p. 5), and one of the contexts of the US Constitution is, alongside nationalism, the Enlightenment. Anderson explains how the eighteenth century in Western Europe marked not only the "dawn of the age of nationalism, but also the dusk of religious modes of thought" (Anderson 2016, p. 9). However, he does not suggest that the concept of nations simply grows out of and replaces religious communities and dynastic realms, but rather "a fundamental change was taking place in modes of apprehending the world, which, more than anything else, made it possible to "think" the nation" (p. 22). "Modes of apprehending" is yet another way of describing aesthetics, emphasising why an aesthetic approach like this is valuable. Another crucial feature to enable the imagination of a nation is a "new" way of conceiving time, which Anderson connects directly with aesthetic forms. He explains how the idea of a temporal coincidence, probably best expressed as "meanwhile," took over from a mediaeval conception of "simultaneity-along-time" (p. 5).

> Why this transformation should be so important for the birth of the imagined community of the nation can best be seen when we consider the basic structure of two forms of imagining which first flowered in Europe in the eighteenth century: the novel and the newspaper. For these forms provided the technical means for "representing" the kind of imagined communities that is the nation (Anderson 2016, p. 24-25).

As previously stated, Anderson links the nation as a form to the printing of these artefacts, and to the network that distributes them. Loughran sums up Anderson's account in this way:

> Anderson gives print pride of place among the many objects that circulate through these networks, arguing that the "territorial stretch" inhabited by New World populations "could be imagined as nations" only with "the arrival of print-capitalism" and that the sphere of circulation in which printed artifacts moved explains the territorial boundaries of particular nations. In this argument, print capitalism both registers as a new comparative consciousness among different geographical populations and circulates the affect that attaches to such consciousness (Loughran 2007, p. 5-6).

This is the line Warner adopts and Loughran questions, and which I will explore throughout the thesis. It is this interrelation between aesthetics and politics/society that, also, can be read through different interpretations of the constitution, which in turn makes them susceptible to aesthetic analysis.

In Levine's study of forms, she presents five influential ideas of how forms work: they constrain, differ, various forms overlap and intersect, forms travel, and they do political work in particular historical contexts (Levine 2017, p. 4-5). How is it possible that form can perform so differently? In order to capture the complex operations of social and literary forms, she adopts the concept "affordances." This is a term used in design theory which describes "the potential uses or actions latent in materials and designs" (Levine 2017, p. 6). Different materials have different affordances, so for example steel is hard and durable, whereas cotton is soft and fluffy. Once the material is made into a specific design, its affordance will also vary. Steel can be made into forks or doorknobs, a fork affords stabbing and scooping, a doorknob can be pushed, pulled, and turned (p. 6). Levine proceeds to explain the role affordances play in her understanding of forms:

> Let's now use affordances to think about form. The advantage of this perspective is that it allows us to grasp both the specificity and the generality of forms - both the particular constraints and possibilities that different forms afford, and the fact that

> those patterns and arrangements carry their affordances with them as they move across time and space. [...] Each shape or pattern, social or literary, lays claim to a limited range of potentialities (Levine 2017, p. 6).

Although different forms lay claim to different affordances, there is one specific affordance they all share: “Precisely because they are abstract organizing principles, shapes and patterns are iterable - portable. They can be picked up and moved to new contexts” (p. 7). In chapter 1 of this thesis, I will identify the Constitution's different forms, literary and social, and explore their affordances and effects both in relation to their contexts and each other. In chapter 2 I will move on to consider their transition across time and their application in new spaces, as the republic expands.

Levine further points to the relationship between material and form: “things take form, and forms organize things” (p. 10). This is where I find her theories especially useful as I will be looking at a specific text here, the United States Constitution, which seeks to organise a whole society. In order to do that the text utilises its own form, a printed document, and its own material, language. Language again lays claim to its own forms and its own materiality, each with its own affordances.

> Every literary form thus generates its own separate logic. The most common literary formalist reading method involves binding literary forms to their contents, seeking out the ways that each reflects the other [...] a reading practice that follows the affordances of both literary forms and material objects imagines these as mutually shaping potentialities, but does not fold into the other, as if the materiality of the extratextual world were the ultimate determinant (Levine 2017, p. 10).

Affordances, then, point us to what all forms are capable of, and also to their limits. Forms can be repeated elsewhere, they can travel, and carry their affordances with them when they do. “Form emerges from this perspective as transhistorical, portable, and abstract, on the one hand, and material, situated, and political, on the other” (p. 11). I intend to explore these capacities and limitations through my specific focus on the forms I have previously highlighted: unity, wholes, networks, hierarchies, and narratives.

Narratives

As I have stated, my approach is distinctive in its attention to aesthetic forms, one of which is narrative. This includes treating the US Constitution as a narrative, something that few other studies have attempted. The narrative elements of plot, character, narrator, and reader will be central in my reading of it as a narrative. They will be helpful in highlighting the degree to which the text, along with the forms of organisation it affords, is not neutral.

The narrator of a narrative will come with in-built points of view, and often these views make assumptions about the process of time - the plot of the story. Characters will be the ones included in the text, the geographical shape of the union correlates to setting, and an audience can also be said to be read into it by referring to "We the People" in the Preamble. Together all these elements have affected how the Constitution has acted in practice. Put simply, read as a narrative, the Constitution in many respects decides *who* gets to act and *how*. Over time, though, characters, plots, readers and settings change, something narratives are designed to track, and as time progresses, the narrative, the Constitution itself, will change - or interpretations of it do, at any rate.

In this, I am inspired by two of Levine's contentions in particular: "The form that best captures the experience of colliding forms is narrative", and that narrative form affords "a careful attention to the ways in which forms come together, and to what happens when and after they meet" (p. 19). Chapter 1 can be said to pay attention to the experience of colliding forms, as I will look at the narrative patterns set out and anticipated in the original 1787 text. In chapter 2 I will explore how this narrative has evolved, bifurcated and been told, re-told and contested over in the time since. This discussion will more specifically involve the Amendments, as they are meant to "regulate" the original 1787 text; Chief Justice Taney's rulings in the *Dred Scott* case of 1857 to exemplify a specific "republican" way of readings, the Confederate Constitution of 1861, and Martin Luther King's speech "I have a dream" from 1963. These two last texts each mention race and colour, but for different reasons: the first aims to exclude people on this basis, while the second is an appeal for inclusion. I will

round off the discussion with a brief consideration of Amanda Gorman's poem "The Hill We Climb" from 2021, which will bring the discussion to the present day.

In my analysis of these texts, I will show that forms can move across contexts, and when they do so, they take their affordances with them. Race, for example, is thus not only a social fact that can be conveyed in a text, but it is a binary form that carries its affordances with it *into* and *out of* a text. By treating constitutions as fictional narratives, they become "productive thought experiments that allow us to imagine the subtle unfolding activity of multiple social forms" (Levine 2017, p. 19).

Method

In order to conduct the aesthetic analysis of the United States Constitution proposed in this thesis, I will rely primarily on two sets of methods: formalist analysis (consisting primarily of close reading and narratology); and comparison with the Norwegian Constitution.

Formalist Analysis

Just as I agree with Levine about the relationship between politics and aesthetics, I also agree with her that traditional formalist analysis is well-equipped to explore, interpret and evaluate this relationship (Levine 2017, p.3). This hypothesis is what I aim to test by adopting close reading and narratology as two of my principal tools. The first of them, close reading, I will use when I explicate the rhetorical strategies of the text of the Constitution in chapter 1 and of the responses to that text in chapter 2. The second, narratology, will allow me to explore them as narratives in the manner set out in the previous section. I will not follow a specific theorist, but adopt the standard categories of plot, character, narrator, setting and reader/audience.

Both of these methods have long been deployed to conduct specifically aesthetic analyses, but they have also been criticised for doing this to the exclusion of all else – such as history, politics, and so on. I do not believe this to be the case, and so I agree with those who argue that close reading can involve more than a focus on the art object alone. One of those is

Annette Federico, who in *Engagements with Close Reading* (2015) claims that New Critics have been misunderstood and that the assumption, held by opponents arguing that the "focus on the autonomous work of art represented a throwback to "art for art's sake" couldn't be more wrong" (Federico 2015, p. 40). Instead, she continues, "The New Critics argued forcefully that it is because literature has important use and relevance to the world that the critic has a public role to play in setting standards and aiding reader's appreciation and understanding" (p. 40). My intention is to probe the Constitution's interactions with changing contexts, history, politics and so on, and applying Federico's view on close reading allows me to do this.

Comparison

Another important aspect of my approach will be to compare the US Constitution with the Norwegian Constitution. My principal purpose in doing this is to explore the degree to which the interrelationship between aesthetic and political forms I discuss in relation to the United States Constitution is to a degree "universal" and reflects the role of written language in particular, and/or the degree to which they can be more culturally and geographically specific.

There are several reasons why I have chosen the Norwegian Constitution in particular. The first of these is that it was inspired by the American Constitution, so it is itself, to a degree, a "reception" that reflects changes due to the transition from the US in its narrator, setting, reading, storyworld, and plot. Second, it appears in a similar cultural-historical timeframe: the Enlightenment. "The international movement of Enlightenment philosophy served as a shared intellectual background" (Gammelgaard and Holmøyvik 2014, p. 3). This shared ideological background allows for Warner's idealist understanding to be tested further in relation to Loughran's materialist approach. Third: it is the second oldest written constitution still in use after the US, so it has in common longevity and stability – but as I argue these are of different kinds – and it, too, has had to adapt to change and, not least, the emergence of democracy. Despite these commonalities, different forms are connected to each of them, for example republicanism in the American compared with monarchy in the Norwegian; an expanding geography in the former compared with a fixed and bounded geography in the latter. Finally, the Norwegian Constitution operates in different ways regarding for example, the process of

making amendments and its existence in different versions in different languages. I will however not give the two constitutions equal attention in this thesis, and they will not be compared on every point. The Norwegian Constitution will be brought in only on those occasions where it contributes to emphasise specific similarities or differences in my areas of concern.

Structure of the thesis

The structure of this thesis is designed to address the central claim of Warner's book that the nation of America was formed by the development of a new reading public in which one becomes a citizen by "taking one's place as writer or reader." The first chapter then, is concerned with the formation that took place through writing, whereas the second chapter focuses on some of the ways the text changed in response to how it was read in changing social formations. In order to emphasise the degree to which these two chapters are intended to supplement one another, they are also divided into the same three subsections: language, forms and narratives.

Chapter 1: Writing

In this first chapter I will perform an aesthetic analysis of the written text of the US Constitution, conducted through a comparison with the written text of the Norwegian Constitution. By analysing artistic strategies like linguistic forms and rhetoric devices, I attempt to elucidate the social and political, as well as artistic forms they project, in other words - these forms affordances. This includes exploring whether or not they can find expression in narrative form.

By doing this I intend to establish how the artistic properties of the writing of each constitution can give specific form to the key organising elements of the societies they project: monarchy vs republic; hierarchies; spaces; times. This, in turn, will prepare the ground for chapter 2 where I will look at the effect of these affordances.

My purpose in applying the narrative form to the two constitutions is varied. Firstly, I wish to explore Levine's claim that narrative brings together competing forms, and, because nations

function in similar ways - that is they *also* hold together competing forms - a narrative analysis which involves plot, character, time and so on is useful. Furthermore, it is a feature of the reception of the US Constitution that it has been read as a narrative, and so, it will allow for me to emphasise the difference between the US and the Norwegian constitutions both in terms of whether they are narratives and in terms of the stories they tell.

Chapter 2: Reading

Here I will conduct an analysis of some of the ways in which the US Constitution has been read/interpreted in the light of changing social formations. This is highly relevant in order to explore how the US Constitution can be, and has been, read differently in response to alternative/changing aesthetic perceptions and social forms. I understand this to be valuable because it can demonstrate how the US Constitution operates as an aesthetic phenomenon in practice, much in the same ways as a work of literature does. It both projects upon and responds to the world, however the way it does this, will vary as a result of the context of its reception. This will allow me to evaluate its capacity to respond and adapt to changing perceptions and social forms, and maybe also explore if this capacity is due to its aesthetic affordances. Finally, this will allow me to unpack further Warner's claim that one becomes a citizen through one's place as a reader (and rewriter) of the constitution. In this chapter I will look at some specific texts: The Confederate Constitution of 1861, Martin Luther King's 1963 speech "I have a dream" and Amanda Gorman's 2021 poem "The Hill We Climb."

Comparing the US Constitution with the Norwegian Constitution

Before I start, I need to say a few words about the comparison between the two written constitutions in question. The Norwegian Constitution is a "living document" and has been amended more than 300 times since 1814. Only a handful of the original paragraphs from 1814 are unchanged. Most of them have been amended at least one time. In addition, some paragraphs have been fully removed whilst new ones have been added. The language of the Constitution has also changed over time. It was originally written in Danish, but in 1903 the Storting made a careful revision of the language, so that it corresponded with conservative prose language used at the end of the 19th century. Until 2014, new constitutional proposals were written according to the language norms of 1903. However, the Norwegian written

language kept changing, and by now the old-fashioned constitutional language proved difficult to read for most people. Also, parliamentary representatives found it hard to draft constitutional proposals according to an outdated language norm without specialist aid. Consequently, the Constitution was rewritten in a more modern bokmål and nynorsk, both approved by the Storting in 2014.

When it comes to the US Constitution, the original text is still in use, and the twenty-seven amendments are written as additions to this original document. Even in cases where portions of articles are rendered null and void by later amendments, like the Thirteenth Amendment which abolished slavery, the original text has not been changed in the document that can be read today.

In this comparison I will look at the original texts in chapter 1 and amended versions in chapter 2.

Chapter 1: Writing

In this chapter, I will analyse the aesthetic composition of the United States Constitution as a piece of writing and identify the artistic and political forms it affords and projects. My goal in doing this is to study one half of Warner's claim that the United States came into existence by creating a new kind of reading public, that reading and writing were required in order to become a citizen, and that the Constitution thereby writes the new republic and its citizens into existence. In this chapter I will be examining the writing half of his claim.

Like Gammelgaard and Holmøyvik do in the introduction of *Writing Democracy* (Gammelgaard et.al. 2014), I understand the word "writing" broadly, "as all activities connected with putting something into text, with setting something down in a written document" (Gammelgaard and Holmøyvik 2014, p. 2). In this first chapter I will focus on the activities connected to the original writing of the texts, excluding the later amendments. The amendments will be part of the second chapter where I intend to investigate the Constitution's reception and adaptation, and how different interpretations have affected the workings of that document.

As I explained in the introduction, my discussion of the aesthetic composition and affordances of the US Constitution will frequently be compared with the original 1814 text of the Norwegian Constitution. I will not discuss at length the historical circumstances or the actual process of debating and writing these two documents (for relevant accounts, see, Frydenlund 2020, Gammelgaard et.al. 2014, and Beeman 2009). My discussion will focus instead on other key themes, amongst them the different uses of language and whether this language describes what already exists or brings something new into existence. Furthermore, I will discuss the forms that help the two documents achieve their longevity and stability, some Enlightenment features I understand to specifically connect to aesthetics, and also the different forms of monarchy and republic, and the ways in which these two forms have influenced the texts, and vice versa.

The chapter consists of three sections: language, forms and narratives. In the language section I will analyse the rhetorical and linguistic devices these texts deploy to generate their

aesthetic and social forms. I will start by evaluating the language of the Preamble of the US Constitution as it has a particular impact and in important ways influences how the Constitution as a whole can be read and understood. Furthermore, I will investigate how specific verbs, for instance "is" and "shall," in both constitutions, possess a combination of constative and performative qualities. This will lead into the section on forms where I will elucidate some of the particular forms projected by the language. Some of these social forms I will interrogate more fully, with a particular focus on wholes, hierarchies, networks, and rhythms with an intention of showing how they organise and structure their surroundings. And because, as I have earlier argued, constitutions aim to produce a "whole," some essential questions arise: what kind of world is this "whole," who belongs in it and who does not? I will attempt to answer this when I in the final section on narratives bring together the features of the two constitutions that I have discussed in more depth earlier. I will compare the storyworlds the two constitutions narrate and consider the forms of citizenship that are written into them by looking at how they script actions and characters. I will conclude the discussion with a focus on narrator and reader, and arguably the melding together of both these roles into one. By doing this I hope to provide a picture of how the constitutions envision that their "more perfect union" and "free, independent and indivisible realm" will function into the future.

