



UNLOCKING
THE
FEDERALIST PAPERS

Edited by
Scott D. Cosenza & Claire M. Griffin

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.

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Money is, With Propriety, Considered as the Vital Principle of the Body Politic

The Federalist Papers and Economic Freedom

by Evan M. Koster

Federalist Papers referenced in essay: #1, 2, 5, 7, 8, 10, 12, 30, 41, 42, 44, 54, 85

A. The *Federalist Papers* are organized under two broad themes, "Union" and "The Merits of the Constitution." Neither of these themes obviously has anything to do with economic freedom, and a quick review of the titles of the various essays does not reveal a particular interest in economic issues. From No. 2 ("Concerning Dangers from Foreign Force and Influence"), No. 21 ("Other defects of the Present Confederation"), and No. 51 ("The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments"), it appears the *Federalist Papers* are entirely concerned with political theory, relations between the states, and relations among the states and foreign governments. In fact, the term "economic freedom" is never used in the essays.

B. A deeper dive into the essays, however, reveals the *Federalist Papers* are not agnostic on the topic of economic freedom. The essays are a useful guide and provide an explanation as to how the Constitution and the structure of government reflected in the Constitution can serve to enhance economic

freedoms and liberty. This does not mean economic factors and interests *alone* explain the structure of government reflected in the Constitution. While such interests may provide some background and explain motivations of the Framers, these preferences alone cannot explain the complete structure of republican government ultimately adopted, or its utility today in preserving economic freedom and choice. The *Federalist Papers* do not see the Constitution as setting up a political structure which can be used to favor one social class or "faction" over another. Instead, the *Papers* enable us to understand how the form of republican government embedded in the Constitution ensures all groups have the equality of opportunity to pursue their economic interests and economic freedoms free from the distractions of international and domestic conflict, free from the oppression of an interested majority, and free from the excessive influence of a divisive faction.

C. The economic problems experienced under the Articles of Confederation are well documented. At the time, the federal government held little power to raise revenue and repay its debt. In order to pay for revolutionary wartime expenses, Congress borrowed money from European countries, and when this was not enough, Congress printed more money, leading to inflation. Ultimately, Congress resorted to a voluntary system of requisition where each state was to collect a proportionate share of the federal budget from the inhabitants of its state. As a strictly voluntary system without enforcement powers, Congress found it difficult to even pay for a standing army.

D. The limitations inherent in the Articles of Confederation stem from the fear of creating a strong central government like that of Britain. As a result, significant power was retained by state governments. Congress had little or no authority to enforce laws, tax, regulate trade, or ensure the uniform application of federal

standards to the states. A single state could block an attempt to enhance any powers of Congress.

E. In this setting, individual states sought to enhance the economic interests of themselves and their residents. Many states began to violate the treaties arranged between the U.S. and European countries. These states began levying taxes on foreign goods--even though Congress was granted the sole authority to control trade between states and foreign countries. Individual states began to impose import levies on goods from other states. States that shared the same rivers even imposed competing tolls.

F. Territorial disputes between states were common. States with well-defined boundaries, such as the Atlantic Ocean, argued that unsettled territories to the west belonged to all states and should be administered by the federal government. States whose original charters granted them land west of the Appalachian Mountains argued the western land was theirs. Sometimes these territorial disputes led to violence.

G. Tensions boiled over in western Massachusetts in January 1787, when indebted small farmers organized under Daniel Shays and seized a federal arsenal of weapons to protest increased taxes and debt foreclosures. The resulting violence helped to convince doubters that a strong central government was necessary.

H. In that environment, three major obstacles stood in the way of economic freedom. With no uniform system of rules governing economic conduct, individual efforts to improve their own economic situation had little chance of succeeding. There was no neutral institution that would enforce uniform rules. Merchants and other economic interests faced at least thirteen different sets of laws and regulations. Finally, without a strong central republican government and with thirteen states intent on promoting their own interests, free and open competition was not achievable.

I. The treatment of economic freedom within the *Federalist Papers* corresponds to the division of the essays into two parts. The first group of essays makes the case that the present structure under the Articles of Confederation was not working, and only a stronger union can resolve the issues. The second set of essays makes the case for the Constitution against the charges leveled by the critics. In fact, Hamilton promises a discussion of “*the additional security which its adoption will afford to the preservation of that species of government, to liberty, and to property* (No. 1).”

