



UNLOCKING  
THE  
FEDERALIST PAPERS

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We attempt in this volume to accomplish what the subtitle suggests: unlock the full wisdom, thought and power of the *Federalist Papers* to countless generations of young Americans.

# 8

## *If Men Were Angels, No Government Would Be Necessary*

### **Political Freedom in the *Federalist Papers* by Stephen B. Presser**

*Federalist Papers* referenced in essay: #10, 44, 51, 84

**A.** “Political Freedom,” or as the authors of the *Federalist Papers* refer to it, “The Science of Politics,” is what everything in the *Federalist Papers* is about. Hamilton, Madison, and Jay’s purpose was to write about how the proposed constitution created a form of government that would make it possible for politics to work in America. The three were concerned that after the break with Great Britain in 1776, the governments of the thirteen states were not functioning properly. They were not protecting the basic rights of the citizens. For the authors of the *Federalist Papers*, the science of politics and politics itself were about how best to secure the rights of the people, and how to make sure that governments and people did not endanger those rights. The challenge for the authors of the *Federalist Papers* was to show how the kind of republican government contemplated by the proposed constitution would be the best way to preserve basic rights. Their adoption of the name “Publius,” after Publius Valerius Publicola, one of the Founders and saviors of republican Rome, was designed to suggest just that.

**B.** When Hamilton, Madison, and Jay invoked republican Rome, they had a vision somewhat different from the politics

practiced in this country today. For us, politics is about the government providing services, regulating activity, or redistributing wealth to secure social welfare. For the Framers of the Constitution, however, the science of politics and the practice of politics were all about how to distribute power within the government in order to preserve private property, individual rights, and the rule of law which secured both. The authors of the *Federalist Papers* are especially worried about the majority trampling the property and rights of the minority, as was then happening in individual states.

C. As Madison says,

*To secure the public good and private rights against the danger of such a [majority] faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our enquiries are directed.* (No. 10)

The goal of the *Federalist Papers* was to explain how a republican (or representative) government based on the sovereignty of the people could still protect rights *and* proceed according to the rule of law.

D. We often speak of our government as a democracy (direct rule by the people), but the truth is we have always had a republic, not a democracy. In a pure democracy, a faction composed of a majority of the citizens would be likely to endanger the persons or property of particular individuals or groups, but a republic, “*by which I mean a Government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking* (No. 10).” Madison argues a representative form of government (a republic) is better than a democracy because it results in a system of government which will

*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.* (No. 10)

**E.** Madison goes on to make one of the most brilliant and bold assertions regarding republican government. Until the *Federalist Papers*, it was generally believed that a republic (a government composed of representatives of the people, rather than rule by aristocrats or a monarch) could only function in a small territory, and for a small group of people. Madison recognizes that sometimes “*men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain [election], and then betray the interests, of the people.*” The threat of such betrayal could be reduced, however, if the republic was large in territory and composed of many people. In such a territory, noxious factions would cancel each other out, and result in representatives “*whose enlightened views and virtuous sentiments render them superior to local prejudices, and to schemes of injustice.*” Madison also suggests “*the increased variety of parties,*” will “*consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and [self-]interested majority* (No. 10).”

**F.** The arguments in the *Federalist Papers* are all about controlling the government and avoiding an abusive government. Still, the *Federalist Papers*, and the Constitution itself, are as much about duty and responsibility as they are about the preservation of individual rights. A well-balanced and ordered government is the only guarantee of really important rights, such as those to security of person and property. The Framers of the Constitution and the writers of the *Federalist Papers* knew history revealed republics

often degenerated into what they called “factions,” which are not terribly different from our own political parties.

**G.** Such factions have existed since before the Constitution was written. American politics is a constant struggle, with no long-term winners or gainers. However, it appears Americans have achieved a higher standard of living and a greater accumulation of wealth than the people of most other nations. We have managed this, in general, because the constitutional structure envisioned by the Framers has saved us from ourselves. The best illustrations of the perspective of the Framers are the famous statements made by Madison in No. 51. “*Ambition,*” said Madison, “*must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place.*” By this, Madison means human beings are rather selfish and self-interested creatures. It was necessary to recognize that fact and use these characteristics to reach something better. Madison continues, using perhaps the most famous words he ever 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 men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people, is no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.*  
(No. 51)

**H.** The “internal” controls to which Madison refers are the checks and balances among each branch of the government—the legislative, the executive, and the judicial—keeping each other within the specified bounds of the Constitution. The “external” controls would be applied by the states, which would ensure the federal government went no further than the Constitution permits. *“Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself (No. 51).”* In our era, when the federal government is involved in many areas that were formerly the exclusive responsibilities of the state and local governments, the reflections in No. 51 are particularly relevant.

**I.** The *Federalist Papers* are particularly brilliant in explaining a constitutional structure designed to save us from ourselves. The authors recognize a discernible purpose to politics; the shimmering constitutional structure exists for a compelling reason. In his preface of the collected first volume of the *Federalist Papers* from 1788, Hamilton says, “The great wish is that [the *Federalist Papers*] may promote the cause of truth and lead to a right judgment of the true interests of the community,” which Hamilton believes would be furthered by ratifying the Constitution. But what is this “truth”? What are “the true interests of the community”?

**J.** For the authors of the *Federalist Papers* there are things a government is supposed to do, and indeed, it all boils down to this: *“Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit (No. 51).”* We talk a lot about liberty in this country, but it is important to understand for the Framers, the pursuit of justice is even more important than individual liberty. How, then, was the new government to pursue justice? On one aspect of the pursuit, the *Federalist Papers* is



stunningly clear. There are some things that are clearly the job of a good government to resist. These limitations on government are very nicely laid out in No. 10.