Language

In this section I begin with the Preamble and then move on subsequently to the actual Articles of the Constitution. This reflects my perception that the Preamble lays an important foundation for ways of understanding the Articles. The Preamble I will show has a personal tone and Biblical language that is closely related to language's ability to create or perform.

The performativity in the Preamble is evoked by the words "ordain" and "establish," which at the same time also create a sense of "new beginning": "We the People [...] do ordain and establish this Constitution for the United States of America." The function of a performative utterance is, as discussed in regard to Searle in the Introduction, to make something the case by stating it to be so. By contrast, a constative utterance states something that already exists, which is what the first paragraph of the Norwegian Constitution appears to do: "The Kingdom

of Norway is a free, independent and indivisible Realm" (Kongeriget Norge er et frit, uafhængigt og udeleligt Rige). This paragraph evokes a sense of continuity and stability, because it appears to simply state a fact about what Norway already is, and for this reason might be understood as more constative than performative in its expressions. Language thus shows the affordance of carrying both "performatives" and "constatives" and are two of the ways in which these constitutions appear to be different. However, my analysis will show that both constitutions contain aspects of both – but they are organised differently.[1]

In addition to expressing itself as "performative" I also find the Preamble to be "personalised," by the way it immediately includes the reader in the first three words: "We the People". It thereby establishes a tone that can be considered open and inclusive. It is specifically the word "we" that evokes this feeling - the word instantly includes the reader. By using a personal pronoun, the text can be interpreted as adopting a spoken voice, and furthermore, the plural form does not only communicate a personal bond directly with the reader, it creates a community as well. Because the reader is included, they automatically become participants in the act of writing and part of a community of other writers and speakers. The Preamble creates a connection and a bond of a personal character, reinforced by the rest of the Preamble, which in constitutional scholar Richard Beeman's words, can be described as "a promise to the American people" (Beeman 2010, p. 10). A promise in this sense becomes a human commitment that must be enacted, or delivered, by other human beings, sometime in the future. The way this promise is delivered in a "spoken voice" points to the oral quality of the language, whereas the promise itself is written down. The written text gives it the form of a stable/fixed "contract" that perhaps makes it less susceptible to variations over time. Promoting a "human relation," along with a stability achieved by being a printed artefact, might both be contributing factors to why the Constitution has achieved its iconic status.

By comparison, the opening of the Norwegian Constitution has a more impersonal tone, transmitted by what might be considered a more neutral, legal prose. Yet in his chapter,

[1] The classic account of the relationship between constatives and performatives is J. L. Austin's 1962 book *How To Do Things With Words*. In this book Austin acknowledges that it can often be difficult to distinguish between these two aspects of language

"Timing the Constitutional Moment: Time and Language in the Norwegian Constitution" in *Writing Democracy* (Jordheim, 2014), Helge Jordheim investigates how such legal prose is able to disguise dramatic events and actions by the use of the present tense. The law is "continually speaking" and refers to actions that will take place in the future (Jordheim 2014, p.121). The present tense is established in the first sentence, represented by the verb "is" (er), and so article 1, "The Kingdom of Norway is a free, independent and indivisible Realm" (Kongeriget Norge er et frit, uafhængigt og udeleligt Rige) is an example of how:

> Although it is situated in the present, the prescriptive legal text is not an integral part of the historical moment or the event, but refers to actions that will take place in the future and - to the extent that it is relevant - that have already taken place in the past. In this way, the state is removed from the complex and highly contingent narratives of national awakening and emancipation and relocated in a continuous, stable, and more or less immutable present: the present of the law (Jordheim 2014, p. 121).

I understand the way the Norwegian Constitution speaks "in the present of the law" is one of the reasons why the text has a more distinct impersonal, "legal feel", and it highlights the writtenness of the document, compared to the spoken voice of the US Constitution. Furthermore, it allows the present to be a point of continuity between the past and the future. Article 2, for instance, reinforces a continuity with history:

> The Evangelical-Lutheran religion shall be maintained and constitute the established Church of the Kingdom. The inhabitants who profess the said religion are bound to educate their children in the same. Jesuits and Monastic orders shall not be tolerated. Jesuits are furthermore excluded from the Kingdom. (Den evangelisk-lutterske Religion forbliver Statens offentlige Religion. De Indvaanere, der bekjende sig til den, ere forpligtede til at opdrage sine Børn i samme. Jesuitter og Munkeordener maa ikke taales. Jøder ere fremdeles udelukkede fra Adgang til Riget.)

Jordheim explains: "In this way, in the shift from Article 1 to Article 2 and by the use of words like "maintain" (forbliver) and "furthermore" (fremdeles), the "is" is extended not only

forward into the future, but also - and just as importantly - backward into the past" (Jordheim 2014, p. 124).

Such references to the past are harder to find in the US Constitution, which appears to only project a future that is grounded in a fixed present, and seemingly unconnected to any existing past. This is the case, for instance, in the Preamble:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America

When it comes to the language of the Preamble, Beeman suggests that although the words do not carry the force of law, they have had substantial rhetorical power (Beeman 2010, p. 21). The Preamble is the only section of the Constitution, which is written in the present tense, and as such, it might carry some resemblance with "the present tense of the law." Interestingly, and at the same time, it is perhaps the Preamble that reads as the least "legal" part of the text; it does not use the language typical of specific laws, but instead it articulates a law-making capacity.

In the Norwegian text, this legal quality was signified by the verb "is". Thus, the first article was also a statement about, and a confirmation of, the status of the Norwegian kingdom. The verbs in the Preamble do not confirm the republic as already existing in the same way as the verb "is". Instead, they refer to a beginning only as a starting point, and appear to start time anew, from a fixed present when the Constitution is written. Their sequencing is also significant and identifies a progression from their initial formulation to their eventual enactment: this future is first "formed", and then "established", "provided", "promoted" and, finally, "secured". They form an arc, and what is particularly interesting is that this process starts with an aesthetic shaping. Form involves ordering, and so does "ordain", which we find in the second part; "[We the people] ... do ordain and establish". The *Oxford English Dictionary* defines "ordain":

> **I**. To put in order, arrange, or prepare. **2**. **a.** *transitive*. To arrange in the correct order or position; to keep in due order; to regulate, govern, direct, manage, conduct.

Not only does the word mean to put things in order, but it also means to arrange something in the *correct* order, which I believe is what the constitution aims to do: to arrange the elements of a government in the best possible way to establish a solid ground for the future. The verbs "ordain" and "establish" are comparable to the verbs in the first part and create a similar movement from creation to finish. Along with the element of ordering, "ordain" comes with a religious connotation and also means:

> II. To decree, order, or appoint.
> 9. transitive. Christian Church. To confer holy orders on; to admit (a candidate) into the ministry of the church by the laying on of hands with prayer or other symbolic action; to make someone a priest or minister. Also occasionally intransitive (*Oxford English Dictionary*).

Ordain, in this context, provides a feeling of "ritual" - something that is both repetitive and renewing. The repetitive element must necessarily involve something from the past, something that is renewed, and the word can, in that respect, bear a resemblance to how "is," in the previous discussion, serves as a connection between past and future. By the use of "ordain", the Preamble - again - connects the Constitution to human activities. The constitution is ordained, the same way prayer or symbolic action makes someone a priest or a minister. There is a very strong performative element in the word "ordain", which is reinforced by other words in the Constitution.

This completes my analysis of the Preamble which is to some extent distinguished from the rest of the Constitution because of the language that is used. I will now proceed to the language of the Articles.

The most prominent word is first found in Article 1: "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives". Already in this one sentence the word "shall" is used twice, and by closer

investigation, it turns out to be the third most frequent word in the Constitution, used 306 times. The total word count is 7508 and the most frequent word is "the" (720), followed by "of" (491). This makes "shall" the most frequent *significant* word, and it is clear, then, that it is not used arbitrarily, and calls for a closer investigation. In addition to pointing to the future in its capacity of being "a mere auxiliary, forming (with present infinitive) the future, and (with perfect infinitive) the future perfect tense" (*Oxford English Dictionary*), "shall," like "ordain," strengthens the religious connection. It is used for instance:

> **5.** In commands or instructions.
> **a.**(a) In the second person, equivalent to an imperative.
> Chiefly in Biblical language, of Divine commandments, rendering the jussive future of the Hebrew and Vulgate. (In Old English the imperative is used in the ten commandments.)
> **6.** In the second and third persons, expressing the speaker's determination to bring about (or, with negative, to prevent) some action, event, or state of things in the future, or (occasionally) to refrain from hindering what is otherwise certain to take place, or is intended by another person. (*Oxford English Dictionary)*

The US Constitution, then, establishes itself as a beginning from where the future is projected. This is further emphasised by the adoption of Biblical language which, along with its sense of authority, serves as a reminder of "Divine commandments", also signalling a new start for a people. For instance, *Genesis* begins with God making pronouncements which then come into effect, and also The Gospel of John opens with the line: "In the beginning was the Word…" All the significant verbs that I have looked at to this point - ordain, establish, shall - come with a definition involving some sort of creation, forming and ordering, showing they are not chosen arbitrarily. The Constitution is literally building the future with words.

It appears, then, that there can be found a difference created by the language of the two Constitutions: a more Biblical style in the US Constitution versus a more legal style in the Norwegian. To some degree the use of "is" can lead to the assumption that the Norwegian Constitution is referring to something that already exists, and as such can be considered to have a predominantly constative quality, whereas the commanding "shall" of the US

Constitution creates by way of performing, giving it a more performative character. However, this impression is balanced by Jordheim, who points to juridical language's strong performative character: "According to Visconti, it lies in the nature of juridical language to bring about "a new state of affairs"" (Jordheim 2014, p. 127). When it comes to the performative qualities of the US Constitution, B. Honing's article "Declarations of Independence: Arendt and Derrida on the Problem of Founding a Republic" from 1991, explains how Hannah Arendt considers the performative effect:

> The uniquely political action, on Arendt's account, is not the constative but the performative utterance, a speech act that in itself brings "something into being which did not exist before" (1977, 151). Thus the grandeur of the Declaration of Independence, according to Arendt, consists "[not] so much in its being "an argument in support of an action" as its being *the perfect way for an action to appear in words*… and since we deal here with the written, and not the spoken word, we are confronted with one of the rare moments in history when the power of action is great enough to erect its own monument" (1963, 130, emphasis [original]) (Honig 1991).

I understand that both constitutions in practice combine the constative and the performative. They are able to constitute their own monuments precisely because they are written – physical objects – that come to be celebrated.

The verbs "is" and "shall", with their combined constative and performative qualities, are crucial as structural linguistic elements. Both constitutional texts establish affordances which are to be realised in the future, although it is possible to argue that the Norwegian Constitution already has demonstrated longevity and stability because it roots its present and future in the past. In this text the word "is" functions as a constant, and to repeat Jordheim's words, "is extended not only into the future, but also - and just as importantly - backward into the past" (p.124). The US Constitution does not have similar references to the past. Instead, the different words I have looked at imply a new beginning, and the verb "shall" suggest a possible future that is yet to be composed and created. I will return to this issue subsequently, but in order to do so I wish first to analyse in more detail the nature of the aesthetic and social forms each text projects.

Forms

Levine identifies four key forms that structure everyday life and the connections between aesthetics and politics in which she is interested: wholes, hierarchies, rhythms and networks (Levine 2017). In this section I too will work through these forms in relation to the two constitutions. I begin with the idea of the nation as both a geographically and a socially bounded whole with an "inside" and an "outside." Then I will look at the internal organisation of these wholes in terms of hierarchies and rhythms, the former with a specific focus on race and gender, the latter especially regarding the regulation of time. However, all these forms interlock, and so networks will feature throughout, for instance hierarchies of race and gender will recur in the discussion of rhythms.

Wholes and hierarchies

The nation is often imagined as a bounded whole, with its defined geographical borders. In Levine's account, this notion of wholeness has been met by two major criticisms in literary circles (Levine 2017, p. 24). One claims that literary and aesthetic forms can never achieve a bounded wholeness as the meaning of art can never be understood outside the social contexts in which it is situated. Over time and across space, meaning will change, as I will illustrate in chapter 2. The second critique finds the celebration of wholeness dangerous on political grounds. Levine explains how different lines come together in Jacques Derrida's work of deconstruction, where he demonstrates how a desire for bounded wholeness has serious political consequences in a process, he called différance.

> He [Derrida][...] shows how the relation between inside and outside - between what properly belongs and what can be expelled or objected - grounds the whole project of Western philosophy, and that this foundational struggle to distinguish the closed, essential inside from the unnecessary outside also generates the worst kinds of political injury (Levine 2017, p. 25).

If, then, the nation is a bounded whole, how do the constitutions organise and structure the "inside" and the "outside", and what values are projected by it?

A clear example of this can be found in the last part of Article 2 in the Norwegian Constitution: "Jesuits and Monastic orders shall not be tolerated. Jews are furthermore excluded from the Kingdom" (Jesuitter og Munkeordener maae ikke taales. Jøder ere fremdeles udelukkede fra Adgang til Riget). This can be interpreted quite straight-forwardly: three groups are "not tolerated" and "excluded," and are clearly separated from other elements that are allowed within the form of the nation. Several elements, here individuals, are identified based on their religion, and are transformed to one, manageable unit: a group. The initially troublesome multiple elements are made manageable as one single form, the bounded whole. This is an example of how, in the Norwegian Constitution, elements are placed on the outside of the bounded whole of the nation. Because the geographical borders of Norway already were set, it would have been a relatively easy affair to declare elements unwanted on the inside. Yet, the paragraph did more than define elements on the outside or inside of the kingdom; it sorted acceptable forms from the non-acceptable, thus establishing social borders within the society as well.

This last part of Article 2 has often been compared to the "three-fifths clause" in Article 1.2 of the US Constitution. This clause refers to the compromise made in which slaves were "to be counted as three-fifths of a person in the apportionment of representation in the House of Representatives as well as in the apportioning of the amount of direct taxes to be paid by each state" (Beeman 2010, p. 24). The United States, which already from the outset envisioned expanding, faced a different challenge compared to Norway, partly due to the expanding geographical borders. Thus, the constitution needed a structure to include new and desired elements and, at the same time, exclude, or at least disempower, others. Such structures could be created in the form of hierarchies. As Levine points out: "It is not difficult to understand hierarchies, like bounded wholes and rhythms, as forms: hierarchies arrange bodies, things, and ideas according to levels of powers or importance" (p.82).

Article 1.2 demonstrates how hierarchies can be established by way of sorting and classifying. Here, as in much of the United States Constitution, this sorting takes place largely through

mathematical calculations: “according to their [the States] respective numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.” Mathematics is used to calculate a specific number: add a whole number (free persons), exclude another number (Indians not taxed) and finally add ⅗ of the last number. I understand the use of ratios and mathematics as an expression of forms as situated and that they therefore “do political work in particular historical context” (Levine 2017, p. 5). I have already established that one of the Constitution’s contexts is the Enlightenment, in which period maths was assumed to be a universal language that produced objectively fair results and, furthermore, a large emphasis was put on “the system,” and the balancing thereof. This use of mathematics in the Constitution suggests a belief that all things could be counted and measured, including human qualities, and as long as one used the right formulas and ratios, the results would come out as balanced and therefore “right”. This scientific worldview aligns well with the other Enlightenment principles the Constitution was based on and makes such hierarchy plausible. At the same time, it treats human beings as a mathematical unit, a quantitative rather than a qualitative one, which would prove to be problematic, as I will illustrate in chapter 2.

Even though slaves are not specifically mentioned in the Constitution, they are referred to as “three fifths of all other Persons” and consequently counted as three-fifths of a person. Beeman calls the ratio a “purely arbitrary one” (Beeman, 2010, p. 24) and the result of an unsolvable dispute amongst the representatives: the contradiction that “slaves were human beings, but by the laws of most states they were also regarded as property” (p. 24). I understand this political decision to have correlative aesthetic consequences as slaves are recast as half-property, not fully represented. Linguistically the slaves are made invisible as whole persons with specific roles and then re-presented - made visible again - as mathematical calculations, defined as a percentage of a whole, and as such, positioned and ranked as lower in a hierarchy of persons. Although the word “slave” never appears in the Constitution, Article 1.2 still distinguishes slaves as a group, and places them in a subordinate position within a hierarchy, not quite deserving to be included in “We the People” to whom the “blessings of liberty” shall be secured.

