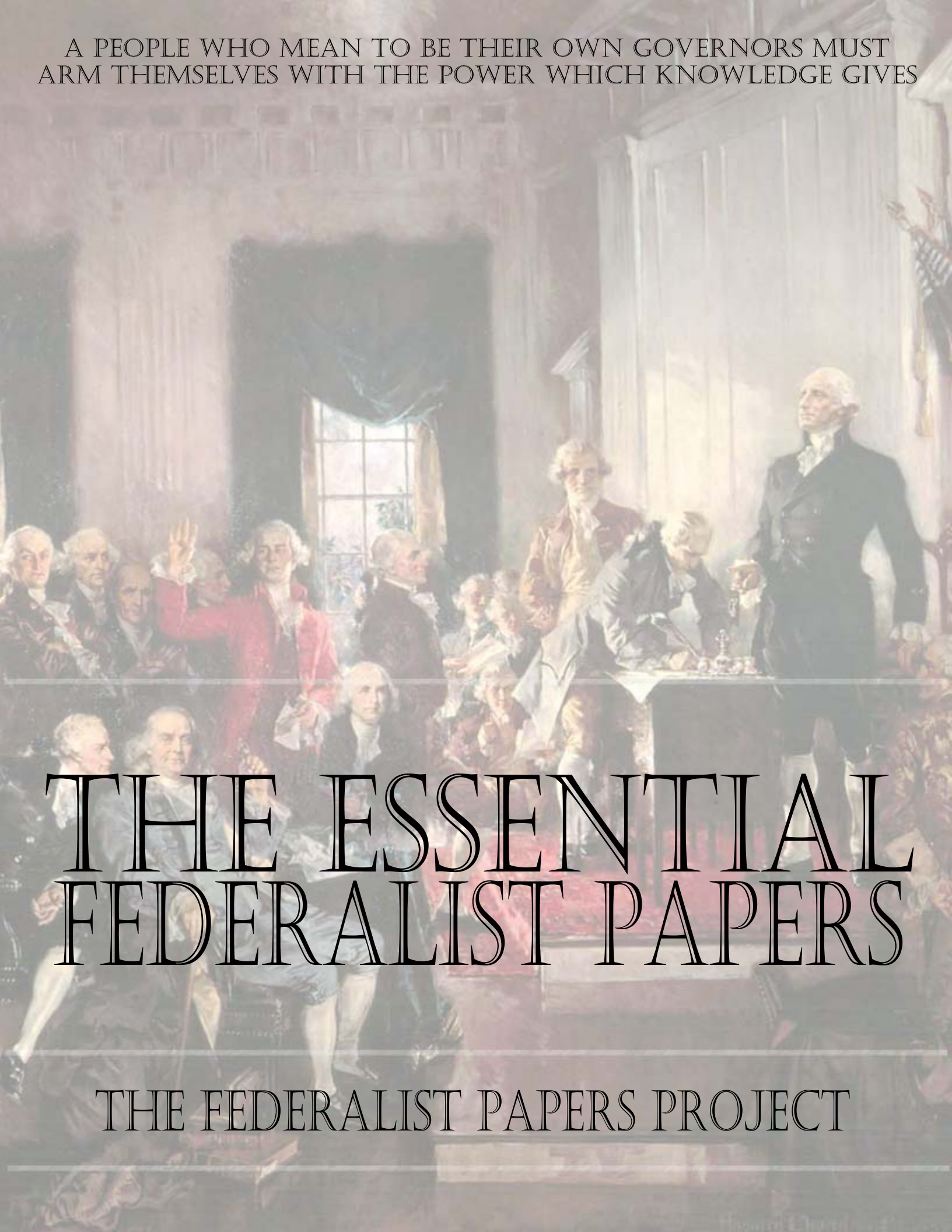


A PEOPLE WHO MEAN TO BE THEIR OWN GOVERNORS MUST
ARM THEMSELVES WITH THE POWER WHICH KNOWLEDGE GIVES



THE ESSENTIAL FEDERALIST PAPERS

THE FEDERALIST PAPERS PROJECT

The Essential Federalist Papers

The Best Commentary Ever Written
About The Principles Of Government

Edited By Steve Straub

Table of Contents

Abuse of power	6
Altering the Constitution.....	7
Appointment of officers	8
Arms	9
Bill of rights	13
Checks and balances	15
Constitution is not alterable by government.....	26
Constitution is recommended not imposed	27
Constitutional Convention	28
Corruption	29
Defense	31
Democracy	32
Due process.....	34
Economics	35
Electoral college	36
Emergency powers.....	37
Equality / inequality	39
Eternal vigilance against usurpation	40
Ex post facto laws.....	44
Example for world	45
Executive Branch, the nature of.....	46
Faction.....	50
Federal/national nature of U. S. government.....	54
Federations/federal governments; nature of	62
Foreign intrusions	63
Future taken into consideration	64
General Welfare' not blank check.....	66