**K.** Madison recognizes an age-old problem in governance: what to do about the inevitably unequal distribution of wealth in society. Madison understands individuals have different qualities and abilities, and that from these “*unequal faculties of men*” comes the unequal distribution of property. Madison says it is from these unequal faculties “*from which the rights of property originate*” and it is “*the first object of government*” to protect those faculties. Madison recognizes these unequal faculties and the resultant difference in the distribution of property will lead to trouble. He states:

*the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. 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 them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of government. (No. 10)*

The difficult task for the new government was to secure property through the regulation of the “various and interfering interests” in society, and if possible, reign in “the spirit of party and faction.”

**L.** Thus, Madison warns against “*a rage for paper money, for*

*an abolition of debts, for an equal division of property, or for any other improper or wicked project (No. 10).” Issuing worthless paper money and abolishing debts were all actions tempting the state governments. For Madison, these activities were “improper or wicked.” These are the very things a government must not do. The federal government should not take these actions and should seek to prevent state governments from doing them, too. Such prohibitions, Madison notes, will “banish speculations on public measures, inspire a general prudence and industry, and give a regular course to the business of society (No. 44).”*

**M.** Another feature of the political theory of the Constitution’s Framers and the authors of the *Federalist Papers* is that it was important to restrain the exercise of power by government officials. This could be handled several ways: creating a system of checks and balances among the legislative, executive, and judicial branches to minimize the impact of untrustworthy persons; giving power to both state and federal governments to further divide the various centers of power in the nation; and finally, designing a system of regular and frequent elections to increase turnover among those in power, preventing consolidation and corruption. The Founders at the Constitutional Convention knew that since independence, demagogues seeking power for its own sake or to use in corrupt financial schemes carried a disproportionate influence in the state governments. It was his fear that such men might lead factions in the states or in the federal government. This led to Madison’s clear condemnation of faction and his theory that factions could best be controlled in a large territory.

**N.** Parallels exist between our modern national and cultural commitment to diversity and Madison’s vision of what was necessary for the eighteenth century American republic. Likening the manner in which religious freedom is preserved by tolerance for many religions, he states:

*in a free government the security for civil rights must be the same as for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. (No. 51)*

Elaborating on this theme, and brilliantly and historically creating a new argument that the best guarantee of proper functioning in a republic is to have a large one, he wrote:

*in the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of the major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself. (No. 51)*

**O.** Madison believed there are clearly discernible principles of “justice and the general good,” and for the government to function according to those principles, factions must be controlled. The majority must not be permitted to trample the rights of the minority. The experience of mankind had shown “*measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and over bearing majority* (No. 10).” Thus, the structural protections in the new constitution were designed to prevent the malevolent operations of “*an interested and over bearing*

*majority.*” Madison argues that by creating a larger electorate, Americans would create a situation where more “fit characters” would be able to run for office, and it would be more difficult for “*unworthy candidates to practice with success the vicious arts by which elections are too often carried.*” Ultimately, however, Madison puts his trust in the wisdom and virtue of the American people themselves, when he expresses his hope that “*the suffrages of the people being more free, [they] will be more likely to centre in men who possess the most attractive merit and the most diffusive and established characters* (No. 10).”

**P.** The ideas then, of a large republic; of dual state and federal sovereignty; of separation of powers and checks and balances; in short, of the entire structure of the Constitution itself, are the guarantees of the political rights of the American people. Critics of the Constitution however, were skeptical. They believed the Constitution was deeply flawed because in its original form it contained no bill of rights. There were no express guarantees of popular freedoms such as freedom of the press, freedom of speech, freedom of religion, freedom of assembly, or freedom from unreasonable searches and seizures. It is those popular freedoms that we usually think as constituting political freedom, but this was not the vision of the *Federalist Papers* authors. It is important to understand why some proponents of the Constitution, including Hamilton, thought the absence of such a bill of rights was one of the strengths and not one of the weaknesses of the proposed national government. Hamilton addresses this issue in No. 84.

**Q.** For Hamilton, the genius of the proposed federal constitution is it creates a federal government of limited and enumerated rights. There are some things the federal government could do, for example, the regulation of commerce and the ability to wage war and protect national security, but for most tasks of government, the federal government was to leave things to the

states or the people therein. A federal government limited in its scope is one more security for the rights of the people. Thus, for Hamilton, adding a bill of rights to the Constitution would be “*not only unnecessary,*” but “*would even be dangerous.*” This is because such a bill of rights

*would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.*

(No. 84)

In a limited government, there is no need to specify the rights reserved to the states or people, because all such rights and all powers, other than those *expressly* granted by the Constitution, belong and will always belong to the people and their state and local governments. What the federal Constitution and what the *Federalist Papers* were designed to do, was to preserve for the

American people the most important political right of all: self-government.

**R.** Those who have understood that point have lavished praise on the *Federalist Papers* in superlatives that are almost embarrassing, except for the fact that they are correct. Thomas Jefferson describes the *Federalist Papers* as “the best commentary on the principles of government, which ever was written.” Clinton Rossiter, in his 1961 introduction to the *Federalist Papers*, describes it as “the most important work in political science that has ever been written, or is likely ever to be written in the United States. It is, indeed, the one product of the American mind that is rightly counted among the classics of political theory.” Jacob Cooke, another editor of the *Federalist Papers*, says the *Federalist* is “the most significant contribution Americans have made to political philosophy.” In our era, as in the late eighteenth century, there is a great risk that our government will increase in power and the rights of property and self-government will be increasingly threatened. We can still learn much about political freedom from the Framers, and from Hamilton, Madison, and Jay.