As a contrast to the linguistic and mathematical efforts used to exclude the slaves which, at the same time, enabled their existence on the inside, no such tactics are used in the case of the Native Americans, who are also not included in "We the People". Article 1.2 declares Indians not taxed to be "excluded." On the surface this looks very much like the Norwegian tactic of excluding specific religious groups, except whereas Jesuits, Monastic orders and Jews are expelled beyond the geographical as well as the social borders, the Indians are kept within the geographical borders. They are allowed some coexistence, but rendered "outside" the social borders, being dealt with the same way as "foreign nations." Article 1.8 says: "The Congress shall have Power [...] To regulate Commerce with foreign Nations, [...] and with the Indian Tribes" (p. 31). Native Americans' existence is acknowledged, but they are placed *outside* the bounded whole that belongs to "We the People."

This reveals, at best an ignorance and at worst a denial, of the already existing. The Native Americans are dismissed, and their long history and culture as inhabitants of the land is utterly ignored in the forming of the new nation. The pre-existing history and culture of the slaves are similarly ignored. A recognition of these pasts would complicate the process of reducing them from whole persons to three-fifths. They are recognised as entities important to nation building, mainly for their contribution to the economy, but to fit into the form the constitution wants the nation to take, a unified whole, this redefinition must take place. Recognising them as whole would disable the creation of the unified states, as it would have prevented the compromise needed for the Constitution to be written and ratified. The form must be made acceptable for all the states involved, both pro and anti-slave states. Furthermore, the ignoring of the historical past serves to exclude Native Americans and others and instead validates those who have *chosen* to immigrate there. I intend to explore the consequences of this affordance for Indians and African Americans in subsequent American history in the next chapter, but I will first draw attention to another affected group, that through their partial incorporation reflects the rhythms, as well as the hierarchies, of the nation: women.

Both constitutions share the fact that male is the default gender, implying men are ranked above women in a hierarchy of influence and power. One difference, though, is that the Norwegian Constitution *mentions* women, although in the role of mothers and daughters,

whereas the US Constitution is completely silent. It can be argued that the US Constitution does not refer to specific genders at all, and that men are also not specifically mentioned as the Constitution applies gender neutral titles, such as “person” and “representative”. Looking at the word count, this is true: “man” appears zero times, whereas for example “person” and “persons” are counted respectively 34 and 15 times, “representative” and “representatives” 4 and 29 times. It is however implied that these gender-neutral positions are to be occupied by men. This is first presented in Article 1.2. This starts with the gender-neutral “person”, but by the end of the sentence, it is revealed that this person is a “he”: “No Person shall be a representative [...] be an Inhabitant of that State in which he shall be chosen”. This way of specifying gender is applied throughout the Constitution, and so article 2.1 states: “The executive Power shall be vested in a President [...] He shall hold his Office”. The list goes on, and as a consequence, “he” appears 28 times in the document, whereas “she” is non-existent. The same pattern can be found in the Norwegian Constitution: Article 51 “Everybody is obliged, before he is …” (Enhver skal, forinden han…) Article 61: “... can be elected a Deputy unless he has filled…” (Ingen kan vælges til Repræsentant, medmindre han …). Both constitutions project the world view that only men can fill the positions important enough to be mentioned in the constitutions. Section B in the Norwegian Constitution stands out, though, as it discusses the gender specific role of the king, as well as the general role of the executive powers. This adds a particular importance to the internal form of the Constitution.

I have already pointed out one difference between Norway and the United States is that the first is a limited and hereditary monarchy rather than a republic. One of the ways this manifests itself is in section B, *Of the Executive Power, the King and the Royal Family* (*B. Om den udøvende Magt, Kongen og den kongelige Familie*). Already in the title the gender-specific role, the king, is addressed, and so it comes as no surprise when the word “king” is one of the most prominent words in the Constitution, found 51 times. Furthermore, a great portion of the words “he”: 46, “him”: 6, and “his”:45, would refer back to him. Section B goes into detail about the king’s birth, upbringing, education, and death. By doing so, it lends some significance to roles determined by gender. The mother, for instance, is prescribed a role in the king's upbringing and also in the case where a king dies before his son is of age. As a consequence, a small number of words referring to a female presence can be found, “she” is found three times, “mother” two, “Queen-dowager” four, and finally “princesses” two. This

presence of family in the text makes it distinctly different from the US Constitution. The female gender becomes a necessity in the capacity of being a mother. Gender turns out to do more than represent hierarchies, exclusion and structuring the constitutional text, it also represents a form of network. The Norwegian reference to women, to bodily cycles, and so on – to Monarchy, in short – gives the Norwegian polity a family-like and therefore an organic structure. The American one, by contrast, is something else. In the next chapter I will discuss some of the different notions of what that "else" has been taken to be.

Next, I will move onto how the polity, and text, is divided and look at the networks and relationships within and between these elements, before concluding this section on forms by looking at their rhythms.

The same branches of government are found in both constitutions, but positioning and details weigh them differently. In standard literary analysis, the ordering and number of details matter in ranking of importance. The first article of the US Constitution starts by describing the legislative branch, which in addition to being placed first, also is the most detailed article, comprising ten sections. Both these facts emphasise its importance, something that also Beeman argues:

> It is no accident that the first article of the Constitution deals with the structure and power of the congress, for virtually all of those who took part in the drafting of the Constitution considered the legislative branch to be the most important and, rightfully, the most powerful of the three branches of government (Beeman 2010, p. 22).

The executive branch follows with four sections and opens with: "The executive Power shall be vested in a President of the United States of America." Beeman considers the words to be "remarkably simple and maddeningly vague" (p. 41) and finds the article in general far less specific than the first, when it comes to defining and specifying the nature and extent of the president's power.

A similar pattern continues in the third article, mapping out the judicial powers. This is the shortest section, and lacks details about the judicial power's functions, even more so than

article two. Beeman considers the placement of the article as third a reflection of the relative importance the founders considered it to have, but the brevity and vagueness of the language in the article similarly reflects their relative lack of concern about the branch as well as their uncertainty about its function in the new federal union (p. 47). This vagueness has been an issue in later times.

In the Norwegian Constitution, the legislative powers are described third, not first, and even though the section has 38 paragraphs, it comes second to the section about the executive powers, both in order and in the number of paragraphs. What reasons could the Norwegians have had for placing more emphasis on the executive powers than the legislative? This issue is discussed in "The Thing That Invented Norway" by Karen Gammelgard and Eirik Holmøyvik. The authors make a point of how the Norwegian Constitution diverges from other Enlightenment constitutions, which normally would describe the powers of legislature prior to the powers of the executive, as the US does (Gammelgaard and Holmøyvik 2014, p.28). Such ordering would give formal expression to the primacy of the legislature as the embodiment of the people's sovereignty. However, as already pointed out, in Norway the order was reversed. They point to two prime reasons why this was done: firstly, it reflects the historical process that led to the writing of the constitution in Eidsvoll, where the would-be king was "the prime mover in gathering deputies, in defining the task, and in collaborating in framing a new constitution" (p. 28). Secondly, "the executive is honored with first place because [...] it was through his swift assent that the Constitution could be brought into effect" (p. 28). They conclude that the king was put first "[N]ot for reasons of political theory, but rather for the most pragmatic reasons, putting the king first made good sense" (p.28). This shows that whereas "We the People" are the prime movers in the US, the king is the prime mover in Norway.

The executive branch is meticulously described in 46 articles, which awards it first place in terms of number, followed closely by the legislative branch with 38. This reveals something about the relation between the two, and the apparent need to regulate them. As I have shown, the king was given primacy for already mentioned reasons, but was also important on a different account. Jordheim points out:

> the king, the figure but also the title, was perceived as a bulwark against a union with Sweden. As long as Norway had its own king, some of the deputies argued, it remained the "free, independent and indivisible Realm" ("frit, uafhængigt og udeleligt Rige") described in Article 1 of the Constitution (Jordheim 2014, p. 131).

No matter how important the king was though, the constitution was equally clear when it stated the form of government to be a "limited and hereditary monarchy." In order to describe and regulate the hereditary aspect, and, equally important, to draw up the "limits" between the executive and the legislative branch a fair number of articles were needed.

I have so far shown that the two constitutions have both similarities and differences in their formal expression. Similar in terms of the three different branches and the way one or two of them are given priority over others, the main differences are illustrated by different placements and number of details applied in the descriptions and regulations of their powers. The fact that they are both written documents add a different dimension, and, similar to the earlier discussion about language, this is also connected to a text's performative qualities: because all modern constitutions create a new state of affairs, they eliminate the boundaries between text specific matters and external reality (Gammelgaard and Holmøyvik 2014, p. 7). To an extent I also understand their formal expression to reflect their end goals, (that is, whether their goal is to establish a monarchy or a republic) by the prominent position the king is given in the Norwegian Constitution, and the primacy of the legislative branch in the US.

Rhythm and network

I have so far looked at the production in both texts of wholes and hierarchies. Nonetheless, embedded in this are also the other two forms identified by Levine: rhythms and networks. In this section I will first consider temporal rhythms and then expand this into how the whole is projected to operate as a network: the US as an expanding whole – one whose outer borders are on the move, while internal arrangements remain the same; the Norwegian whose outer borders remain the same, while internally it changes organically.

Article 1, section 2 of the US Constitution stipulates that in order to be a representative one needs to: a) be over twenty-five years of age, b) have been a citizen of the United States for

more than five years, and c) be an inhabitant of the state in which he has been elected. The way that numbers, yet, again, are used as a formula, underpins the previous observation of the founders' faith in mathematics and science as a means of achieving their goals of justice and a perfect union. The numbers also reveal how age and experience are valued over youth, and so the more prestigious the role, the higher the numbers. A representative must be over twenty-five years old and a citizen more than five years: a senator, over thirty years old, a citizen more than nine, and in order to reach the highest level, that of the president, one must be over the age of thirty-five, and a citizen more than fourteen. It is interesting, though, that when comparing it to the relative importance of the branches as I discussed before, where the first branch, the legislative, was considered to be "rightfully" the most important, the number required is lower, than the less important. Is this then a way of restoring a more equal balance? Or is it a contradiction, placing the executive powers above the legislative? Regardless of any original intention, an ongoing and heated debate that I will return to in chapter 2, it is an example of how different forms meet and how the result of such encounters is not necessarily controlled.

In the Norwegian Constitution, Article 61 similarly states: "Nobody can be elected a Deputy unless he has filled his 30th year and has lived 10 years in the Kingdom." (Ingen kan vælges til Repræsentant, medmindre han er 30 Aar gammel og har i 10 Aar opholdt sig i Riget.) A clear understanding is established of what is required, and electable people are by that elevated above those who are unelectable. In the US Constitution there is the possibility of climbing up the hierarchy by getting older or gaining more experience. So, for example in the Congress, one can move from representative to senator, or even reach the presidential office. In Norway, however, a representative can never expect to become a king, and the two parts of the Storting do not come with any seniority between them, as it is stated in § 74: "The National Assembly selects from among its members one fourth to constitute the Lag-Thing, the other ¾ form the Odels-Thing." (Storthinget udvælger blandt sine Medlemmer 1/4 Part, som udgjør Lagthinget, de øvrige 3/4 Parter danne Odelsthinget.) The Norwegian Constitution, even though there is a certain element of hierarchy based on age and experience, leaves no way of moving up the hierarchy by age or proficiency, as the US Constitution does.

Hierarchies control space, but also time needs to be controlled and regulated in order for constitutions to be stable and reliable structures. One way of gaining control of time is by creating certain rhythms. "Rhythms, if we define the term broadly, are pervasive" (Levine 2017, p. 49). I will now look at how both constitutions rely on this pervasive power of rhythm in the way they arrange events and procedures. Helge Jordheim uses the terms "monarchical time" and "republican time" when he describes the temporality of the Norwegian Constitution, and explains:

> Whereas monarchical time follows the king's natural life rhythm and is structured according to biological periods, childhood, maturity, and old age, delimited by birth and death, republican time is imposed by means of specified intervals defined by the Constitution (Jordheim 2014, p.133).

Monarchical time can only be found in the Norwegian Constitution, and I have briefly mentioned how it brings biological time into play. Jordheim points out how Section B of the constitution follows this natural rhythm, and how it is also particular in organising what could be a threat to its continuity:

> when the actual event of "the King's death" is brought up, in Article 46, the successor is already in place, textually. Again, the individual's life rhythm, this time the crown prince's, is brought to bear on the state's political rhythm, inscribed into the more general rhythm of monarchical time, which can continue forever and thus secure the state's permanent existence. Monarchical time is the life rhythm both of the king and of hereditary succession; there can be no gaps or stops, moments when the state risks collapse (Jordheim 2014, p. 132).

Arguably, the Norwegian Constitution's stability and longevity is aided by this natural rhythm and by the way in which the critical time of change is controlled by the detailed descriptions of how this is to proceed. This flow of time also suggests the notion that the Norwegian Constitution is organic. In addition, I understand the writtenness of the document to be another important tool in regulating time. There is no saying how much time passes between the natural rhythm of birth and death, and so a written procedure, as opposed to an orally

transmitted one, reduces the risks of rhythm change due to memory loss. As Ong explains in *Orality and Literacy; The Technologizing of the Word* (1982):

> Other lengthy verbal performance in a primary oral culture tends to be topical, a nonce occurrence. Thus an oration might be as substantial and lengthy as a major narrative, or a part of a narrative that would be delivered at one sitting, but an oration is not durable: it is not normally repeated. It addresses itself to a particular situation and, in the total absence of writing, disappears from the human scene for good with the situation itself […] In a writing or print culture, the text physically bonds whatever it contains and makes it possible to retrieve any kind of organization of thought as a whole (Ong 1982, p.141).

The US Constitution cannot rely on stability through monarchical time but must instead create a different form of stability. Jordheim argues: "Republican time aims for permanence only through change" (Jordheim 2014, p. 134). Although this statement is aimed towards time in the Norwegian Constitution, I understand the same principles to be at work in the US Constitution. When these changes take place, it is important to create stable timelines, so no unpredicted events can find room to take place. Both constitutions aim to create a stable, predictable rhythm in the way the elections are set to occur on regular intervals. For instance, in the US Constitution, elections of representatives will occur every two years, senators every six years and of the president every four years. In Norway, representatives are elected every three years. "To install a specific rhythm in a people and in a political system requires significant work, which includes tools, like political calendars and estimates of the time required to complete specific tasks" (Jordheim 2014, p. 134). Such work is *also* described in both constitutions. Article 1.4, in the US Constitution states:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, but the Congress may at any Time by Law make or alter such Regulations, except as to the Place of chusing Senators. The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Article 68 of the Norwegian Constitution says: "The Sessions of the National Assembly generally begin every third year on the first work-day of the month of February in the Capital of the Kingdom." (Storthinget aabnes i Almindelighed den første Søgnedag i Februarii Maaned hvert 3die Aar i Rigets Hovedstad.) Elsewhere in the constitutions, events must happen *immediately*: Article 1.3 in the US Constitution instructs: "*Immediately* after they have been assembled" (my emphasis). In the Norwegian, Article 51: "Within six months…a register shall be drawn up…wherein shall *immediately* be inserted …" (my emphasis). (Inden 6 Maaneder…forfattes et Mandtal anføres *ufortøvet* deri … [my emphasis]). As Jordheim points out, there is always a "tension between "monarchical time" and "republican time," the time of the king and the time of the people" (p. 135) in the Norwegian Constitution. Article 74 demonstrates the king adjusting to the people, as: "*Immediately* after the National Assembly is constituted, the King, or who he appoints in his place, opens its transactions with a speech …" (my emphasis). (Saasnart Storthinget har constituert sig, aabner Kongen, eller den, han dertil beskikker dets Forhandlinger med en Tale …)

It seems clear that both constitutions actively work toward a stable and predictable rhythm in order for time to be controlled, this in spite of their adherence to different "monarchical" and "republican" times. What is striking in regard to time, though, is how, once more in comparison between the two, in the Norwegian Constitution time is often found anchored to the past, whereas the US Constitution seems to always project the future. In the Norwegian Constitution this could be expected as a logical consequence of the goal, which was to constitute a "limited and hereditary monarchy," heritage being the anchor point. However, as I discussed earlier in regard to the form of the two constitutions, the Founding Fathers in America always intended to create something new, a republic, which was a novel idea at the time, and any reference to a past is marginal. It appears instead that, by writing the Constitution, they intended to start time anew, and this "restart" of time came at the cost of Native Americans and slaves, who were excluded, and instead validated those who chose to immigrate there.