Government for the benefit of those who govern	68
Gridlock desirable	70
Human nature	72
Impeachment	77
Judiciary; nature of the	79
Jurisdiction of federal/national government limited to certain enumerated objects	85
Law and equity	93
Laws must be executed.....	95
Laws must be few, understandable, and stable	96
Laws; various types of	98
Legislature; Nature of the	102
Legislature not to accord themselves privileges.....	106
Limited jurisdiction of the federal/national government	108
Maxims	116
Militia	123
Minority rights.....	133
Miscellaneous.....	135
Monetary system	146
National concerns sacrificed to local interests (pork barreling)	147
Novelty of the Constitution.....	148
Paper money	149
Parchment barriers insufficient	151
Part-time legislature	152
People - the ultimate source of authority.....	153
People must protect themselves from the government	158
Policy changes	165
Property.....	167
Purpose of government	169
Qualifications for office.....	171

Ratification; Method and significance of	172
Rebellion	173
Representatives to control purse strings.....	175
Representatives to know the will of constituents	176
Republican form; ingredients of	177
Republics require enlightened citizenry	182
Respectability abroad	184
Rights given up upon joining society	185
Seat of government - exclusive legislation over	186
Senate; Nature of the.....	188
Slavery	189
Standing armies.....	190
State governments need voice in federal/national government	203
States' rights.....	204
States to guard against encroachments of federal/national government	207
Suffrage; voters qualifications	214
Suing a sovereign	215
Taxes.....	216
Term limits	220
Titles of nobility.....	221
Treaties.....	222
Usurpation.....	224
Veto power.....	235
War	237
Appendix 1- The Constitution	240
Appendix 2 - The Federalist Papers – Links.....	256
Appendix 3 - Chronology of the Federalist Papers	262

Abuse of power

It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting anything by it; nay, that absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people.

John Jay, Federalist # 4

Willful abuses of a public authority, to the oppression of the subject, and every species of official extortion, are offenses against the government, for which the persons who commit them may be indicted and punished according to the circumstances of the case. Hamilton,

Alexander Hamilton, Federalist # 83

Altering the Constitution

The most that the convention could do in such a situation was to avoid the errors suggested by the past experience of other countries, as well as of our own; and to provide a convenient mode of rectifying their own errors, as future experience may unfold them.

James Madison, Federalist # 37

That useful alterations will be suggested by experience could not but be foreseen, It was requisite, therefore, that a mode for introducing them should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety.

It guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults. It, moreover, equally enables the general and the State governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other.

James Madison, Federalist # 43

Appointment of officers

A third objection to the Senate as a court of impeachments is drawn from the agency they are to have in the appointments to office. It is imagined that they would be too indulgent judges of the conduct of men, in whose official creation they had participated.

The principle of this objection would condemn a practice which is to be seen in all the State governments, if not in all the governments with which we are acquainted: I mean that of rendering those who hold office during pleasure dependent on the pleasure of those who appoint them.

With equal plausibility might it be alleged in this case that the favoritism of the latter would always be an asylum for the misbehavior of the former. But that practice, in contradiction to this principle, proceeds upon the presumption that the responsibility of those who appoint, for the fitness and competency of the persons on whom they bestow their choice, and the interest they have in the respectable and prosperous administration of affairs, will inspire a sufficient disposition to dismiss from a share in it all such who, by their conduct, may have proved themselves unworthy of the confidence reposed in them.

Alexander Hamilton, Federalist # 66

He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

Alexander Hamilton, Federalist # 76

Arms

Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

"But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable; yet it is a matter of the utmost importance that a well-digested plan should, as soon as possible, be adopted for the proper establishment of the militia.

The attention of the government ought particularly to be directed to the formation of a select corps of moderate size, upon such principles as will really fit it for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of well-trained militia ready to take the field whenever the defense of the State shall require it.