J. Quoting a letter by a British monarch, John Jay emphasizes a union “*must increase your strength, riches, and trade; and by this union the whole island, being joined in affection and free from all apprehensions of different interest, will be ENABLED TO RESIST ALL ITS ENEMIES* (No. 5).” Jay uses Britain’s history as an example of a nation that prospered once divisions and jealousies were extinguished.

Should the people of America divide into three or four nations, would not the same thing happen? Would not similar jealousies arise, and be in like manner cherished? Instead of their being 'joined in affection' and free from all apprehensions of different 'interests,' envy and jealousy would soon extinguish confidence and affection, and the partial interests of each confederacy, instead of the general interests of all America, would be the only objects of their policy and pursuits. (No. 5)

K. Hamilton carries this line of argument further when he explains how competition and discrimination among states can frustrate the expansion of commerce and the spirit of enterprise in commercial America.

The competitions of commerce would be another fruitful

source of contention. The States less favorably circumstanced would be desirous of escaping from the disadvantages of local situation, and of sharing in the advantages of their more fortunate neighbors. Each State, or separate confederacy, would pursue a system of commercial policy peculiar to itself. This would occasion distinctions, preferences, and exclusions, which would beget discontent. The habits of intercourse, on the basis of equal privileges, to which we have been accustomed since the earliest settlement of the country, would give a keener edge to those causes of discontent than they would naturally have independent of this circumstance. WE SHOULD BE READY TO DENOMINATE INJURIES THOSE THINGS WHICH WERE IN REALITY THE JUSTIFIABLE ACTS OF INDEPENDENT SOVEREIGNTIES CONSULTING A DISTINCT INTEREST. The spirit of enterprise, which characterizes the commercial part of America, has left no occasion of displaying itself unimproved. It is not at all probable that this unbridled spirit would pay much respect to those regulations of trade by which particular States might endeavor to secure exclusive benefits to their own citizens. The infractions of these regulations, on one side, the efforts to prevent and repel them, on the other, would naturally lead to outrages, and these to reprisals and wars. (No. 7)

L. Hamilton also provides examples of how the authority of each state to impose taxes upon the residents of other states will lead to impediments for growth in markets. In addition, "*laws in violation of private contracts, as they amount to aggressions on the rights of those States whose citizens are injured by them*" will result from the disunity of the states and lack of a strong central government. These laws could hardly be conducive to an

environment of free and open competition.

M. According to Hamilton, the ultimate result will be war between the states. This will further erode liberty because

[e]ven the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war, the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free. (No. 8)

N. James Madison, another author of the *Federalist Papers*, focuses his attention to the danger of factions. He outlines how the lack of a strong central government creates an environment in which factions can proliferate and economic liberty can be limited. According to Madison, the unequal distribution of property will cause a faction that allows men to oppress each other, rather than work towards the common good.

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 necessity and ordinary operations of the government. (No. 10)

O. In asserting the dangers from unequal distribution of property, Madison is not advocating policies that "redistributed" or "spread the wealth." Rather, Madison is revealing the dangers of a political system which does not have a level playing field in terms of factions having equal opportunity to advocate their cause. In such a system, the most numerous party or the most powerful faction will prevail at the expense of "justice." Relief from this inequality of opportunity is not achieved by removing the causes of faction (i.e. the unequal distribution of property), but by controlling its effect through republican government. A republican form of government can act as the neutral referee among these factions so the conditions for economic opportunity and open competition can exist.

P. The remedy—republican government—will also allow individuals to yield results based upon their own efforts and abilities.

By multiplying the means of gratification, by promoting the introduction and circulation of the precious metals, those darling objects of human avarice and enterprise, it serves to vivify and invigorate the channels of industry, and to make them flow with greater activity and copiousness. The assiduous merchant, the laborious husbandman, the active mechanic, and the industrious manufacturer, —all order of men, look forward with eager expectation and growing alacrity to this pleasing reward of their toils. (No. 12)

Q. This government must be given the tools in order to enforce its powers and facilitate the expansion of commerce. One such tool is the authority to tax and procure a national currency.