To conclude this section on forms, I find it tempting to try to imagine what forms the two actual constitutions themselves could have taken if they were to be drawn. In my imagination,

the US Constitution could be depicted as an arrowed line ascending upwards from bottom left to top right, representing the start of time and a constant movement towards a future. This trajectory reflects the importance of the word “shall” in the text of the Constitution and the foregrounding of the “performative” nature of its language. It thereby also accords with the longstanding tradition among Americans of characterising their nation as a “project” or “journey” on which successive generations continue to travel (Barack Obama’s first inaugural presidential address in 2009 is a good example of this practice). The Norwegian Constitution, by contrast, does not journey in this way: it is neither a starting point nor an end point. It stays where it always has been and just “is” - even if it has in practice changed the internal composition of the whole which its seemingly constative language asserts through its successive amendments. For this reason, I envisage it to take the form rather of a pond, which retains its outer shape even as it evolves through time.

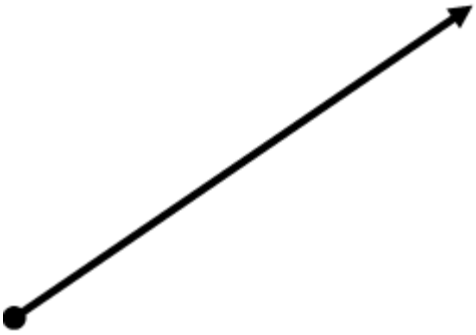

Fig.1 The US Constitution

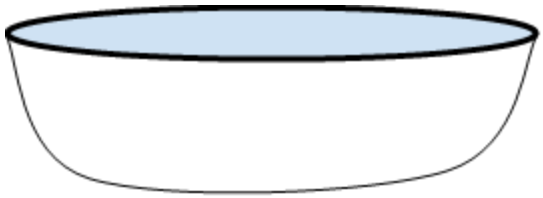

Fig.2 The Norwegian Constitution

Narratives

In the preceding discussion of forms, I argued that the original versions of both the US and the Norwegian Constitutions sought to create an overall form for their respective nations as a whole. Furthermore, these forms come with an in-built rhythm or temporality – an assumption about how they will continue to operate in the future. Much of this in-built temporality I understand to be connected to the argument I presented in the language section: the US Constitution is openly performative and states a reality that is to be brought into existence through the actions inscribed in its language. In this final section of the chapter, I propose to explore how the enactment of this future is potentially scripted into these constitutions by treating both constitutions as narratives – as stories of nationhood and citizenship, each with their specific storyworlds, actions, characters, narrators, and readers. As legal scholar Robert Cover argues in his article "Nomos and Narratives:"

> No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. […] Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live (Cover 1983, p. 4-5).

In keeping with Cover's contention, I would argue that the two constitutions' status not only as written texts, but as written narratives is one of the most important ways in which these kinds of documents, in Colley's words, "were - and are - always more than themselves, and more too than a matter of law and politics" (Colley 2021, p. 12). Viewing them in this way also enables me to probe further the validity of Warner's claim that "one becomes a citizen by taking one's place as writer or reader."

I will begin by comparing the storyworlds these two constitutions narrate and in which their citizens are expected to live. Moving from there to a consideration of how they script actions and characters, allows me to develop my discussion of the forms of citizenship that are written into these constitutions: what kinds of people are envisaged as citizens? Or, as I asked in the introduction, who gets to act and how? Finally, a focus on narrator and reader, and arguably the melding together of both these roles into one, will set up my discussion in chapter 2 of who gets to speak and read as "We the People." Together these elements should

also provide a picture of how the constitutions envision their "more perfect union" and "free, independent and indivisible realm" to function into the future.

To a large extent, my discussion in this section brings together features of the two constitutions I have discussed in more depth earlier in the chapter. In this way, the section is intended to summarise some of its key findings as well as act as a bridge into chapter 2, which considers some of the ways in which these constitutions have been both narrated and lived in the time since.

Storyworld, action and characters

What, then, is the "world in which we live" that each of these constitutions narrates into existence? As I argued in my earlier discussion of forms, both constitutions tell of whole worlds with hierarchies, rhythms, and networks, and where geographical and societal structures function in similar ways to one another by including some elements and excluding others. Enlightenment values are reflected on a general level by the importance they both place on the separation of governmental powers but are even more explicitly expressed in the US Constitution than the Norwegian by the "mathematical" language of numbers and fractions in which its storyworld is created.

The overall form that is more specifically described throughout the US Constitution is systematic and regular, as is evidently seen in several aspects: the clear division of powers, the balancing and checks of these powers along with, more or less, clear descriptions of procedures. The world has an outside and an inside where the inside is further divided, both vertically, in the form of hierarchies, and horizontally, in forms of separated spaces. These features are shared also by the Norwegian storyworld, although whereas Norway's geographical borders are set, the US's are not, but are envisaged to expand. This can be one of the qualities that makes the US Constitution easier to read as "narrative": it is a story of development, whereas the Norwegian one presents itself as describing something unchanging (Jordheim 2014, p.123). The US territory is identified in relation to others, as illustrated by regulations regarding trades with "foreign nations," "among the several states," and "Indian Tribes" (Article I, section 8). It is regulated but is without finite set borders, as Article 4, section 3 allows for new states to be admitted into the union by the Congress. Consequently,

over time the shape of the storyworld will change and the geographical area it covers will grow. This expansion will include new people as well as land, and because of that it will challenge the storyworld's capacity for change. In chapter 2 I intend to explore in more detail some of the new stories that came out of the expansion and evaluate the extent to which they could be contained by the existing narrative.

An additional challenge comes with this dividing of space in the US. The world is framed by the federal state, and at the same time, its unity is opposed by the way it is separated into different individual states. There is therefore a tension in the storyworld between the federal and individual states, which the Constitution attempts to navigate and balance. One of the outcomes of this tension is the possibility of reading the Constitution in different ways. Narratives are, according to Levine, places where different forms mix and compete, and the US Constitution is a narrative that has been competed over. How this tension in the storyworld and between competing narratives plays out will be expanded on in chapter 2.

The US Constitution anticipates change and expansion across time, which makes its narrative easier to read than what appears to be the case in the Norwegian Constitution. The Norwegian text lacks the recognition of chronological time and instead, as Jordheim explains, the dramatic events of the document's origins are neutralised and transformed into the "juridical present of the law" (Jordheim 2014, p. 123), which has an interesting effect:

> "In direct contrast with the actual historical events leading up to 1814, nothing really seems to happen in the constitutional text itself - as if Norway had always been "a free independent and indivisible Realm," as if there was no contingency, no historical transformations to deal with at all" (Jordheim 2014, p.123-124).

If this is the case, that "nothing really happens," the Norwegian Constitution is hard to read as a narrative. A narrative depends on action over time in order to move forward, and so I agree that it sets up a "stable" world because it bases itself on something that "has always been," but the Constitution itself becomes part of a bigger narrative. Events that followed after its creation and ratification made it into "something more than itself," and transformed it from being a text into becoming a national myth. Within this narrative Norway had previously

existed as a free nation except circumstances made it so its freedom was taken away for a long time only to be regained by resourceful men "seizing the moment." By Norway claiming its freedom through a written constitution, the Constitution itself became a symbol for the sovereign nation, much like the symbolic effect of the US Constitution, which has a similar elevated status. However, whereas the US Constitution is a monument, something that is fixed and seen, the Norwegian is less likely to be read as text, but instead invoked as a "myth" (Gammelgaard and Holmøyvik 2014, p. 2). Both Constitutions, by their system and regulations - their storyworlds - set up certain possibilities for their inhabitants to act, effectively influencing a future.

One of the main goals of the US Constitution was to add more vigour and action than the Articles of Confederation had managed:

> the men who provided the energy and intellect behind the movement for a new constitution [...] had come to believe that the lack of "energy" in the Continental government posed an equally formidable threat to liberty (Beeman 2010, p. 143).

One of the sources of this energy in the Constitution is "We the People." They are responsible for the "promise" that is made: "to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty." Beeman explains that some of these specific objectives, like establishing justice, ensuring peaceful operation of society, and providing for the common defence, "had long been understood to be the primary responsibilities of any government," but the last two, regarding welfare and liberty, "are more open-ended, suggesting that the government's responsibilities extend not merely to providing essential services" (p. 21). There is no such stated purpose in the Norwegian Constitution, and it is therefore unclear to what extent a "vigorous" government is needed. However, the dynamics between branches is in itself a source of energy, and this was created, in both constitutions, by providing instructions for what action the three branches should take. This in turn makes the governmental branches into separate arenas for action: the legislative, the executive, and the judicial.

In the US Constitution, the ability to act comes from characters who possess certain roles in the specific arenas, for example representatives, senators, members, and presidents, in the narrative. What characterises them, and wherein lies their powers? The members' and representatives' main powers lie in establishing laws, the president is restricted to execute these laws, whereas the judges are in charge of interpreting and settling disputes about the laws. Most of the "action" described in the Constitution takes place in the Congress, the legislative branch that is populated, and elected, by "We the People," which also makes this branch the most "democratic" of them all. Article I section 8, serves as an illustration of how vigorous and active the people are as it enumerates a list of actions that can be performed. Amongst them, the Congress can for example: "lay and collect taxes," "pay the debts," "provide for," "borrow money," "regulate," "define and punish," and so on. It truly is portrayed as: "the most important and, rightfully, the most powerful of the three branches of government" (Beeman 2010, p. 23). Beeman believes Article 1, section 8 is, in many respects, "the heart and soul of the U.S. Constitution" (p. 32). It is packed with action, as it enumerates the powers of the federal government. To take on a role as "representative" would provide great agency. A representative can "represent," but also "be represented."

The Norwegian Constitution operates in many of the same ways, except of course instead of a president, there is a king. The actions permitted to the king are listed in *Section B. Of the Executive Power, the King and the Royal Family* (*B. Om den udøvende Magt, Kongen og den kongelige Familie*). All of his actions, though, are limited by those who hold the real power, the representatives of the National Assembly - "the people" ("folket.") Most of their allowed actions are enumerated in Article 75, including for instance: "to give and repeal laws, to impose taxes, duties, customs and other public burdens." In short, the list is very similar to the one found in Article 1, section 8 of the US Constitution. Both the Norwegian and the US Constitutions, then, present "the people," as the most active characters in their respective narratives. These people are located in a specific storyworld with its own structures and rules, which also both enables and restricts their actions, and they are assigned specific roles, while further giving and depriving them of agency. Yet in both constitutions, "the people" does not include all the members of its storyworld.

The characters in the US Constitution are mostly abstract, presented for instance as "persons," represented as roles, or, in the case of the slaves, even as fractions. Some of the characters in the Norwegian Constitution fill the same abstract roles, although characters with a more "bodily" nature can also be identified, as shown in the earlier discussion of the king's lifespan from birth to grave, as well as the role of his mother who gave birth to him and possible siblings. This difference may reflect the predominant impression that the US Constitution is more performative, and therefore the characters are not "created" yet - appearing in roles instead of flesh, whereas the more constative expression in the Norwegian Constitution allows for more concrete characters. In both constitutions there are specific characters that are excluded.

The last sentence in Article 1, section 9 of the US Constitution for instance, states that: "No Title of Nobility shall be granted by the United States: And no Person holding an Office or Profit or Trust under them shall, without the Consent of the Congress, accept of any present, Emolument, Office or Title …" This, according to Beeman, reflected the Constitution's strong commitment for the government to be "republican" and not an upholder of "the aristocratic ways of Europe" (Beeman 2010, p. 36). I understand it also to express a principle of equality, in which all the characters should be equal. The same principle is expressed in the Norwegian Constitution in Article 108 which prevents the erection of "Counties, Baronies, Fee-simples and Fidei-Commisses (feoffment in trust)." (Ingen Grevskaber, Baronier, Stamhuse og Fideicommisser maae for Eftertiden oprettes.) Both articles involve a prevention of future characters from entering the narrative, but some characters are already excluded or invisible. In the US Constitution's case, women, slaves and Native Americans are excluded whereas, as I have shown, women's presence in the Norwegian Constitution is marginal, and the groups excluded are based on their specific religious beliefs.

In short, both constitutions narrate into existence a storyworld, in which specific actions can take place. Whether or not one can participate in these actions, comes down to where one is located, one's role and one's character. Certain places, roles and characters provide great agency, and others do not. I will trace how each of these elements plays out in practice in subsequent years in chapter 2.

Narrators and readers

But first – and to return to Warner's contention that the US's written Constitution fashions citizens out of the process of writing and reading – by treating the Constitution as a narrative I hope to shed light on this process and the kinds of citizens who emerge from it: who narrates and who reads?

The narrator has a fundamental impact on the story that is told by, for instance, deciding which characters the reader is allowed to see, and they can also reveal attitudes and values projected onto society. It is easy to detect the narrator of the US Constitution: they present themselves in its very first words: "We the People." This narrator, as I discussed earlier in the language section, works consciously to create a personal bond with the audience in the way they adopt a spoken voice. They also present themselves as resourceful and knowledgeable, for instance through the "promise" they make: "to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty." This shows the narrator to have ideas and visions about what a "more perfect union" will look like.

The opening of the Norwegian Constitution, by contrast, does not reveal who its narrator is, but it begins by putting "the Kingdom of Norway'" first, signifying its importance for what is to come: "The Kingdom of Norway is a free, independent, indivisible and inalienable realm. Its form of government is a limited and hereditary monarchy." It is not immediately clear who utters these words, nor does it have the personal tone of the US Constitution, where the narrator introduces themself by the first words. The legal tone that was recognised in the earlier language section appears to come from an omniscient point of view, whose focus shifts throughout the document's different headings. In section A, for example, Article 1 says: "The Kingdom of Norway is…" (Kongeriget Norge er…), whereas in section B, Article 4 continues: "The King's person is…" (Kongens Person er…), and Article 49: "The People exercises …" (Folket udøver…), respectively referring to the country, the executive and the legislative. This shows an omniscient third person narrator, set apart from the story they tell. The narrative voice that is used contributes to perceive the Norwegian Constitution as confirming something that already exists - emphasising a constative quality rather than a performative.

"We the People" is not separated from the story. On the contrary, they use the first-person plural "we," which leads to two things: first, they take on the role of speaking on behalf of *all* the people in the union; second, they include themself as a character in the story, that is, they also double as the reader. However, by "We the People" presenting themselves as a spokesperson representing "all," raises the question of the many groups that were excluded from the union Consequently, when talking of "we," only specific people are referred to: slaves, Native Americans and women were not among them. Despite the narrator using the plural form "we," it turns out they are not as plural after all. I have shown that the only characters the narrator sees fit to give a story and a plotline, that are represented in the story, are white men of a certain age and status. The narrator, as I already have shown to be resourceful and visionary, has decided to not include specific groups, and instead made them invisible, so to speak. This is a point where politics and aesthetics meet. Levine argues that politics is exactly that: deliberate decisions about who is heard and seen in society (Levine 2017, p. 3), or one might even say, with Rancière, that both politics and aesthetics are about "representation" (Rancière 2013, p. 13). By leaving these groups out of the story, the narrator expresses their specific views and values, showing that they are not objective or impartial. Furthermore, the exclusion denies these groups the possibility to identify themselves with the narrator and therefore also the possibility to become a citizen. In the US Constitution, the narrators are also readers, and to become a citizen one must both read and write, one cannot become a citizen by reading alone. In my next chapter I will turn my focus more directly onto readers and some of the re-writing that has been done.

Establishing the narrator as limited to a specific type, and identifying the reader as identical to the narrator, comes with some consequences for the seemingly universal claim of Warner's that citizenship could be obtained by becoming readers and writers. One can certainly become a citizen by reading and writing, but who gets to read and write, who gets to narrate and be narrated, turns out to be strictly limited and will, along with the other issues I have pointed to, also present a challenge for the future.