This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens.

This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist."

Alexander Hamilton, Federalist # 29

The existence of a right to interpose will generally prevent the necessity of exerting it.

James Madison, Federalist # 43

Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms.

And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it.

Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors.

James Madison, Federalist # 46

It has been several times truly remarked that bills of rights are, in their origin, stipulations between kings and their subjects, abridgments of prerogative in favour of privilege, reservations of rights not surrendered to the prince.

It is evident, therefore, that, according to their primitive signification, they have no application to constitutions, professedly founded upon the power of the people and executed by their immediate representatives and servants.

Here, in strictness, the people surrender nothing; and as they retain everything they have no need of particular reservations, "WE, THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Here is a better recognition of popular rights than volumes of those aphorisms which make the principal figure in several of our State bills of rights and which would sound much better in a treatise of ethics than in a constitution of government.

But a minute detail of particular rights is certainly far less applicable to a Constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns.

If, therefore, the loud clamors against the plan of the convention, on this score, are well founded, no epithets of reprobation will be too strong for the constitution of this State. But the truth is that both of them contain all which, in relation to their objects, is reasonably to be desired.

I go further and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution but would even be dangerous.

They would contain various exceptions to powers which are 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.

Alexander Hamilton, Federalist # 84

Bill of rights

It has been several times truly remarked that bills of rights are, in their origin, stipulations between kings and their subjects, abridgments of prerogative in favour of privilege, reservations of rights not surrendered to the prince.

It is evident, therefore, that, according to their primitive signification, they have no application to constitutions, professedly founded upon the power of the people and executed by their immediate representatives and servants.

Here, in strictness, the people surrender nothing; and as they retain everything they have no need of particular reservations, "WE, THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Here is a better recognition of popular rights than volumes of those aphorisms which make the principal figure in several of our State bills of rights and which would sound much better in a treatise of ethics than in a constitution of government.

But a minute detail of particular rights is certainly far less applicable to a Constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns.

If, therefore, the loud clamors against the plan of the convention, on this score, are well founded, no epithets of reprobation will be too strong for the constitution of this State. But the truth is that both of them contain all which, in relation to their objects, is reasonably to be desired.

I go further and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution but would even be dangerous.

They would contain various exceptions to powers which are 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.

Alexander Hamilton, Federalist # 84

Checks and balances

The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges holding their offices during good behavior; the representation of the people in the legislature by deputies of their own election: these are wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellencies of republican government may be retained and its imperfections lessened or avoided.

Alexander Hamilton, Federalist # 9

[Quoting Montesquieu]: "It is very probable that mankind would have been obliged at length to live constantly under the government of a SINGLE PERSON, had they not contrived a kind of constitution that has all the internal advantages of a republican, together with the external force of a monarchical, government. I mean a CONFEDERATE REPUBLIC.

"This form of government is a convention by which several smaller states agree to become members of a larger one, which they intend to form. It is a kind of assemblage of societies that constitute a new one, capable of increasing, by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

"A republic of this kind, able to withstand an external force, may support itself without any internal corruptions. The form of this society prevents all manner of inconveniences.

"If a single member should attempt to usurp the supreme authority, he could not be supposed to have an equal authority and credit in all the confederate states. Were he to have too great influence over one, this would alarm the rest. Were he to subdue a part, that which would still remain free might oppose him with forces independent of those which he had usurped, and overpower him before he could be settled in his usurpation.

"Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The state may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.

"As this government is composed of small republics, it enjoys the internal happiness of each; and with respect to its external situation, it is possessed, by means of the association, of all the advantages of large monarchies."

Alexander Hamilton, Federalist # 9

In every political institution, a power to advance the public happiness involves a discretion which may be misapplied and abused. They will see, therefore, that in all cases where power is to be conferred, the point first to be decided is whether such a power be necessary to the public good; as the next will be, in case of an affirmative decision, to guard as effectually as possible against a perversion of the power to the public detriment.

That we may form a correct judgment on this subject, it will be proper to review the several powers conferred on the government of the Union; and that this may be the more conveniently done they may be reduced into different classes as they relate to the following different objects:

1. Security against foreign danger;
2. Regulation of the intercourse with foreign nations;
3. Maintenance of harmony and proper intercourse among the States;
4. Certain miscellaneous objects of general utility;
5. Restraint of the States from certain injurious acts;
6. Provisions for giving due efficacy to all these powers.