Money is, with propriety, considered as the vital principle of the body politic; as that which sustains its life and

motion, and enables it to perform its most essential functions. A complete power, therefore, to procure a regular and adequate supply of it, as far as the resources of the community will permit, may be regarded as an indispensable ingredient in every constitution. From a deficiency in this particular, one of two evils must ensue; either the people must be subjected to continual plunder, as a substitute for a more eligible mode of supplying the public wants, or the government must sink into a fatal atrophy, and, in a short course of time, perish. (No. 30)

R. Madison's views on the powers conferred by the Constitution are that they had, among their objectives, several goals which relate directly to economic freedom, namely: "*Regulation of the intercourse with foreign nations. . . . Maintenance of harmony and proper intercourse among the States. . . . Restraint of the States from certain injurious acts (No. 41).*" To ensure the latter, the Constitution, through the Commerce Clause, vests in the federal government the right to control commerce between the states. Madison argues this power, by prohibiting discriminatory acts by one state against the residents of another state, will facilitate commerce. The Constitution, by authorizing Congress to pass uniform laws, will prevent inconsistent state laws which could act as barriers to free and open competition.

S. Extolling the virtues of the Constitution in giving the federal government power to establish bankruptcy laws, Madison explains:

The power of establishing uniform laws of bankruptcy is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into different States, that the expediency of it seems not likely to be drawn into question. (No. 42)

T. Other restrictions on the authority of the several states that will promote trade include the right of coining money and issuing currency. As Madison states:

Had every State a right to regulate the value of its coin, there might be as many different currencies as States, and thus the intercourse among them would be impeded; retrospective alterations in its value might be made, and thus the citizens of other States be injured, and animosities be kindled among the States themselves. (No. 44)

U. It is not only the supremacy of the federal government that will enable economic freedom to flourish, according to the authors of the *Federalist Papers*, but also the system of checks and balances between the various branches of the federal government embedded in the Constitution. While the Constitution must enable the federal government to control the nation, the government must be able to control itself. Due to the various checks and balances on each branch of government, the rights of individuals—including economic rights—will not be in danger from "interested combinations of the majority."

V. Nowhere is this self-check on the ability of the federal government to restrain liberty more evident than in the structure of the House of Representatives. First, according to No. 52, the qualifications for the representatives are based strictly on merit, without regard to poverty or wealth or to any particular profession or religious faith. Second, the frequency of the elections, every two years, ensures the House will be more responsive to the electorate than to the other more permanent branches of government. Third, proportionate representation, as set forth in the Constitution for the House, reflects a merit based system in which, according to No. 54, "[a]s far, therefore, as their superior wealth

and weight may justly entitle them to any advantage, it ought to be secured to them by a superior share of representation." Citizens who might have concerns about encroachments upon their economic liberties will have ample opportunities to make their concerns known each election day.

W. Further, by providing for a second chamber, the Senate, whose members are designated by a different process for different terms but with equal representation, the Constitution has embedded another check on the ability of the legislature to restrict economic freedom. As set forth in No. 62, the Senate

as a second branch of the legislative assembly, distinct from, and dividing the power with, a first, must be in all cases a salutary check on the government. It doubles the security to the people, by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient.

This structure makes it exceedingly difficult to curb the American entrepreneurial spirit.

X. The judiciary also has a significant role in preserving economic liberty. According to Hamilton in No. 78:

This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of

the minor party in the community.

This independent judiciary serves as a final check on the unbridled concentration of federal power.

Y. The *Federalist Papers* reveal it is not the intent of the Constitution to prefer one economic group over another, or one economic outcome versus another. By enhancing the authority of the federal government, empowering it with the authority to tax, coin money, and regulate interstate commerce, the federal government is given the tools to act as the impartial arbiter or referee in disputes among the states. Lest it become too powerful and a vehicle for powerful factions to dominate the weak, numerous checks and balances are embedded in the Constitution through a dual chamber legislature. Each chamber has specific enumerated requirements designed to maximize its effectiveness while avoiding the concentration of power and the limitation of liberties. The *Federalist Papers* reveal the objective of the Constitution is not to enshrine economic equality, but create the political structure and opportunities so economic freedom and economic liberty can prevail. As Hamilton so eloquently noted:

The additional securities to republican government, to liberty and to property, to be derived from the adoption of the plan under consideration, consist chiefly in the restraints which the preservation of the Union will impose on local factions and insurrections, and on the ambition of powerful individuals in single States, who may acquire credit and influence enough, from leaders and favorites, to become the despots of the people; in the diminution of the opportunities to foreign intrigue, which the dissolution of the Confederacy would invite and facilitate; in the prevention of extensive military establishments, which could not fail to grow out of wars between the States in a

disunited situation; in the express guaranty of a republican form of government to each; in the absolute and universal exclusion of titles of nobility; and in the precautions against the repetition of those practices on the part of the State governments which have undermined the foundations of property and credit, have planted mutual distrust in the breasts of all classes of citizens, and have occasioned an almost universal prostration of morals. (No. 85)