In this chapter I have elucidated the language, forms and narratives that are "written into" the US Constitution (and, by contrast, the Norwegian) and explored how they establish a roadmap

for the future. In the next chapter, I will look further at the language, forms and narratives that were “read out of” the Constitution in the years that followed.

Chapter 2: Reading

In the previous chapter I demonstrated how the original 1787 text of the United States Constitution writes a nation (or "world") into existence and establishes a number of aesthetic and social forms and narratives for the future. In this chapter, I will proceed to explore how these forms and narratives have further been fashioned, enacted, and contested through the process of reading this text.

As Gammelgaard and Holmøyvik argue in their introduction to *Writing Democracy*, "any text lives also in its interpretation. In many ways, readers are as active as authors are in creating a given text's meaning" (Gammelgaard and Holmøyvik 2014, p. 5). To test this claim, I will continue to treat the US Constitution as an aesthetic phenomenon similar in nature to a work of literature. I will focus in particular on how it responds to different reading strategies which are themselves influenced by alternative and changing social formations. I will continue to compare it to the manner in which the Norwegian Constitution has been read in order to highlight what is specific about the interaction of the text of the US Constitution with the society it has been credited with writing into existence.

Throughout the chapter I will have a specific focus on the capacity of the US Constitution to respond to change, and in particular to the introduction of the form of democracy into the republic. The form of democracy introduced new and varied ways of reading who the "we" of "We the People" actually are.

I have divided this chapter in the same three sections as the previous one: language, forms and narratives. This will make it easier to detect connections as well as differences. In the language section I will start by briefly considering two opposing views on how to interpret the Constitution before I discuss the impact of what language is used when talking *about* the constitution, and how this language awarded the Constitution a variety of different forms. I will identify some ambiguities found in the constitutional text and its language and consider some of the strategies used to clarify them. With that in mind I will then look at the amendment procedures and to what degree the language is amenable to change. In the forms section I will start by considering the land expansion that took place and how the early

republic sought to come to terms with it. Second, I will investigate how its moving borders affected the relationship between parts and whole, as well as its rhythms and networks. Lastly, I will examine how the geographical shift affected social borders. In regard to all three of those issues, I will evaluate whether any shifts created possibilities for groups that had formerly been excluded. In the third section on narratives, I aim to illustrate how the issues discussed throughout the whole chapter have been lived out in practice in narrative form. The question of who was included in "We the People," will be central and I will show some of the specific ways formerly excluded groups sought to be included as citizens, and also how these attempts were fought against. I will conclude the section by looking at two specific and contrasting narratives that seek to reset a relationship between equality on the one hand and liberty and justice on the other through their specific awareness of race and colour: The Confederate Constitution of 1861 and Martin Luther King's 1963 speech "I have a dream."

Language

In the "language" section of chapter 1 I looked at the affordances of the language of the texts: their rhetorical, literary, and writerly strategies, and the forms they made possible. Here, I wish to further explore which *actual* affordances have been activated, and show how they differ, depending on what reading strategies are being used. At the heart of this is the question of whether the meaning of the language and text of the US Constitution is understood to remain fixed and constant over time or to change in response to circumstances.

There are many ways of reading and interpreting the Constitution, and although there is a whole spectrum of different approaches, an "originalist" way of reading it is most often opposed to a "living Constitution" reading. The "originalists" believe that the text means what the founders intended it to mean in 1787 whereas the "living constitutionalists" believe that the founders left the Constitution short because they intended it to be interpreted differently in changing times. These two opposing ways of reading the Constitution have been, and still are, a source of conflict in the society it aims to create.

To a degree, though, the language and words that have been used when talking *about* the US Constitution reveal attitudes which impose upon it a specific form. If, for instance, the

Constitution is referred to as an “anchor,” a completely different form is generated upon it than the metaphor “instrument.” Changes in language and metaphors then reveal changes in readers' attitude. Michael Kammen has, in his book from 2008 *A Machine That Would Go of Itself. The Constitution in American Culture* explored some of these changing attitudes. He illustrates a flux and ambiguity in American feelings about the Constitution and contends that: “For almost two centuries it [the Constitution] has been swathed in pride, yet obscured by indifference: a fulsome rhetoric of reverence more than offset by the reality of ignorance” (Kammen 2008, p. 3). He continues to explore what have been the basic causes of such misunderstandings, and acknowledges that a core issue is the fact that the Constitution itself contains a number of ambiguities:

> The most troublesome of all, perhaps, pertains to the very nature of the Union created in 1787. How much sovereignty did the states actually surrender to the central government? Did the Union in some sense originate with the Continental Congress of 1774 and 1775 (thereby antedating the existence of the states), as so many arch-nationalists have claimed from Daniel Webster’s day to our own? One’s understanding (or misunderstanding) of federalism and the enduring issue of states’ rights hangs in the balance (Kammen 2008, p. 5).

What Kammen notices as a question of ambiguous language also relates directly to a question of form: is the republic in fact a federation of states or is it a nation state? Different answers generate different forms, and I will return to this topic later in my chapter.

Kammen continues to consider how alternative ways of viewing the structure and workings of the Constitution are reflected in the alternative language used of the Constitution. “The most common way of referring to the Constitution - the oldest as well as the most enduring - is simply as an “instrument,” often preceded with such modifiers as “written,” “practical,” “sacred,” and “wonderful”.” (Kammen 2018, p. 16-17). The next he mentions, which became popular during the second half of the nineteenth century, was the analogy to an anchor. Two further metaphors describe the Constitution as “some sort of machine or engine,” which originated from Newtonian science. “Enlightened philosophers, such as David Hume, liked to contemplate the world with all of its components like a great machine” (Kammen 2018, p.

17). There would be a cultural transition in the quarter century after 1888 which leads to the last of the major constitutional metaphors. Kammen exemplifies this with brief extracts from three prominent justices:

> Holmes, who wrote in 1914 that "the provisions of the Constitution are not mathematical formulas … they are organic living institutions"; Cardozo, who observed in 1925 that "a Constitution has an organic life"; and Frankfurter, who declared in 1951 that "the Constitution is an organism" (Kammen 2018, p. 19).

These are four different ways of viewing the Constitution – as an object of religious veneration; as an anchor; as a machine; and as something organic. Each metaphor gives the constitution – and, with it, the polity it constitutes – a different form that affects how it operates across space and time. For instance, the metaphor one chooses affects directly the debate about the extent to which the republic was a federation of states that preceded the Union or a nation state that simultaneously created the states that were its parts. To take the "organic law" approach, this became a standard designation for half a century after 1889, and this was, according to Kammen, "because it served to rationalize particular psychological needs and partisan purposes" (p. 20). For strident nationalists "it helped to bolster the contention that the Union was older than the states [...] thereby repudiating doctrines of state sovereignty and secession" (p. 20) and, at the same time, for advocates of American distinctiveness, it helped to validate the contention of the written Constitution as an absolute unique feature of the political and legal institutions of the American Republic (p. 20). It even served the opposite purposes for both those who wanted to avoid a glut of constitutional amendments, and New Dealers, who during the 1930s, "applied the evolutionary aspect of organic theory to reinforce their plea for adapting the Constitution in response to radically altered socio-economic conditions" (p. 20). With such different approaches to the application of just one of these metaphors, there is no wonder that debates have been heated.

In spite of debates, constitutions serve important functions in societies.

> "In a highly condensed form, constitutional texts express the most vital principles and competence of state governance and human rights. [...] As texts and as state functions, constitutions are meant to stabilize institutions as well as political and societal relations, but they should also be able to respond to relevant societal change" (Sand 2014, p.136).

I have noted, both in my introduction and in chapter 1, that both the US and Norwegian constitutions have been successful in stabilising institutions and political and societal relations. Perhaps part of the success of the US Constitution is that the different metaphors used when talking about it indicate a flexibility in how it is read and deployed. In what follows I will look more closely still at how it "respond[s] to relevant societal change" and for this it will be useful to bring in the comparison with the Norwegian Constitution to show the importance of the language of each constitution and their capacity to change.

Both the US and the Norwegian constitutions have different formal approaches to changes: the original text of the US Constitution has never been rewritten, but it has been added to by the addition of Amendments; the Norwegian Constitution "absorbs" amendments by adopting them into the original text. I have already mentioned the disagreement about whether the American founders intended for the Constitution to be altered by later generations, but they did leave behind the possibility to amend it, albeit making the amendment process arduous. Beeman considers this to be the reason why relatively few amendments have been passed since the Constitution's adoption, "making it one of the most concise written constitutions in the world" (Beeman 2010, p. 55).

The Norwegian Constitution also leaves instructions for amendments, and, on the surface at least, it appears that these procedures are less strenuous than the US's. In Norway between 1905 and 1995, 559 constitutional amendment proposals were made, and even though some of them were not adopted, there has, on average, been adopted more than one a year between 1814 and 2001 (Gammelgaard and Holmøyvik 2014, p. 4). The US Constitution, on the other hand, has got twenty-seven amendments, ten of them adopted already in 1791. Are these different numbers partly a result of the amendment procedures?

It makes sense that the US Founding Fathers included an amendment clause in the Constitution, as they themselves, originally, were mandated to only amend the Articles of Confederation, not rewrite the whole document. However, many of the men gathered at the 1787 Constitutional Convention considered those Articles flawed as they required unanimous approval from all the state legislatures to amend any major feature of the frame of government (Beeman 2010, p. 55). Article 5 in the Constitution does, by comparison, ease the process, and it states that constitutional amendments can be proposed by either two thirds of both houses of Congress, or, by two thirds of the Legislatures of the states. Such proposals will be valid as part of the Constitution when ratified by the legislatures of three fourths of the states, or by conventions in three fourths thereof (p. 54). Article 5 also mentions three specific instances in which the Constitution is not subject to amendment:

> The provision prohibiting legislation affecting the international slave trade until 1808, the prohibition against direct taxation unless apportioned according to population, and the provision guaranteeing each state equal representation in the United State Senate (Beeman 2010, p. 56).

The first and third of these provisions are particularly interesting: the first in terms of human rights, the third in terms of democracy, both of which are topics to which I will return. For now, I will temporarily conclude that the founders considered it important to provide an opening for future change within the Constitution itself by way of leaving amendment procedures.

As far as the process for amending the Norwegian Constitution is concerned, it states in Article 110 the conditions for constitutional amendments:

> [...] a proposal concerning that affair shall be made in an ordinary session of the National Assembly and be published in print. But it is the business of the next National Assembly to decide, whether the alteration proposed shall take place or not. Yet such an alteration must never be inconsistent with the principles of this fundamental law, but only concern modifications in particular cases, which do not

> alter the spirit of this Constitution, to which alteration the consent of two thirds of the National Assembly is required.
> ([...] skal Forslaget derom fremsettes paa et ordentlig Storthing og kundgjøres ved Trykken. Men det tilkommer først det næste ordentlige Storthing at bestemme, om den foreslaaede Forandring bør finde Sted, eller ei. Dog maa saadan Forandring aldrig modsige denne Grundlovs Principer, men allene angaae Modificationer i enkelte Bestemmelser, der ikke forandre denne Constitutions Aand, og bør 2/3 af Storthinget være enig i saadan Forandring).

The last sentence reflects a resistance to change, and such constitutional conservatism served Norway well throughout the nineteenth century, especially regarding attempts by the king to seek more powers. Warner, Holmøyvik and Ringvej describe how "The Constitution became untouchable on any matter involving the separation of powers. The episode that elevated this notion into an ideology was Carl Johan's forceful effort in 1821 to carry through a constitutional reform" (Warner, Holmøyvik and Ringvej 2014, p.37). In this reform the king asked Stortinget to give him an absolute veto on legislation, instead of the one he had in Article 79, but which could be overruled by having "three consecutive sessions of Storthinget pass the same law" (p. 37). The reform also involved him wanting "the right to dissolve Storthinget at any time, the right to decide which matters to discuss in Storthinget, the right to appoint its presidents, and so on" (p. 37-38). His attempts were firmly rejected, although he continued to ask for such a reform in every session until 1939 - every time, unsuccessfully. "Through this struggle, because the Constitution served as a bulwark assuming Norwegian independence, the letter of the Constitution had become sacrosanct for all Norwegians" (Seip 2002: 76; Steen 1954: 319)" (cited by Warner, Holmøyvik and Ringvej 2014, p. 38).

Note that this metaphor of the text of the Constitution as something holy, also applies to the US Constitution, but returning to the Norwegian Constitution, in light of the success of such constitutional conservatism, and the warning about changing the Constitution given by the founders, the number of amendment proposals, and approvals, throughout the years and until today, is somewhat surprising. Still:

> In order to stay central to the nation, every constitution must be open to change. And in fact, during the Constitution's two hundred years of history, and despite the formal rules that make amending it a protracted and arduous process, and despite its being written in an antiquated form of Danish, Norway's Constitution has successfully been updated (see Sand; Madzharova Bruteig; Kalleberg in this volume; Smith 2012: 102–104) (Warner, Holmøyvik and Ringvej 2014, p. 40).

Mechanisms for making changes in both constitutions exist, so what happens when the text is actually rewritten? What words are used to what effect and which changes do they actually bring about? This is what I will consider next.

In chapter 1 I found "shall" to be the most frequent significant verb used in the main body of the Constitution, and the verb clearly adds to the performative qualities of the text. The Amendments were written after the original text, and it is therefore relevant to explore whether the authors of the Amendments were conscious of the way "shall" worked originally. Does the verb carry its significance into the amendments, doing "the same work?"

The amendments do in fact continue to use the verb "shall", with three exceptions: amendment 10, amendment 18, first section, and amendment 21, first section. These three amendments deviate from the rest by using the present tense of to "be": "is" and "are". This raises the questions of why? And also, does it affect the interpretation of the Amendments?

The different use of verbs is first found in Amendment 10 which states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People." Beeman explains that many were surprised, and alarmed, when the Constitution was presented for ratification because many of the powers, previously exercised by the states, now were to be exercised by the federal government. This amendment was intended to "allay fears about the federal government possessing excessive power" (Beeman 2010, p. 71). This amendment arguably changes the original constitution. At the very least it clarifies what was previously ambiguous: the relationship between the states and the federal government. This relationship has been, and still is, a continuous source of conflict, and I will discuss this in more detail in the next section

on “forms.” From a purely linguistic perspective, though, the use of “are” in this Amendment, appears, to the non-legally trained eye, as a constative speech act, that is, it confirms something that already is. Most of the Constitution’s readers, “We the People,” although privileged in many ways, could not necessarily be expected to have legal training, and the use of “are” makes the amendment sound more definite and immediate: not a future promise yet to be achieved signalled by “shall,” but rather something happening right here and right now, empowering the people.

Amendments 18 and 21, respectively starting and ending Prohibition, also demonstrate this immediacy. Amendment 18 says: “is hereby prohibited,” Amendment 21: “is hereby repealed,” but both also stand out in other ways, apart from the use of present tense:

> Just as the Eighteenth Amendment is the only constitutional amendment to restrict the rights of the American people, the Twenty-first Amendment, which ended Prohibition, is the only amendment to repeal a previous amendment [...] This amendment is unusual in that it specifies that state conventions, rather than state legislatures, should be the body responsible for ratifying the amendment (Beeman 2010, p.86).

These amendments are seen to stand out both in form of language and content. It could perhaps be argued that present tense needs to be used in these two cases, as the amendments aim to make something happen “right now.” However, the same, or similar, effect could have been achieved by saying “shall be prohibited.” The matter of fact remains, though, that these three amendments stand out from the rest of the Constitution, and maybe one of the reasons for this, could be that they were intended to be more immediately available for people without legal training. In the previous chapter I identified “We the People” to be both reader and writer, and I showed how, in practice, this narrowed down who these readers – and therefore who this “We the People” – could be. These Amendments might suggest a slight shift, in short, indicating a broadening of who could be included as a reader, and citizen.

In spite of the deviations I have shown, the main impression is that the US Constitution appears to have a consistent language throughout, and as a reader, there is not necessarily a notable difference when reading the document from beginning to end. It might be seen to be

as coherent and unified as the republic it aspires to constitute. Also, the main body of the text itself, ever since it originated, has never been changed, and reads the same today as it did in 1787. To this degree, it projects a sense of continuity across time, although this does not mean it is always read in the same way.