James Madison, Federalist # 41

A standing force, therefore, is a dangerous, at the same time that it may be a necessary, provision. On the smallest scale it has its inconveniences. On an extensive scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution.

A wise nation will combine all these considerations; and, whilst it does not rashly preclude itself from any resource which may become essential to its safety, will exert all its prudence in diminishing both the necessity and the danger of resorting to one which may be inauspicious to its liberties.

James Madison, Federalist # 41

Were it admitted, however, that the federal government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such encroachments.

If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and, of course, by means on the spot and depending on the State alone.

The opposition of the federal government, or the interposition of federal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty.

On the other hand, should an unwarrantable measure of the federal government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand.

The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the State; the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised; would form, in a large

State, very serious impediments; and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the federal government would hardly be willing to encounter.

But ambitious encroachments of the federal government on the authority of the State governments would not excite the opposition of a single State, or of a few States only. They would be signals of general alarm.

Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other.

But what degree of madness could ever drive the federal government to such an extremity?

James Madison, Federalist # 46

The political apothegm does not require that the legislative, executive, and judiciary departments should be wholly unconnected with each other. I shall undertake, in the next place, to show that unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained.

It is agreed on all sides that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is

equally evident that none of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it.

James Madison, Federalist # 48

TO WHAT expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments as laid down in the Constitution?

The only answer that can be given is that as all these exterior provisions are found to be inadequate the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places.

James Madison, Federalist # 51

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others.

James Madison, Federalist # 51

It is equally evident that the members of each department should be as little dependent as possible on those of the others for the emoluments annexed to their offices.

James Madison, Federalist # 51

But the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.

The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. 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.

James Madison, Federalist # 51

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments.

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.

James Madison, Federalist # 51

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.

The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one is such a limitation of the term of appointments as will maintain a proper responsibility to the people.

James Madison, Federalist # 57

a constitutional and infallible resource still remains with the larger States by which they will be able at all times to accomplish their just purposes. The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the support of government.

They, in a word, hold the purse --- that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government.

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

James Madison, Federalist # 58

It is a misfortune incident to republican government, though in a less degree than to other governments, that those who administer it may forget their obligations to their constituents and prove unfaithful to their important trust.

In this point of view a 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.

James Madison, Federalist # 62

The people can never wilfully betray their own interests; but they may possibly be betrayed by the representatives of the people; and the danger will be evidently greater where the whole legislative trust is lodged in the hands of one body of men than where the concurrence of separate and dissimilar bodies is required in every public act.

James Madison, Federalist # 63

An absolute or qualified negative in the executive upon the acts of the legislative body is admitted, by the ablest adepts in political science, to be an indispensable barrier against the encroachments of the latter upon the former. And it may, perhaps, with no less reason, be contended that the powers relating to impeachments are, as before intimated, an essential check in the hands of that body upon the encroachments of the executive.

Alexander Hamilton, Federalist # 66

The same rule which teaches the propriety of a partition between the various branches of power teaches likewise that this partition ought to be so contrived as to render the one independent of the other.

Alexander Hamilton, Federalist # 71

The propriety of the thing [veto] does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn.

The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

Alexander Hamilton, Federalist # 73

It is impossible to keep the judges too distinct from every other avocation than that of expounding the laws. It is peculiarly dangerous to place them in a situation to be either corrupted or influenced by the executive.

Alexander Hamilton, Federalist # 73

The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like.

Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Alexander Hamilton, Federalist # 78

From a body which had had even a partial agency in passing bad laws we could rarely expect a disposition to temper and moderate them in the application. The same spirit which had operated in making them would be too apt to operate in interpreting them; still less could it be expected that men who had infringed the Constitution in the character of legislators would be disposed to repair the breach in the character of judges.

Alexander Hamilton, Federalist # 81

The important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department.

This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations.

Alexander Hamilton, Federalist # 81

The trial by jury must still be a valuable check upon corruption. It greatly multiplies the impediments to its success. As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant

a new trial, and it would be in most cases of little use to practice upon the jury unless the court could be likewise gained.

Here then is a double security; and it will readily be perceived that this complicated agency tends to preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either.

The temptations to prostitution which the judges might have to surmount must certainly be much fewer, while the co-operation of a jury is necessary, than they might be if they had themselves the exclusive determination of all causes.

