

# American History

From Revolution to  
Reconstruction  
and beyond

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## Introduction

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*"But what is government itself but the greatest of all reflections on human nature?"*

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James Madison  
*The Federalist Papers*

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Thomas Jefferson called *The Federalist Papers* "the best commentary on the principles of government...ever written." For the 19th-century English philosopher, John Stuart Mill, *The Federalist*, (as the collection of 85 short essays was usually titled) was "the most instructive treatise we possess on federal government." The astute French political commentator, Alexis de Tocqueville, thought it "an excellent book, which ought to be familiar to the statesmen of all countries." In the 20th century, historians, jurists and political scientists have generally agreed that *The Federalist* is the most important work of political philosophy and pragmatic government ever written in the United States. It has been compared to Plato's *Republic*, Aristotle's *Politics* and Hobbes' *Leviathan*. And it has been consulted by the leaders of many new nations in Latin America, Asia and Africa as they were preparing their own constitutions.

The delegates who signed the drafted Constitution in Philadelphia on September 16, 1787, stipulated that it would take effect only after approval by ratifying conventions in nine of 13 states. Although not stipulated, a negative vote by either of two key states-New York or Virginia-could destroy the whole enterprise because of their size and power. Both New York and Virginia delegates were sharply divided in their opinions of the Constitution. And New York governor George Clinton had already made clear his opposition.

One would imagine that a work so highly praised and so influential as *The Federalist Papers* was the ripe fruit of a long lifetime's experience in scholarship and government. In fact, it was largely the product of two young men: Alexander Hamilton of New York, age 32, and James Madison of Virginia, age 36, who wrote in great haste-sometimes as many as four essays in a single week. An older scholar, John Jay, later named as first chief justice of the Supreme Court, contributed five of the letters.

Hamilton, who had been an aide to Washington during the Revolution, asked Madison and Jay to join him in this crucial project. Their purpose was to persuade the New York convention to ratify the

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just-drafted Constitution. They would separately write a series of letters to New York newspapers, under the shared pseudonym, "**Publius.**" In the letters they would explain and defend the Constitution.

Hamilton initiated the venture, outlined the sequence of topics to be discussed, and vigorously addressed most of them in 51 of the letters. But Madison's 29 letters have proved to be the most memorable in their combination of frankness, balance and reasoning power. It is not clear whether *The Federalist Papers*, written between October 1787 and May 1788, had a decisive effect on New York's grudging ratification of the Constitution. But there can be no doubt that they became, and remain, the most authoritative commentary on that document.

### **A new kind of Federalism**

The first and most obvious approach *The Federalist Papers* used was a new definition of federalism. Having just won a revolution against an oppressive monarchy, the former American colonists were in no mood to replace it with another centralized, unrestrained regime. On the other hand, their experience with instability and disorganization under the Articles of Confederation, due to jealousy and competition between the individual states, made them receptive to a substantial increase in national powers. A number of Federalist Papers argued that a new kind of balance, never achieved elsewhere, was possible. Indeed, the Papers were themselves a balance or compromise between the nationalist propensities of Hamilton, who reflected the commercial interests of a port city, New York, and the wariness of Madison, who shared the suspicion of distant authority widely held by Virginia farmers.

Madison proposed that, instead of the absolute sovereignty of each state under the Articles of Confederation, the states would retain a "*residual sovereignty*" in all those areas which did not require national concern. The very process of ratification of the Constitution, he argued, symbolized the concept of federalism rather than nationalism. He said:

*This assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and individual States to which they respectively belong.... The act, therefore, establishing the Constitution, will not be a national but a federal act.*

Hamilton suggested what he called a "*concurrency*" of powers between the national and state governments. But his analogy of planets revolving around the sun, yet retaining their separate status, placed greater emphasis on a central authority. Hamilton and Jay (also from New York) cited examples of alliances in ancient Greece and contemporary Europe that invariably fell apart in times of crisis. To the authors of *The Federalist Papers*, whatever their differences, the lesson was clear: Survival as a respected nation required the transfer of important, though limited, powers to the central government. They believed that this could be done without

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destroying the identity or autonomy of the separate states.

## Checks and Balances

*The Federalist Papers* also provide the first specific mention we have in political literature of the idea of checks and balances as a way of restricting governmental power and preventing its abuse. The words are used mainly in reference to the bicameral legislature, which both Hamilton and Madison regarded as the most powerful branch of government. As originally conceived, the presumably impetuous, popularly elected House of Representatives would be checked and balanced by a more conservative Senate chosen by state legislatures. (The 17th Amendment, added in 1913, changed this provision to mandate the popular election of senators.) On one occasion, however, Madison argued more generally that "*office should check office,*" and Hamilton observed that "*A democratic assembly is to be checked by a democratic senate and both these by a democratic chief magistrate.*"

In his most brilliant essay ([Number 78](#)), Hamilton defended the Supreme Court's right to rule upon the constitutionality of laws passed by national or state legislatures. This historically crucial power of "*judicial review,*" he argued, was an appropriate check on the legislature, where it was most likely that "*the pestilential breath of faction may poison the fountains of justice.*" Hamilton explicitly rejected the British system of allowing the Parliament to override by majority vote any court decision it finds displeasing. Rather, "*the courts of justice are to be considered the bulwarks of a limited Constitution against legislative encroachments.*" Only the painstaking and difficult process of amending the Constitution, or the gradual transformation of its members to another viewpoint, could reverse the Supreme Court's interpretation of that document.