The Norwegian Constitution contrasts with the US Constitution in this respect because it – and its language – has been changed several times. First of all, the original language from 1814 was Danish, as Norway did not then have an official Norwegian language. Article 93 states: "In the offices of the state must only be employed those Norwegian citizens who [...] [and] speak the language of the country." (Til Embeder i Staten maa allene udnævnes de norske Borgere, som [...] [og] tale Landets Sprog). However, as noted by Ulrich Schmid: "Interestingly, the Norwegian Constitution does not define the "language of the country" linguistically" (Schmid 2014, p. 86). It was not until the revision of 1903 that the Danish language was changed to Norwegian, and then it mainly changed the orthography of the text. These changes did not use the formal amendment procedure specified in the Constitution, as the MPs did not consider mere language correction to be amendments per se (Bruteig 2014, p. 153). This did not change until 2006, when changes in language form also started to be considered amendments. 2006 signalled a change in the Constitution's history, as "MPs have become more aware of the need for language correctness in the Constitution's text and more aware of the general role of language form" (p. 162). From 2008, new constitutional amendment proposals were allowed written in modern language, and an open hearing was held in the Constitutional Committee in 2012, in order to hear expert opinions concerning a constitutional amendment proposal for a revision of the Constitution's language form. The debate resulted in an agreement about the complete revision into both Norwegian language forms: bokmål and nynorsk. Two such revised editions were presented later the same year and in the months before the adoption in May 2014, there were intense debates in Stortinget regarding this language reform. Yordanka Madzharova Brunteig presents a thorough discussion of the proceedings leading up to these two completely revised Constitutional texts in the chapter "Norwegian Parliamentary Discourse 2004-2014" (Bruteig 2014). One of the conclusions to be drawn from this is that language matters a great deal more than simple orthography:

> Yet by renovating the Constitution's language, Stortinget has now taken steps toward making the Constitution more accessible to the MPs and the people alike. And in its new language forms, the Constitution may appear more modern and more relevant to public debates. In the long term, Stortinget's language renovations may thus have prepared the ground for more debate and less consensus on the Constitution's contents. For the advanced Norwegian democracy and the Constitution itself, this development can only be a good thing (Bruteig 2014, p.162).

In this way, constitutional change in Norway has been, at least in parts, triggered by language; such change has not occurred in the US, where the wording of the Constitution remains the same as in 1787. I understand these differences to be essential also in affecting the constitutions' symbolic meanings. The US Constitution remains the same, a fixed monument, seen and admired, whereas the Norwegian text changes, and this is perhaps why it has been characterised as a myth, rather than a monument. It is also interesting to note that changing the language of the Norwegian Constitution created the ground for "more debate and less consensus," indicating that such different opinions are good for the form of democracy. It is tempting to argue that this approach to change is in itself democratic, not least because of the way it builds debate, but also because it enables "the people" to interact with and evolve the Constitution. It locates the place where change is debated, moreover, in the legislative branch, and so the Constitution becomes a tool through which "the people" are involved in this change. This, by contrast, has been more of a problem for the US. Might the reluctance to change the language of the US Constitution reflect an in-built resistance to democracy? As the relatively few amendments show, the debate of what the Constitution says or is meant to say is not primarily located with the elected members of the Congress but is rather fought over in the courts - leaving the debate in the hands of appointed lawyers and judges, rather than with "We the People." In my next section of "forms" I will further discuss the form of democracy.

To conclude this section, I will once more return to the diagrams I used when depicting the two constitutions. My discussion of the language of the Norwegian Constitution fits my depiction of it as a pond, in which change is absorbed whilst giving the appearance of continuity. I made the argument in chapter 1 that its language appears constative due to its use of the verb "is" but that in fact, it is both constative and performative. The language of the US

Constitution is also both, but it can appear to be mostly performative because of the verb "shall," which points to something that is going to happen, something that has informed my depiction of the Constitution's form as an arrow continuously moving. This discussion of language has shown though, that the Constitution can take several different forms, it can be "organic" as well as "mechanic," both "radical" and "conservative" and this, I believe, can be connected to which qualities of the text are activated. When performative qualities are activated, change occurs, whereas if the text is taken to be constative, changes are hard to make. I understand this to be a key point: it might not matter if the texts are performative or constative, what is important is whether they are *perceived* to be one or the other. Is the constitutional text constative, describing the reality the Founders intended, or is it performative, continuing to bring about an ever changing "new reality?" If it is interpreted the former way, Warner's original claim about the creation of a nation can be extended to something like: "different styles of reading generate different forms of government and different kinds of citizens." In the last two sections of this chapter, I will explore these forms and citizens closer.

Forms

In chapter 1, I argued that nations aspire to take the form of bounded wholes (p. 27 above). Nonetheless, the US already from the start intended to expand its territory and, consequently, its geographical borders. This expansion is part of the reason I depicted the constitution's form as an arrow which is always moving upwards and onwards. In this section I will therefore consider three issues: a) how the early republic sought to come to terms with the land expansion, b) how its moving borders affected the relationship between parts and whole, as well as its rhythms and networks, and c) how the geographical shift affected social borders. In relation to all three of these issues I will also evaluate whether these shifts created possibilities for groups that had formerly been excluded.

My discussion of the early republic runs from roughly 1790 up to the time of the Civil War (1861-5). This was a period when the geographical expansion was testing the Constitution's ability to include new members and when the tensions between slave states and anti-slave states had a huge impact on the nation's politics. This process culminated in the Civil War, which "consolidated the geography of the nation by ensuring it would henceforth be

integrated into one political territory" (Giles 2018, p. 9). The Civil War is also a suitable endpoint for my discussion because it signalled the rupture of the illusion of a "virtual" and "imagined" nation - the type of nation described in *The Letters of the Republic* of Michael Warner and theorised in Benedict Anderson's *Imagined Communities*. As Trish Loughran asks in her more materialist-based, counter narrative:

> What happens when the official national narrative of continental union, so entrenched in the nation's local celebrations of itself, comes face to face with the material mechanisms that would seem to make it possible—canals, trains, telegraphs, and a thriving mass print culture? In the case of the early United States, the rhetoric that powered this proliferating infrastructure was an ever more literally understood "Union," but the actual consequence was secession and civil war (Loughran 2007, p. 5)

As I discussed in my earlier section on language, the discord and disunity that culminated in the Civil War had some of its roots in the ambiguity of the text of the Constitution about the kind of unity it established: was the new republic a federation of states or a nation state (or some combination of the two)? Towards the start of the Constitutional Convention, on 30 May 1787, Gouverneur Morris made a stark distinction. Madison's notes record that

> Mr. Govr. MORRIS explained the distinction between a federal and national, supreme, Govt.; the former being a mere compact resting on the good faith of the parties; the latter having a compleat and compulsive operation. He contended that in all Communities there must be one supreme power, and one only (*Avalon Project - Madison Debates - May 30*, n.d.).

Writing fifty years later, however, the French diplomat and writer Alexis de Tocqueville observed that the end result had been rather more mixed:

> Clearly here we have not a federal government but an incomplete national government. Hence a form of government has been found which is neither precisely

> national nor federal; but things have halted there, and the new word to express this new thing does not yet exist (cited in Kammen 2008, p.55)

One can nonetheless trace how this ambiguity played out in practice by considering the dictionary definition of the word "nation" and its evolution. The *Oxford English Dictionary* defines nation as:

> a. A large aggregate of communities and individuals united by factors such as common descent, language, culture, history, or occupation of the same territory, so as to form a distinct people. Now also: such a people forming a political state; a political state. (In early use also in plural: a country.)

In this definition, it appears to be essential that the people forming the nation have something in *common*. When the Norwegian Constitution was adopted in 1814, most of Norway's population was already "united" by common descent, language, culture, history, and occupation of the same territory, thus ticking most of those boxes required to be defined as a nation. I see this shared past as a core ingredient in the Norwegian Constitution, and one of the ways it is "melding together" like water in a pond, as my depiction of it shows. The same degree of "sharedness" was far from the case in the US in 1787. In fact, the only box that *could* be ticked off, would be the shared "occupation of the same territory." However, the "same territory" was not a unifying factor in itself, since it was in practice divided up into different colonies, "each of which had in the past enjoyed closer ties and more cordial relations with the imperial government in London than they had with one another" (Beeman 2010, p.137-138). By severing the connection to Britain, the population had lost their only common identity as subjects of the British Crown, the "glue" that held them together; they were now to be citizens of a newly formed republic instead, so a different kind of "glue" had to be found in its place. Edward Watts and Keri Holt note:

> As the United States transitioned from an association of colonies to a united republic, its citizens became preoccupied with finding ways to unite these "heterogeneous ingredients" without producing divisive conflicts and competition (Watts and Holt 2015, p. 12)

In what follows I will discuss how this quest for unity and wholeness was enacted and fought over in practice. First, I will attend to its geographical dimensions and the consequences these bore for its social formation, and then do the same for democracy, a form that came to be central in the development of the nation.

As the republic expanded westwards through a combination of wars and financial transactions in the first half of the nineteenth century, the tensions between slave-owning and free states increased until the Confederate States seceded, and war was declared between North and South in 1861. This represented a failure of the strategy set out in the Northwest Ordinance of 1787, which was intended to serve as "a model for integrating the area north of the Ohio and east of the Mississippi into the nation" (Watts 2015, p. 30). It was a strategy, moreover, that may have in fact increased the actual divisions in the republic through its attempt to impose greater conformity.

As Edward Watts and Keri Holt argue in the introduction to their edited volume *Mapping Regions in Early American Writing*, "the expansionist chartings of the 1780s - the Land Ordinances of 1784 and 1785 and the Northwest Ordinance of 1787 - prescribed a process of colonization designed to suppress regional difference" (Watt and Holt 2015, p. 7). They continue:

> The Confederate privileging of the sectional over the national set a dangerous precedent. Too much localism led to regionalism, which led to sectionalism, and then on to secession. Whatever diversity or divergence they found was usually trivialized, integrated, or locked in a museum of the past. The goal became the containment of difference, especially as massive immigration was redefining the nation demographically, just as urbanization was transforming it geographically (Watt and Holt 2015, p. 8).

In order to probe this "containment of difference," *Mapping Region in Early American Writing* examines the role that the local communities of the state, region, and village, defined in terms of territory, played in an early print culture. Its contributors explore the ways in

which "local" print culture, both informed, and often also, *resisted* the process of imagining the unified nation. This aligns well with Trish Loughran's approach in *The Republic in Print* which also challenges a dominant narrative in which print culture is taken to produce nations. *Mapping Region in Early American Literature,* like Loughran's book, offers an alternative perspective. As Watts and Holt explain:

> These essays rethink "region" by considering how Americans before the Civil War imagined arrangements of territory in ways that were detached from narratives undergirded by national membership or destiny. Departing from more conventional ways of thinking about regions, these essays do not treat regions simply as precursors to, components of, or alternatives to the nation, although the specter of national homogenization haunts even the mostly wildly divergent mappings. The "regions" they address might be those awaiting settlement on the empty spaces on the edges of maps, or, just as important, settled places in need of reimagining as the images of those places no longer aligned with their identities. These regions may also have been imagined in relation to nation—or just as often not—but their integration or absorption was by no means a fait accompli or an "always-already" inevitability (Watts and Holt 2015, p. 6).

The essays make an important distinction between the two concepts of "mapping" and "charting" which I have found useful for my own project, since they represent, in effect, two different styles of reading. Watts and Holt connect them at any rate with different kinds of narratives, or "myths:"

> While chart makers imagine a centralized nation wherein the local or the regional is subordinated to the national or the universal, mappings imagine just the reverse: a decentered nation that accommodates the local and the divergent. These differences are revealed in opposed temporal and spatial orientations. First, the temporal: while mappings are, on the whole, forward-looking, chartings usually look to the past, projecting American narratives as extensions of inherited models and myths. Second, the spatial: while mappings operate on the subcontinental and the subnational levels,

> chartings articulate macrocosmic national, continental, and global ambitions (Watts and Holt 2015, p. 4).

This distinction between charting and mapping can to a degree be recognised in the narratives that are read into the US Constitution by Warner and Loughran respectively. Warner stresses the unifying effects of this narrative and its absorption of the individual parts into a whole, whereas Loughran challenges this, and instead invites us to "think of print culture as the factory that produced the nation-fragments called regions and sections rather than the great unionizer and unifier it is so often remembered as" (Loughran 2007, p.xx). She also argues that it was the material disunity of the states before the Civil War that made it possible for the Constitution and its supporters to project the aesthetic unity of the national imaginary.

The Constitution's aspiration to fashion a unity out of these fragments is reflected in the fact that its very text was itself necessarily a compromise that sought to bring together opposing views. This too relates to the tensions created by the republic's expanding borders. With this in mind I will next take a closer look at Edward Watts's essay, "To plant himself in with Soveranity" (Watts 2015). I have chosen this essay because of three specific elements: it involves expansion over space; it brings into play the relationship between the whole (the federation/nation) and the parts (the states); and it allows me to progress to the question of who belongs and/or is excluded from the republic's shifting form.

The westward extension of the new nation, Watts explains, was often troubled by doubts about its moral and legal legitimacy: "how could a nation born of rejecting colonial subordination plan and plant its own colonies? How could it claim legitimate dominion in subordinated territories so soon after they had accused the British of abdicating theirs?" (Watts 2015, p. 25)

The legend of Prince Madoc and the Welsh Indians was used, to varying degrees and extents, to establish white supremacy in the expanding west. There are different versions of the legend, but at its core it tells of a Welsh prince, Madoc, who fled war, sailed west in 1170, and was never seen again. Four centuries later, a new version emerged, this time involving the prince landing in Mobile Bay and then travelling across the Mississippi valley. A series of

settlements, spreading from North Carolina to Tennessee and up the Missouri River, became the Mandans. Apparently, there were several sightings of light-skinned people in the area. Between 1780 and 1815, stories and speculations about Welsh "Indians" proliferated and were used to justify land grabs (p. 26-27). Watts continues to demonstrate how the legend became central to the propaganda and rhetoric of national expansion, not least because of its focus on the creation of a homogenous nation, rather than one which unifies different people.

> In the end, however, the Madoc legend *charted* the Mississippi and Ohio watersheds in the interest of American expansionism not only to erase Indian presence from American history but also to discipline the region by portraying resistance to eastern nation-building as indicating a potential loss of whiteness among the settlers, as the Welsh came to be depicted as having regressed to savagery. The region's future, then, was charted to preclude both Indian persistence and regional deviation among white settlers (Watts 2015, p. 27-28).

Furthermore, claiming, and "proving," the Welsh presence in the territorial United States, would allow the application of the long-standing Doctrine of Discovery, which worked to erase Indian history and their land rights (p. 28). "The doctrine of discovery refers to a principle in public international law under which, when a nation "discovers" land, it directly acquires rights on that land" (Doctrine of Discovery, n.d.). The Doctrine is traced back to the Crusades and works as a legal rubric for legitimising their claim over lands held by non-Christians (Watts 2015, p. 28). It was first articulated as a legal formulation in the U.S. Supreme Court case, Johnson v. M'Intosh in 1823 (Doctrine of Discovery, n.d.), although already in 1792, Thomas Jefferson asserted that the doctrine of discovery was international, and therefore was applicable to the U.S. government (Doctrine of Discovery, n.d.).

The doctrine was deployed, along with missionary work validating it, by the Pilgrims in 1626. The most important codicil is the discoverers' claim to forward the values of the home culture. (Watts 2015, p. 28). "Under this reading of the doctrine, only virtuous Christianity and commercial agriculture could legitimize the seizure of Indian lands" (p. 29). These doctrines – which informed the reading and enactment of the US Constitution – were, in

short, deeply exclusionary. The response to them, moreover, also played a role in contributing to two opposing forms of nationalism.

The Madoc legend was not, after all, unanimously accepted, and contestations over it revealed "deeper fissures concerning how the new nation would position itself as the Enlightenment faded and a less restrained era began" (p. 29). The split mostly followed party lines between the Federalists and the Jeffersonians. The Federalists advocated a strong central government and supported a liberal construction of the Constitution, whereas the Jeffersonian party had more or less opposing views; they were against a strong government and instead advocated for state rights (The Jeffersonian Party, 2021). The parties also represent two different "forms" of nationalism. Lloyd Kramer's offers a useful distinction for understanding these forms:

> The first form of nationalism, which is often called liberal [civic] nationalism, typically includes individual rights in its definition of the nation's fundamental ideals. The second form of nationalism, often called integral [romantic] nationalism, typically subsumes the individual into a national community and identifies the nation in terms of race, ethnicity or culture rather than politics or individual rights (Kramer 2011, p. 24).