Alexander Hamilton, Federalist # 83

Constitution is not alterable by government

It has not a little contributed to the infirmities of the existing federal system that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers, and has in some instances given birth to the enormous doctrine of a right of legislative repeal.

Owing its ratification to the law of a State, it has been contended that the same authority might repeal the law by which it was ratified. However gross a heresy it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates.

The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.

Alexander Hamilton, Federalist # 22

The important distinction so well understood in America between a Constitution established by the people and unalterable by the government, and a law established by the government and alterable by the government, seems to have been little understood and less observed in any other country.

James Madison, Federalist # 53

Constitution is recommended not imposed

Admit, for so is the fact, that this plan is only recommended, not imposed, yet let it be remembered that it is neither recommended to blind approbation, nor to blind reprobation; but to that sedate and candid consideration which the magnitude and importance of the subject demand, and which it certainly ought to receive.

John Jay, Federalist # 2

It is time now to recollect that the powers were merely advisory and recommendatory; that they were so meant by the States and so understood by the convention; and that the latter have accordingly planned and proposed a Constitution which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed.

James Madison, Federalist # 40

Constitutional Convention

It is time now to recollect that the powers were merely advisory and recommendatory; that they were so meant by the States and so understood by the convention; and that the latter have accordingly planned and proposed a Constitution which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed.

James Madison, Federalist # 40

Corruption

One of the weak sides of republics, among their numerous advantages, is that they afford too easy an inlet to foreign corruption. An hereditary monarch, though often disposed to sacrifice his subjects to his ambition, has so great a personal interest in the government and in the external glory of the nation, that it is not easy for a foreign power to give him an equivalent for what he would sacrifice by treachery to the state.

Alexander Hamilton, Federalist # 22

In republics, persons elevated from the mass of the community by the suffrages of their fellow-citizens to stations of great pre-eminence and power may find compensations for betraying their trust, which, to any but minds actuated by superior virtue may appear to exceed the proportion of interest they have in the common stock, and to overbalance the obligations of duty.

Alexander Hamilton, Federalist # 22

The trial by jury must still be a valuable check upon corruption. It greatly multiplies the impediments to its success. As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant a new trial, and it would be in most cases of little use to practice upon the jury unless the court could be likewise gained.

Here then is a double security; and it will readily be perceived that this complicated agency tends to preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either.

The temptations to prostitution which the judges might have to surmount must certainly be much fewer, while the co-operation of a jury is necessary, than they might be if they had themselves the exclusive determination of all causes.

Alexander Hamilton, Federalist # 83

Defense

The rights of neutrality will only be respected when they are defended by an adequate power. A nation, despicable by its weakness, forfeits even the privilege of being neutral.

Alexander Hamilton, Federalist # 11

Democracy

It may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole;

James Madison, Federalist # 10

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.

James Madison, Federalist # 10

In a democracy the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy, consequently, must be confined to a small spot. A republic may be extended over a large region.

James Madison, Federalist # 14

As the natural limit of a democracy is that distance from the central point which will just permit the most remote citizens to assemble as often as their public functions demand, and will include no greater number than can join in those functions, so the natural limit of a republic is that distance from the center which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.

James Madison, Federalist # 14

In a democracy, where a multitude of people exercise in person the legislative functions and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their executive magistrates, tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter.

James Madison, Federalist # 48

Due process

The creation of crimes after the commission of the fact, or in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny.

The observations of the judicious Blackstone, in reference to the latter, are well worthy of recital: "To bereave a man of life [says he] or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government."

Alexander Hamilton, Federalist # 84

Economics

It is a signal advantage of taxes on articles of consumption that they contain in their own nature a security against excess. They prescribe their own limit, which cannot be exceeded without defeating the end proposed -- that is, an extension of the revenue.

When applied to this object, the saying is as just as it is witty that, "in political arithmetic, two and two do not always make four." If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds.

Alexander Hamilton, Federalist # 21

Exorbitant duties on imported articles would serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself: they tend to render other classes of the community tributary in an improper degree to the manufacturing classes, to whom they give a premature monopoly of the markets; they sometimes force industry out of its more natural channels into others in which it flows with less advantage

Alexander Hamilton, Federalist # 35

It might be demonstrated that the most productive system of [government] finance will always be the least burdensome.

Alexander Hamilton, Federalist # 35

Electoral college

It was equally desirable that the immediate election should be made by men most capable of analyzing the qualities adapted to the station and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice.

