

## *The Federalist Papers*

1787–1788

### INTRODUCTION

*Anthony A. Peacock*

*The Federalist* can teach us more about the theory and practice of the Constitution than any other extant work. No other commentary comes close to it in terms of the comprehensiveness and cogency of its defense of America’s most fundamental law. And no other work has been cited so often by the United States Supreme Court for the true meaning of the Founders’ Constitution. Thomas Jefferson famously referred to *The Federalist* as “the best commentary on the principles of government, which ever was written.” Jefferson was right to emphasize the importance of principles. As both a practical and philosophical work, *The Federalist* demonstrated to Americans how the Constitution was an extension of the principles of the Declaration of Independence—particularly the principles of liberty and equality—and why it was necessary to reconcile these principles in a new constitutional instrument, the Constitution of 1787.

The fact that the United States is a country built upon the principles of the Declaration makes it unique in the history of the world. No other country can claim to be built upon the self-evident truths of

equality and God-given natural rights. But Americans had already tried—and failed—at constitution-making with the Articles of Confederation. Why was the Constitution any better? The authors of *The Federalist*, Alexander Hamilton, James Madison, and John Jay, writing under the pseudonym of Publius, the Roman citizen who was credited with saving Roman republicanism, set out themselves to save, or at least assist, American republicanism by demonstrating the necessity of the Constitution. When the Constitutional Convention ended on September 17, 1787, it was by no means clear the Constitution would be ratified. Hamilton decided that a comprehensive defense of its provisions was needed. He conscripted Jay and Madison to assist in his task. Although the audience of *The Federalist* was initially to be only New Yorkers, it would eventually be read throughout the United States and be published as a two-volume book in spring 1788. The 85 papers that made up *The Federalist* were intended to detail precisely how the Constitution would (in the words of *Federalist* 10) provide “a Republican remedy for the diseases most incident

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to Republican Government.” The Constitution was to “secure the public good and private rights.” These were the two principal objects of any sound constitution. Key to providing for them were the concepts of constitutional government, union, republicanism, separation of powers, and federalism.

**Constitutional Government.** Constitutional government for Publius means limited government: government restricted to those powers enumerated in the Constitution and established through the consent of the governed. Following the Declaration, *Federalist 22* affirms that “THE CONSENT OF THE PEOPLE” is the “pure, original fountain of all legitimate authority” from which the “streams of national power ought to flow.” Under the Constitution the “great and aggregate interests” of the country would be “referred to the national” government, whereas “the local and particular” interests would be referred “to the State legislatures” (*Federalist 10*). The “principal purposes” of union are limited to four broad objects: “[1] the common defense of the members; [2] the preservation of the public peace, as well against internal convulsions as external attacks; [3] the regulation of commerce with other nations and between the States; [4] the superintendence of our intercourse, political and commercial, with foreign countries” (*Federalist 23*). Articles I and II of the Constitution, which define congressional and executive powers, comport with these broad outlines of federal power. Publius makes clear that under the Constitution the states enjoy an inviolable sovereignty in their own sphere of constitutional action. In *Federalist 41* he further admonishes that the language in Article I, section 8(1) granting Congress the power “to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States” is not “an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare.” Rather the first paragraph of section 8 is a “general phrase” that is

to be qualified by the particular, enumerated powers of Congress that followed in the section.

**Union.** Just as the Constitution is intended to give birth to a government of limited powers, so the precondition for this is union and the corollary concept of uniform citizenship. The most critical practical purpose the new constitutional union would serve is that of security: security from foreign danger, from that civil discord certain to arise between the several confederacies that would emerge absent federal union, security from despotism, and security from domestic faction. The proposed integration of manufacturing, agricultural, and other economic interests that Publius hopes will cultivate political comity, public spiritedness, and an accompanying sense of “Americanness” is also impossible without union: “A unity of commercial, as well as political, interests can only result from a unity of government,” as he declares in *Federalist 11*.

**Republicanism.** The republicanism of *The Federalist* is intended to complement the goals of constitutional Union, which seeks to elevate American citizenship above the factious and vain particularities of region, race, creed, class, or wealth. The Constitution’s republicanism is the means through which Americans can exercise political choice both wisely and prudently. Importantly, *The Federalist* makes clear that the Constitution’s republicanism does not create a regime of competing interest groups each pursuing their narrow self-interest. Republican government will check the factious propensities of collective bodies and promote the general welfare, not the welfare of special interests or specific constituencies. Otherwise the Constitution’s objects of limited government would be transformed into objects of unlimited government, the government pandering to any interest for which there is a constituency.

**Separation of Powers.** The separation of powers is intended to inoculate the public against potential

abuses from political officials by dividing political power between the three branches of the federal government—legislative, executive, and judicial. In *Federalist* 48 Publius warns against the inefficacy of mere “parchment barriers” in maintaining the separation of powers. In *Federalist* 51, the most important essay on the theory of the separation of powers, he emphasizes the importance of ambition counteracting ambition, of giving each branch of government the constitutional means to protect its own powers. The separation of powers doctrine also intends to improve the energy and efficiency of government by allowing each branch to specialize, in effect, in order to fulfill its unique function.

**Federalism:** Like the separation of powers, federalism also serves the role of protecting the people from public officials by dividing political sovereignty between the states and the federal government. This is especially important in the large, extended republic the Constitution created. The title of *The Federalist* makes clear just how important dividing political power between the federal and state governments is. It is essential that the former’s power be limited to specific, enumerated objects if local political freedom is to

be preserved. As Publius declares in *Federalist* 32: “as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, *exclusively* delegated to the United States.”

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In the wake of the assault on the limited government, natural rights constitutionalism of the Founders by this country’s intellectual and cultural elites, there is no work more germane to understanding the Founders’ Constitution and the political science on which it is based than *The Federalist*. Despite assaults over the last two hundred-plus years from Anti-Federalists, Calhounites, social Darwinists, pragmatists, Progressives, postmodernists, deconstructionists, multiculturalists, transnationalists, and more, the Constitution endures. And so too has *The Federalist*, that best of all guides to this most fundamental law, a guide to the future as much as it is to the past.

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