The previously-mentioned Doctrine of Discovery is "irrelevant in a civic nation with its focus on individualism and immediacy, yet it is foundational in a romantic nation and its focus on larger collectivities and historic continuity" (Watts 2015, p. 29). While Federalists believed in a civic nation and dismissed Madoc, Jeffersonians projected a romantic nation that embraced him (p. 30).

What I have discussed so far illustrates some of the ways in which the shifting geographical make-up of the United States affected the enactment of the aesthetic and social forms projected in the Constitution. They run parallel to, and I would argue in conjunction with, the introduction of another new form into the Constitution (or into the reading of it at any rate): democracy. For instance, in the two alternative understandings of nationalism produced by the geographical expansion, similar impulses can be seen that demanded the addition of a Bill of

Rights to the Constitution, the former emphasising the rights of the individual against the state (the Amendments) and thereby counterbalancing the rights of the community inscribed in the original Constitution. It might also be worth noting that both the response to geographical expansion and the introduction of democracy involved a further factional element that went against the aspiration for unity: the advent of political parties. Indeed, these two post-1787 forms – geographical expansion and democracy – were at the time perceived as interlinked. Many Federalists feared that the expanding geographical borders could make it difficult to maintain the closeness between the people and their representatives, which was an essential reason for the separation from Britain in the first place. Jeremy Belknap, who wrote *American Biography* (1794) is representative of these views. Watts explains:

> The use of Madoc to justify expansion was, to Belknap, emblematic of a larger ambition to stretch the nation beyond the ability of any republic to administer without degenerating into demagoguery, dictatorship, or democracy (Watts 2015, p. 31).

Even though it might seem strange to observe this today, when both the US and the Norwegian constitutions are commonly regarded as foundational documents of democracy, the contention that neither of them had democracy written into them is reflected in the fact that the word "democracy" does not feature in the original text of either of them (and continues to be absent from the US Constitution today). This is in part because the understanding of the term was different at the time these two constitutions were written from its interpretation since. In fact, the later association of these constitutions with "democracy" changed their aesthetic and socio-political forms in ways that have not always been unproblematic.

> Democracy may be understood simply as majority rule [...] Today, democracy is generally understood as involving some kind of constitutional restraints, unlike in the eighteenth century, when democracy was understood in the Aristotelian sense as unrestrained direct democracy (Aristotle 1996: 71-72) (Gammelgaard and Holmøyvik 2014, p. 8).

James Madison expresses his, and some of the other founders', concerns about democracy and explains how these have been addressed in the Constitution in his celebrated essay *Federalist* 10. The advantage of a republican form of government, he argues, and its representational rather than direct manner of decision making, is that its effect is:

> to refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose (Madison 2020, p. 51).

He argues this in part because of his belief in a disharmonious capacity in human nature: "Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people" (Madison 2020, p. 51). This factionalism, he believes – in keeping with prominent eighteenth-century thinking about the easy transition from democracy to tyranny found in Polybius[2] – ends up enforcing conformity rather than unity, a "tyranny of the majority":

> By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community. There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects. There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests (Madison 2020, p. 49).

[2] This account can be found in Book 6 of Polybius' *Histories*. Its relevance for the American Constitution and Early Republic is discussed is Chinard (1940) and Richard (1994), esp. 122-168.

Contrary to much classically-inspired[3] thinking of the time, which asserted that republics had to be small in order to function, Madison believed that the expanded republic could provide an antidote to these dangers and his arguments are summed up in his last paragraph:

> Hence, it clearly appears that the same advantage which a republic has over a democracy in controlling the effects of faction is enjoyed by a large over a small republic—is enjoyed by the Union over the States composing it. Does this advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree, does the increased variety of parties comprised within the Union increase this security? Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here again the extent of the Union gives it the most palpable advantage (Madison 2020, p. 53).

Madison shows here that he is a strong believer in representation, but at the same time eager to filter out the representatives. Furthermore, it can be seen that his fear of factions was realised as a result of geographical expansion – one of the topics I discussed earlier, which also divided the two parties.

I find that democracy introduced forms to politics and political activity that were not "afforded" in the original text of the Constitution: political parties, primaries, changing forms of communication, and so on. This geographical expansion and democratic reading of the Constitution heightened the question of who the "we" in "We the People" are. I will discuss this further in the section on "Narratives," but first proceed with the comparison with the Norwegian Constitution.

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[3] The classic statement of this is in Montesquieu's *The Spirit of the Laws*, Book 8, Chapter 16.

The Norwegian Constitution responded to the introduction of democracy as an aesthetic and social form in a different way from that of the United States. Although there are no explicit objections to democracy in the Norwegian Constitution, the word itself was not introduced until 2004, when it was included in Article 100, on the freedom of expression. In the 2004 amended article, "the grounds of freedom and expression" are listed, among them "the promotion of democracy" (Gammelgaard and Holmøyvik 2014, p.9).

> Despite these late introductions of the word "democracy," during the last two centuries, Norwegians have considered the adoption of the Constitution on 17 May 1814 as the decisive point in the development of Norwegian democracy (Gammelgaard and Holmøyvik 2014, p. 9).

Like Madison and the rest of the US founders, the Norwegians also understood democracy in the Aristotelian sense (p. 9). However, it is argued that the wording of Article 1, "the form of government is a limited and hereditary monarchy," introduces the concept already when it was written in 1814:

> The key word here is "limited" As explained by Christian Magnus Falsen (1782-1830), a preeminent member of the 1814 Constitutional Assembly, the Constitution established "a monarchy limited by democracy" ("et Monarkie indskrænket ved Demokratie") (Falsen 1817:6). Falsen and his contemporaries viewed the Constitution as democratic because it limited monarchy by making the people an integral and decisive part of the political system (Gammelgaard and Holmøyvik 2014, p. 9).

It can appear then, that the same "fear" for the word democracy, was not as prominent in Norway in 1814 as it was across the Atlantic twenty-seven years earlier. Instead, it was introduced as a way to balance and limit the king's powers.

Both of these changes, geography and democracy, put under pressure the narratives of the original Constitution. The Madoc myth serves as an illustration of geographical change and it provided both moral and legal justification for expansion, but not only that. As Watts concludes:

> The function of the legend remains the same: to undermine the uniqueness and indigenousness of American Indians, thereby both assuaging white guilt concerning the conquest and near genocide of the Indians by Europeans in the last half millennium and establishing whites as primordial—and hence authentic—North Americans. In both 1812 and today, the dream of finding primordial whites reveals a deep and racist impulse: white America's quest for indigenous ancestors, a national authenticity proven by a primordial paternity" (Watts 2015, p. 41-42).

Watts' conclusion relates also to democracy, and it opens up the question of who "We the People" are, which includes who are the narrators and readers and how the storyworld in which they operate is structured. This creates oppositional voices and narratives, above all between those who will exclude people from the narrative on the basis of race, like the Madoc myth, and those who seek either to open these long-term narratives to include different ethnicities or who question whether the constitution is capable of sustaining such a narrative.

Narratives

In this section I will illustrate how the issues I have discussed so far in this chapter have been lived out in practice in narrative form. I ended the previous section with the question of who was, or ought to be, included in the group that both speaks and is represented in the Constitution: "We the People." This question became more and more pressing during the nineteenth and twentieth centuries, especially among abolitionists and civil rights campaigners, who cited the nation's founding documents in their fight for freedom. They sought to activate the affordances – or what Martin Luther King termed the "promissory note" (King 1963, p. 1) – of, for example, the statement that "all men are created equal" in the Declaration of Independence, along with the claims about justice, freedom, and equality in the Preamble to the Constitution.

This thesis began with the contention made in Warner's book, that "one becomes a citizen by taking one's place as writer or reader," but for as long as people were not recognized as equal, this correlation – this affordance – was not being realised in practice. More particularly, as more and more readers sought to become "active" – both as readers and as citizens – the

reading community itself became more diverse and thereby more likely to see diversity, either in the Constitution itself or in the application of it. It can be argued that a more "democratic" form of both reading, and citizenship was being introduced and that the "We" of "We the People" was diversifying accordingly. In keeping with this, re-writings and re-readings of the Declaration of Independence and the Constitution occurred that produced narratives which were more conscious of this diversity, especially of colour. This could go both ways. In some of these narratives, this active perception of diversity and colour was seen as a threat and was accompanied by a belief that, especially in regard to colour, distinctions and restrictions should be imposed between specific groups of the population. The Madoc legend, for instance, was one of them. In other narratives, like Martin Luther King's "I have a dream," which I will analyse towards the end of this section, this perception had a more emancipatory agenda.

I will commence this section by elucidating the contest over who was taken to be entitled to narrate and find representation in the US Constitution. After that, I will proceed to look at two specific and contrasting narratives that seek to reset the relationship between equality on the one hand and liberty and justice on the other through their specific awareness of colour: The Confederate Constitution of 1861 and Martin Luther King's 1963 speech "I have a dream."

Who, then, are these "We the People" who have been endowed with the ability to read, write, and narrate, and therefore enjoy their status as citizens? The French 1791 constitution distinguished between "active" and "passive" citizens, referring to those with and without the rights to vote and to be elected (Gammelgaard et. Holmøyvik 2014, p. 9-10). The US Constitution, written four years earlier, reflects a similar distinction, although it does not explicitly use these terms. I found, for instance, in chapter 1, that the "We the People" described in the Constitution, consisted solely, initially, of white males of a certain age and origin. These were the "active" citizens. The "passive" citizens, among them slaves, Native Americans, and women, started to protest against their exclusion from this republican form. Their insistence on becoming members of "We the People" can, so to speak, be considered the form of democracy attempting to impose on the form of this republic.

When endowed with a republican persona, the narrative voice of "We the People" is characterised by conformity and compromise, the latter in order to achieve an agreement between the states, as discussed in chapter 1. When read from a more democratic perspective, by contrast, the narrative voice becomes more complicated and problematic. The words "all men are created equal," in the *Declaration of Independence* for instance, was actively drawn upon by the abolitionists as an argument for ending slavery and was equally refuted by the pro slavery side. Chief Justice Taney's arguments in his rulings of the *Dred Scott* case in 1857, are representative of an "anti-democratic" way of interpreting the narrative voice in the Declaration of Independence:

> The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration; [...]They [the Framers] spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. The unhappy black race were separated from the white by indelible marks, and laws long before established, and were never thought of or spoken of except as property, and when the claims of the owner or the profit of the trader were supposed to need protection (cited in Anastaplo 2012, p. 105).

As this citation indicates, though, a more "democratic" reading is possible. With this in mind, the Constitution can also be read through and from a perspective of diversity. This has the capacity to alter the meaning of the text, as well as render the character of its supposed narrator more unstable. For instance, if slaves, who the constitutional text refuses to talk about, make an appearance, they will pose as much of a challenge to the founding words of the republic as they did for the composition of its geographical integrity. Every time slaves move, their existence surfaces and represents a problem for the principle of equality inscribed in the Constitution:

> The volatility of the slavery issue, particularly for an equality-minded regime, is evident in the repeated concerns about the movements of slaves. First, there was the

> concern about importing slaves from abroad; then there was the concern about recovering slaves who would not stay put; and then there was concern about being able to take and retain slaves in the Territories of the United States (Anastaplo 2012, p.57).

If the slaves had remained in the same space, in the same setting, the question about their freedom could have remained unasked. However, by moving or being moved, they represented a problem, and this - from an aesthetic perspective - shows how movement between forms can create a shift of balance, and, eventually, maybe even a change in power relations. This I understand strengthens Loughran's observation that the actual consequences of improved infrastructures, causing a more literally understood "union" were not a tighter connection between the different parts, but rather "secession and civil war" (Loughran 2007, p. 5).

As I explained in the introduction, narrative is an aesthetic form that traces movements and gives scope to competing forms, and it affords, as Levine phrases it: "a careful attention to the ways in which forms come together, and to what happens when and after they meet" (Levine 2017, p. 19). I will therefore proceed now to look at two narratives that compete with one another in seeking to respond to the diversity and instability associated with emancipation and democratisation: The Confederate Constitution of 1861 and Martin Luther King's speech from 1963 "I have a dream." I will end this section with a very brief comment on Amanda Gorman's poem "The Hill We Climb" (2021) which brings us to the present day.

The Confederate Constitution (1861)

In chapter 1, I recognized how the word "slave" was never used in the 1787 US Constitution (p. 29 above) and how there was a tension in the storyworld between the federal nation and individual states (p. 42 above), which that constitution sought to navigate and balance. The Confederate Constitution was modelled on the US one, but it altered the language to take a clear stand on both issues. In Anastaplo's comparisons of the two document he observes:

> Among these differences are those which may be seen in how much more the power and authority of the states are recognized in the Confederate Constitution. This is dramatized by the provision therein which assigns to the states exclusive control of the process for amending the Confederate Constitution. Even more dramatic, of course, is how much more is done with slavery in the Confederate Constitution. This includes a determination, on the part of its framers, to speak explicitly and frequently of slavery, quite unlike the much more reticent framers of the Constitution of 1787 in this respect. It is evident, in the 1861 instrument, that it was slavery, not (as in the 1780s) any Union, which was regarded as "perpetual." (Anastaplo 2012, p. 137)

Anastaplo's observations are reflected in the storyworld of the Confederate Constitution which very clearly divides its space between the three government branches, but where also the division between the states is highlighted, as can be seen already in its preamble: "We, the people of the Confederate States, each State acting in its sovereign and independent character…" Here the point is made that each state is an individual unit. Hierarchies are also in place and among them, one is made to specifically identify slaves as inferior, but in order to do that, slaves must first of all be specifically mentioned in the text. Calling them "three-fifths of all other people," as in the 1787 US Constitution, does not allow for the distinction the Confederate Constitution is after. Second, they must be identified as property. Both these features are exemplified in Article 1, Section 9: "No bill of attainder, ex post facto law, or law denying or impairing the right of property in negro slaves shall be passed." This also specifies slaves as figures in the narrative, but because they are classified as property, they have not been assigned a character, or a role, and consequently, with no opportunity to act. With this specific mentioning of the slaves, race is now a visible feature of the storyworld/characterisation of the Confederate Constitution, but like in the 1787 US Constitution, still only one gender.

When I analysed the narrative of the 1787 Constitution in chapter 1, I argued that "We the People" is the main source of energy and action (p. 43 above). And because "We the People" occupied the legislative branch, that was also the location where most of the productive action took place (p. 44 above). In the Confederate Constitution, there is a shift in this regard too. Although the legislative branch can perform many actions, and it has "powers" listed in

Article 1, Section 8, for instance, to "lay and collect taxes," "borrow money," and "regulate trade," these powers are not "granted" as Article 1, Section 1 of the 1787 Constitution declares, they are "delegated." instead. This is stated in its Article 1, Section 1: "All legislative powers herein delegated shall be vested in a Congress of the Confederate States, which shall consist of a Senate and a House of Representatives." In reality, then, the power only belongs in the Confederate Congress as long as the "the people" of the individual states let them, shifting the balance in favour of the state governments in place of the federal. "The authority of the states is," as Anastaplo notes:

> recognized and reinforced again and again, even in the ways that the Ninth and Tenth Amendments are modified in 1861. The power of localities is thereby sustained and protected against any tendencies toward domination that the officers of the Confederate government might improperly have (Anastaplo 2012, p. 138).

As I argued previously, the narrator of a story has a fundamental impact on the way a story is presented, and they can inform how that story is understood by a reader (p. 46 above). In the Confederate Constitution the narrator is concerned with rectifying what they saw as wrong or unclear about the 1787 US Constitution. They retain much of the original text but add or remove parts to make it fit into the narrative they wish to tell. To illustrate this, I will examine the Preamble. This reads:

> We, the people of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent federal government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity— invoking the favor and guidance of Almighty God—do ordain and establish this Constitution for the Confederate States of America.