A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation.

Alexander Hamilton, Federalist # 68

Emergency powers

A weak constitution must necessarily terminate in dissolution for want of proper powers, or the usurpation of powers requisite for the public safety. Whether the usurpation, when once begun, will stop at the salutary point, or go forward to the dangerous extreme, must depend on the contingencies of the moment.

Tyranny has perhaps oftener grown out of the assumptions of power called for, on pressing exigencies, by a defective constitution, than out of the full exercise of the largest constitutional authorities.

James Madison, Federalist # 20

There are certain emergencies of nations in which expedients that in the ordinary state of things ought to be forborne become essential to the public weal. And the government, from the possibility of such emergencies, ought ever to have the option of making use of them.

Alexander Hamilton, Federalist # 36

It is in vain to oppose constitutional barriers to the impulse of self-preservation. It is worse than in vain; because it plants in the Constitution itself necessary usurpations of power, every precedent of which is a germ of unnecessary and multiplied repetitions.

James Madison, Federalist # 41

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid.

To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

Alexander Hamilton, Federalist # 78

Equality / inequality

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.

James Madison, Federalist # 10

Eternal vigilance against usurpation

Safety from external danger is the most powerful director of national conduct. Even 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.

Alexander Hamilton, Federalist # 8

Where the whole power of the government is in the hands of the people, there is the less pretense for the use of violent remedies in partial or occasional distempers of the State. The natural cure for an ill administration in a popular or representative constitution is a change of men.

Alexander Hamilton, Federalist # 21

Every man who loves peace, every man who loves his country, every man who loves liberty ought to have it ever before his eyes that he may cherish in his heart a due attachment to the Union of America and be able to set a due value on the means of preserving it.

James Madison, Federalist # 41

Were it admitted, however, that the federal government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such encroachments.

If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and, of course, by means on the spot and depending on the State alone.

The opposition of the federal government, or the interposition of federal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty.

On the other hand, should an unwarrantable measure of the federal government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand.

The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the State; the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised; would form, in a large State, very serious impediments; and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the federal government would hardly be willing to encounter.

But ambitious encroachments of the federal government on the authority of the State governments would not excite the opposition of a single State, or of a few States only. They would be signals of general alarm. Every government would espouse the common cause.

A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other.

But what degree of madness could ever drive the federal government to such an extremity?

James Madison, Federalist # 46

In a government where numerous and extensive prerogatives are placed in the hands of an hereditary monarch, the executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire.

In a democracy, where a multitude of people exercise in person the legislative functions and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their executive magistrates, tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter.

But in a representative republic where the executive magistracy is carefully limited, both in the extent and the duration of its power; and where the legislative power is exercised by an assembly, which is inspired by a supposed influence over the people with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions.

James Madison, Federalist # 48

The House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together.

It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society?

I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

James Madison, Federalist # 57

Ex post facto laws

The creation of crimes after the commission of the fact, or in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny.

The observations of the judicious Blackstone, in reference to the latter, are well worthy of recital: "To bereave a man of life [says he] or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government."

Alexander Hamilton, Federalist # 84

Example for world

But why is the experiment of an extended republic to be rejected merely because it may comprise what is new?

Is it not the glory of the people of America that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience?

To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness.

Had no important step been taken by the leaders of the Revolution for which a precedent could not be discovered, no government established of which an exact model did not present itself, the people of the United States might at this moment have been numbered among the melancholy victims of misguided councils, must at best have been laboring under the weight of some of those forms which have crushed the liberties of the rest of mankind.

Happily for America, happily we trust for the whole human race, they pursued a new and more noble course. They accomplished a revolution which has no parallel in the annals of human society.

They reared the fabrics of governments which have no model on the face of the globe. They formed the design of a great Confederacy, which it is incumbent on their successors to improve and perpetuate. If their works betray imperfections, we wonder at the fewness of them.

James Madison, Federalist # 14

Executive Branch, the nature of

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.

The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one is such a limitation of the term of appointments as will maintain a proper responsibility to the people.

James Madison, Federalist # 57

A feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government.

Alexander Hamilton, Federalist # 70

The ingredients which constitute energy in the executive are unity; duration; an adequate provision for its support; and competent powers.

Alexander Hamilton, Federalist # 70

But one of the weightiest objections to a plurality in the executive, and which lies as much against the last as the first plan is that it tends to conceal faults and destroy responsibility.