## Human Nature, Government and Individual Rights

Behind the notion of checks and balances lay a profoundly realistic view of human nature. While Madison and Hamilton believed that man at his best was capable of reason, self-discipline and fairness, they also recognized his susceptibility to passion, intolerance and greed. In a famous passage, after discussing what measures were needed to preserve liberty, Madison wrote:

*It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself.*

In the most striking and original of *The Federalist Papers* ([Number](#)

[10](#)), Madison addressed this double challenge. His central concern was the need *"to break and control the violence of faction,"* by which he meant political parties, and which he regarded as the greatest danger to popular government: *"I understand a number of citizens...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."* These passions or interests that endanger the rights of others may be religious or political or, most often, economic. Factions may divide along lines of haves and have-nots, creditors and debtors, or according to the kinds of property possessed. Madison wrote:

*A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide themselves into different classes, actuated by different sentiments and view. The regulations of these various and interfering interests forms the principal task of modern legislation...*

How can fair, rational and free people mediate so many competing claims or the factions that derive from them? Since it is impossible to outlaw passion or self-interest, a proper form of government must be able to prevent any faction, whether minority or majority, from imposing its will against the general good. One defense against an overbearing faction, Madison said, is the republican (or representative) form of government, which tends *"to refine and enlarge the public views by passing them through the medium of a chosen body of citizens,"* who are likely to be educated men of good character. Because elected representatives are at some distance from mass sentiments, they will probably also have a larger and wiser outlook.

But even more important, according to Madison, was broadening the geographic and popular basis of the republic, as would happen under the national government proposed by the new Constitution. He wrote: *As each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried.... The influence of factious leaders may kindle a flame within their particular States but will be unable to spread a general conflagration through the other States.*

What is being urged here is the principle of pluralism, which welcomes diversity both for its own sake as a testimony to individual variety and freedom, but even more crucially for its positive effect in neutralizing conflicting passions and interests. Just as the great variety of religious faiths in the United States makes unlikely the imposition of a single established church, so the variety of states with many divergent regions and concerns makes unlikely the national victory of an inflamed and potentially oppressive faction or party. A confirmation of Madison's argument can be found in the evolution of the major American political parties, which have tended to be moderate and non-ideological because they each encompass

such a diversity of sectional and economic interests.

### **The Separation of Powers**

The idea of separating powers among the various branches of government to avoid the tyranny of concentrated power falls under the larger category of checks and balances. But *The Federalist Papers* see another virtue in the separation of powers, namely, an increase in governmental efficiency and effectiveness. By being limited to specialized functions, the different branches of government develop both an expertise and a sense of pride in their roles, which would not be the case if they were joined together or overlapped to any considerable degree.

Qualities that might be crucial to one function could be ill-suited for another. Thus Hamilton termed "*energy in the executive*" as essential to defend the country against foreign attacks, administer the laws fairly, and protect property and individual liberty, which he viewed as closely related rights. On the other hand, not energy but "*deliberation and wisdom*" are the best qualifications for a legislator, who must earn the confidence of the people and conciliate their divergent interests. This difference of needs also explains why executive authority should be placed in the hands of one person, the president, since a plurality of executives could lead to paralysis and "*frustrate the most important measures of government, in the most critical emergencies of the state.*" That is, once the legislature, reflecting the will of the people, has rendered its deliberate and fully debated judgment by passing a law, the executive must firmly carry out that law without favoritism, resisting any self-interested pleas for exception. And in the event of an attack by a foreign state, the executive must have the power and energy to respond immediately and forcefully. As for the judiciary, the qualities wanted there are special as well: not the executive's energy and dispatch, nor the legislator's responsiveness to popular sentiment or his ability to compromise, but "*integrity and moderation*" and, by being appointed for life, freedom from popular, executive or legislative pressures.

### **The Perennial Questions of Politics**

The memorable observations in *The Federalist Papers* about government, society, liberty, tyranny and the nature of political man are not always easy to locate. Much in these essays is dated or repetitious or archaic in style. The authors had neither the time nor the inclination to put their thoughts in an orderly and comprehensive form. Yet *The Federalist Papers* remain indispensable to anyone seriously interested in the perennial questions of political theory and practice raised by Hamilton and Madison. "*No more eloquent, tough-minded and instructive answers have ever been given by an American pen,*" wrote the distinguished political historian, Clinton Rossiter. Rossiter wrote in his commentary on the essential wisdom in *The Federalist Papers*:

*The message of The Federalist reads: no happiness without liberty, no liberty without self-government, no self-government without constitutionalism, no*

*constitutionalism without morality-and none of these great goods without stability and order.*

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