Although this preamble closely resembles the Preamble to the 1787 US Constitution, the narrator makes some significant changes. First, they add: "each State acting in its sovereign and independent character." This addition renders both its speakers, and thereby its readers, as citizens of a specific state as much, or maybe even more, than as citizens of the Confederate States as a collective unit. Also, as a contrast to the 1787 Constitution where the visionary

goal was “to form a more perfect Union” - that is to create something ever-evolving, signalled by the wording “more perfect” - the Confederate Constitution’s narrator wants to simply “form a permanent federal government.” The word “permanent” suggests that it is immediately fixed in place and indicates that the narrator’s intentions are to firmly put an end to any further attempts to interfere with their work. Slaves are meant to remain slaves and the individual states are, and should always be, superior to any federal state. In retaining the verb “form,” though, the Confederate Constitution also casts itself as an aesthetic project, aiming to create a new, permanent, reality.

The Confederate Constitution obviously failed to create its permanent reality as they lost the war, and instead prompted a further development in the formation of a “more perfect Union.” With the ending of the Civil War, three Amendments were added to the US Constitution. In the US today, Reconstruction, and maybe especially the Civil War Amendments are sometimes spoken about as “the second founding,” and the Civil Rights Movement of the 1960’s as “the third founding” (*Should We Break up With the Founders?*, n.d.). These later “foundings” arguably are part of a development and democratisation of the original text and represent ways of re-writing the narrative to make it fit the reality it is meant to constitute. The Civil War Amendments, like the Confederate Constitution also specifically mentioned slaves not to disempower them, but instead to give them the rights of citizens. Anastaplo notices this change:

> The language used in the three Civil War amendments —“slavery,” “involuntary servitude,” “emancipation of any slave,” and “color, or previous condition of servitude”—is in marked contrast to the less-than-candid language that had had to be used in the Constitution of 1787, such as “Person[s] held to Service or Labour in [a] State, under the Laws thereof.” That is, slavery and its presuppositions can now be brought out in full view and repudiated (Anastaplo 2015, p. 156).

By adding these three amendments, slaves are given a persona, a character, attached with feelings and history. It is recognised that they have been held as slaves “involuntary,” a “previous condition,” is being referred to, and their movement can be seen as one contributing factor in a change of the “unified form.”

> We have noticed as well that it was becoming evident by the 1850s that the Africans who had been kidnapped into slavery were becoming more and more "American," a transformation which contributed to their own growing recognition that they as human beings were also entitled to "Life, Liberty, and the Pursuit of Happiness" (Anastaplo 2012, p. 163).

The promise of these amendments was not fully realised – Reconstruction faltered, "Jim Crow" laws were introduced in the South and segregation was enforced. The tensions these created – and the incompatibilities with the amended Constitution this exposed – came out in the open in the Civil Rights movement of the 1960s, representing "the third founding" of the nation. A question that then was raised is whether the narrative of the US Constitution, even in its amended form, is one that minorities can adopt and narrate for themselves – or whether a new narrative needs to be written. Martin Luther King's speech is an example of the former, whereas Amanda Gorman's poem from the inauguration ceremony of 2021, which I in my final thoughts on the subject will give a brief comment on, is one that explores the possibility of the latter.

Martin Luther King: "I have a dream" (1963)

King evokes the past in his opening words: "Five score years ago a great American in whose symbolic shadow we stand today signed the Emancipation Proclamation." (King 1963, p.1). In this way King starts his speech by aligning its plotline and storyworld with the ending of the Civil War nearly 100 years earlier. His narrative can be seen as continuously developing and evolving the already created storyworld and, as such, it fits into my depiction of the US Constitution as an arrow. Later on, King continues to also spatially locate this world by referring to several specific states and places: "hilltops of New Hampshire," "Mighty mountains of New York," "the heightening Alleghenies of Pennsylvania," (p. 4) and so on. All the different locations emphasise the storyworld's capacity to hold them all and indicate room for plurality. This is also shown by placing a number of different characters there: "negro slaves," (p. 1) "the architects of our Republic," (p. 1) black men as well as white," (p. 1) "my four little children" (p. 5) to name a few. He shows that there now *is* a union and that the secession failed in a literal sense, "black men as well as white" are put next to each other.

Although this demonstrates how the storyworld has expanded, divisions and tensions still exist: “The Negro is still badly crippled by the manacles of segregation and the chains of discrimination,” (p. 1) and also “is the victim of unspeakable horrors of police brutality” (p. 3).

Within this world, most of the characters are made very concrete. The former slaves who were “invisible” in the Constitution are now very visible. The Civil War Amendments made them “real” and attributed them with feelings, history and bodies, and King’s narrative expands upon this and makes them ever more human. They are referred to and addressed directly in the speech: “some of you have come fresh from narrow jail cells,” “Some of you are “battered” and “staggered” and are “veterans of creative suffering” (p. 4) King here insists on their humanity and therefore their right to be treated like all other human beings, and not to be excluded.

The characters, in spite of being described as victims of unlawful and unjust treatment in some places in the speech, are now becoming active citizens who are marching towards the capital to “cash this check, a check that will give us upon demand the riches of freedom and the security of justice” (p. 1). I have earlier discussed how movement of slaves represented a problem to the union (p. 75 above) and this is yet another example of movement as a way to disturb and shift balances of forms. The black community protests against remaining in the confined spaces it has been allotted, and King declares they can never be satisfied “as long as the Negro’s basic mobility is from a smaller ghetto to a larger one” (King 1963, p. 3). There needs, in short, to be an alteration in the storyworld of this narrative.

The narrative elements I have so far considered, the plot, the storyworld, the characters and the action, demonstrate that King’s approach is to adopt and amend the US Constitution narrative to include African Americans, and he makes this explicit when he states that “When the architects of our Republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir” (p. 1). King uses this same strategy of adopting and amending in his construction of a narrator and reader as well. The narrator of the story alternates between the singular “I” and the plural “we.” In this he imitates the US Constitution which also presents a

first-person narrator, but King makes his narrator significantly different. Both narrators are involved in the story that is told, but King's narrator aims to tell the story of more than one kind of homogenised individual. King's rhetoric is especially powerful when he constructs both narrator and reader and he is actively using both "I" and "we." The repetition of the phrase "I have a dream" invites the audience, and later readers of the text, to join in the "I," and by doing so, the individual "I" is transformed into a plural "we." In the Constitution the "We" of "We the People" are all the same, whereas in this speech they appear to be different from one another, more individualised. King constructs a community that contains both an "I" and a "you" and so, it is more complex, diversified, and potentially factional than the voice of the Constitution.

Even though King identifies both the Declaration and the Constitution as the promissory notes that are to be fulfilled in his dream, it is notable that when he actively adopts and narrates their words, he in practice only cites from the Declaration of Independence: "a promise that all men - yes, black men as well as white men- would be guaranteed the *unalienable rights of life, liberty and the pursuit of happiness*" [my emphasis] (p. 1). Later he continues:

> It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up, live out the true meaning of its creed: "*We hold these truths to be self-evident, that all men are created equal*" [my emphasis] (King 1963, p. 4).

Why does he not quote the constitutional text in the same way? Does this indicate that the Constitution is less amenable to the narrative he would tell? Amanda Gorman who wrote and recited the poem "The Hill We Climb" at President Joe Biden and Vice President Kamala Harris's inauguration ceremony in 2021 would seem to think so. Her poem also invokes King's speech, but it points to a critique of the Constitution:

> And yes, we are far from polished,
> far from pristine.
> But this doesn't mean we're striving to
> form a union that is perfect.
> We are striving to form our union with purpose,

To compose a country committed
To all cultures, colors, characters,
And conditions of man.
(Gorman 2021)

Gorman sees the union as an aesthetic formation, and like in the Constitution, her union is also "formed" in the sense that it is "composed." However, the Constitution's ideal vision of the union as "perfect" is dismissed and instead Gorman introduces a union that is formed "with purpose." Like Martin Luther King, she emphasises the plurality that is bound to exist among individuals within this union, and she joins them together in a "composition." As in a musical composition, every individual plays a different role and represents a different voice, and it is not until all are heard together, and at the same time, that the true composition takes form. Equivalent to the Constitution, she uses the "we" form ("We are striving …To compose") – thereby indicating that a composition is a joint effort. Describing a country to be "composed" suggests that she might agree with Warner that citizenship requires both writing and reading, but she seems to believe that perhaps a different narrative needs to be composed. She does not believe that the union can be perfect, instead it must be formed "with purpose." In her eyes the Constitution does not afford the variety and plurality that is found within the "more perfect Union" it aims to create. The Constitution belongs to a past that needs to be re-composed and repaired.

It's because being American is more than a pride we inherit.
it's the past we step into
and how we repair it.
(Gorman 2021)

Gorman sees the past as something to be "repaired," and this involves going back and changing the past. Arguably, this goes against the "originalist" interpretation of the Constitution. One should not just go back to the 1787 intention: that past is damaging and needs to be reinterpreted in the light of the present. In this way her poem deviates from the

standard constitutional narrative depicted as an arrow. That arrow is constantly pointing forward, never back.

In this chapter I have considered how "reading" the constitution is one of the ways in which citizenship and the nation are formed, re-formed and enacted. In particular, I have found reading is often a form of "re-writing" and thus can involve as much agency as the original act of writing, validating Gammelgaard and Holmøyvik's claim: "any text lives also in its interpretation. In many ways, readers are as active as authors are in creating a given text's meaning" (Gammelgaard and Holmøyvik 2014, p. 5). Reading, that is, can well involve new aesthetic, social and narrative forms.

Conclusion

In this thesis I have conducted an aesthetic analysis of the United States Constitution. I wanted to investigate how an aesthetic approach might contribute to a better, and perhaps even to a different, understanding of the Constitution's workings, and to explore how far it might be able to account for this Constitution's longevity and help analyse some of the challenges it has faced, and continues to face, today. This approach has enabled me to highlight how the US Constitution is an aesthetic, as well as a legal, text in the sense that it aspires to form a cultural and social reality. This formation upholds my contention that there is a relationship between aesthetic and politics, a relationship that is proposed by Rancière and further developed by Levine. Central to my thesis has been Rancière's definition of aesthetics:

> [A]esthetics can be understood in a Kantian sense - re-examined perhaps by Foucault - as the system of a priori forms, determining what presents itself to experience. It is a delimitation of spaces and times, of the visible and the invisible, of speech and noise, that simultaneously determines the place and stakes of politics as a form of experience (Rancière 2013, p. 13).

This understanding of aesthetics has underpinned my discussion throughout, not least in how it has led me to focus on the joint aesthetic and political issue of who is "represented" in the Constitution, how they are represented, and the scope that is awarded them for both action and expression. This emphasis, indeed, along with Levine's definition of forms as "all shapes and configurations, all ordering principles, all patterns of repetition and difference" (Levine 2017, p. 3), further encouraged me to address the Constitution as a narrative. This connection has also been made by others, such as Linda Colley, whose statement below impacted my decision to interpret the US Constitution as a narrative:

> A constitution, after all, like a novel, invents and tells the story of a place and a people. These documents were - and are - always more than themselves, and more too than a matter of law and politics (Colley 2021, p.12).

In order to investigate the ways in which these documents become "more than themselves" – and thereby work in the social and political sphere – I took as a starting point Michael Warner's book *The Letters of the Republic* (1990). I wished in particular to investigate Warner's claim that citizenship in the newly formed nation required a new type of writer and reader. Consequently, I organised my thesis in terms of these same two categories: writing and reading.

In order to conduct this enquiry, I have compared the manner in which aesthetic and social forms interact in the written text of the US Constitution with the manner in which they interact in the written text of the Norwegian Constitution. The reason I decided to compare these two constitutions was to explore if this interrelationship has any "universal" features or if it is instead more culturally or geographically specific.

In chapter 1, I accordingly elucidated the language, forms and narratives that are "written into" the US and Norwegians Constitutions and explored how they each establish a roadmap for the future. In my interpretation, the results can be visualised as follows:

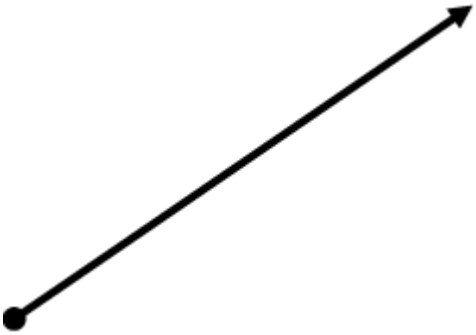

Fig.1 The US Constitution

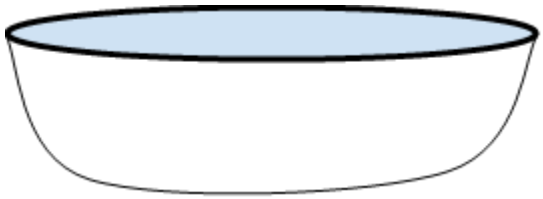

Fig.2 The Norwegian Constitution

I argued that the original versions of both the US and the Norwegian Constitutions sought to create an overall form for their respective nations as a whole. Furthermore, these forms came with an in-built rhythm and temporality – an assumption about how they would continue to operate in the future. Much of this in-built temporality I understand to be connected to the argument I present in the language section: that the US Constitution is openly performative and states a reality that is to be brought into existence through actions inscribed in its

language, whereas the Norwegian Constitution appears to describe a reality that already exists. Through this comparison, that is, I demonstrated that the different language and style of each constitution reflect different ideas of nationhood and citizenship. Both constitutions have elements that are both performative and constative, moreover, and not just one or the other, so what really makes a difference is how this language is interpreted by the reader. This corresponds with Gammelgaard and Holmøyvik's claim that "any text lives also in its interpretation. In many ways, readers are as active as authors are in creating a given text's meaning" (Gammelgaard and Holmøyvik 2014, p. 5). In the US Constitution this is reflected in the fact that the narrator and the reader share an identity: they are "We the People." In order to become a citizen, that is, one must both read and write – reading alone is not enough.

In chapter 2 I continued this line of investigation and looked at how "reading" the constitution is one of the ways in which citizenship and the nation are formed, re-formed, and enacted. For instance, whereas the US Constitution is more often viewed as a monument, something that is fixed, seen, and therefore worshipped, the Norwegian is less likely to be read as a text, but instead invoked as a "myth." This allows for a greater degree of active participation in the Norwegian Constitution by the people, whereas the US Constitution stands more as a monument for the citizen to worship and the Supreme Court to interpret (a point to which I will return). More particularly, I concluded that reading is often a form of "re-writing" and can thus involve as much agency as the original act of writing. As my discussion of "originalist" versus "living constitution" styles of reading demonstrated, as well as my review of the different metaphors that have been applied to the US Constitution – "organicist," "anchor," and so on – reading is capable of introducing to the Constitution new aesthetic, social and narrative forms from the original act of writing. I would therefore argue that Warner's claim should accordingly be extended to the effect that different styles of reading generate different forms of government and different kinds of citizens.

One of the social forms the US Constitution struggled to introduce was "democracy." The plurality of the "voice" of democracy struggled to find an expression in the one unanimous, homogeneous voice spoken by "We the People" analysed in chapter 1. This diversity and demand for changes that was opened up for by democracy could no longer be retained in the Constitution's text, and the text itself would be challenged. In Norway debates about

changing the Constitution's text and its language have been frequent, and I located the place where such changes were debated as the legislative branch, thus showing the Constitution had become a tool through which "the people" are involved in its change. This, by contrast, I found to be more problematic in the US, and I suggested that the language itself resisted change. Most of the debate about the US Constitution's text is today located in the Supreme Court, not in the Congress - the domain of "We the People" - and I suggested that a reluctance to change the language of the US Constitution might reflect an in-built resistance to democracy.

The iconic status as monument and myth that the US Constitution and the Norwegian Constitution have achieved respectively have contributed to their stability and longevity. Both constitutions combine the constative and the performative and are therefore able to "become more than themselves" through their simultaneous role as written, physical objects that are also celebrated and enacted.

I want to finish by returning to my starting point:

> The subject of Michael Warner's book is the rise of a nation. America, he shows, became a nation by developing a new kind of reading public, where one becomes a citizen by taking one's place as writer or reader.

I believe that Warner's idealistic view is partly correct: a new kind of citizen *did* develop by writing and reading. Nonetheless, Loughran's materialistic objections are also valid, because the US Constitution was an invitation to be lived out, and peoples' real experiences resulted in new, and possibly unexpected, readings and rewritings. An aesthetic analysis of the kind I have pursued in this thesis allows both these forms of citizenship, along with the interaction between them, to become both visible and available for interrogation.

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