Alexander Hamilton, Federalist # 70

It is evident from these considerations that the plurality of the executive tends to deprive the people of the two greatest securities they can have for the faithful exercise of any delegated power, first, the restraints of public opinion, which lose their efficacy, as well on account of the division of the censure attendant on bad measures among a number as on account of the uncertainty on whom it ought to fall; and, second, the opportunity of discovering with facility and clearness the misconduct of the persons they trust, in order either to their removal from office or to their actual punishment in cases which admit of it.

Alexander Hamilton, Federalist # 70

With a positive duration of considerable extent, I connect the circumstances of re-eligibility. The first is necessary to give the officer himself the inclination and the resolution to act his part well, and to the community time and leisure to observe the tendency of his measures, and thence to form an experimental estimate of their merits.

The last is necessary to enable the people, when they see reason to approve of his conduct, to continue him in the station in order to prolong the utility of his talents and virtues, and to secure to the government the advantage of permanency in a wise system of administration.

Alexander Hamilton, Federalist # 72

There are few men who would not feel much less zeal in the discharge of a duty when they were conscious that the advantage of the station with which it was connected must be relinquished at a determinate period, than when they were permitted to entertain a hope of obtaining, by meriting, a continuance of them. This position will not be disputed so long as it is admitted that the desire of reward is one of the strongest incentives of human conduct; or that the best security for the fidelity of mankind is to make their interest coincide with their duty.

Alexander Hamilton, Federalist # 72

An avaricious man who might happen to fill the office, looking forward to a time when he must at all events yield up the advantages he enjoyed, would feel a propensity not easy to be resisted by such a man to make the best use of his opportunities while they lasted, and might not scruple to have recourse to the most corrupt expedients to make the harvest as abundant as it was transitory; though the same man, probably, with a different prospect before him, might content himself with the regular perquisites of his situation, and might even be unwilling to risk the consequences of an abuse of his opportunities.

His avarice might be a guard upon his avarice. Add to this that the same man might be vain or ambitious, as well as avaricious. And if he could expect to prolong his honors by his good conduct, he might hesitate to sacrifice his appetite for them to his appetite for gain. But with the prospect before him of approaching and inevitable annihilation, his avarice would be likely to get the victory over his caution, his vanity, or his ambition.

Alexander Hamilton, Federalist # 72

The propriety of the thing [veto] does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn.

The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

Alexander Hamilton, Federalist # 73

The essence of the legislative authority is to enact laws, or, in other words, to prescribe rules for the regulation of the society; while the execution of the laws and the employment

of the common strength, either for this purpose or for the common defense, seem to comprise all the functions of the executive magistrate.

Alexander Hamilton, Federalist # 75

Faction

The public good is disregarded in the conflicts of rival parties, and that 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 overbearing majority.

James Madison, Federalist # 10

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.

James Madison, Federalist # 10

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.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of

men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests.

The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society.

A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good.

So strong is this propensity of mankind to fall into mutual animosities that where no substantial occasion presents itself the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But 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.

James Madison, Federalist # 10

The inference to which we are brought is that the causes of faction cannot be removed and that relief is only to be sought in the means of controlling its effects.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution.

When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens.

James Madison, Federalist # 10

The spirit of party in different degrees must be expected to infect all political bodies

Alexander Hamilton, Federalist # 26

new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free government, have usually wreaked their alternate malignity on each other

James Madison, Federalist # 43

The demon of faction will, at certain seasons, extend his scepter over all numerous bodies of men.

Alexander Hamilton, Federalist # 65

The propriety of the thing [veto] does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn.

The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

Alexander Hamilton, Federalist # 73

Federal/national nature of U. S. government

[Quoting Montesquieu]: "It is very probable" (says he *) "that mankind would have been obliged at length to live constantly under the government of a SINGLE PERSON, had they not contrived a kind of constitution that has all the internal advantages of a republican, together with the external force of a monarchical, government. I mean a CONFEDERATE REPUBLIC.

"This form of government is a convention by which several smaller states agree to become members of a larger one, which they intend to form. It is a kind of assemblage of societies that constitute a new one, capable of increasing, by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

"A republic of this kind, able to withstand an external force, may support itself without any internal corruptions. The form of this society prevents all manner of inconveniences.

"If a single member should attempt to usurp the supreme authority, he could not be supposed to have an equal authority and credit in all the confederate states. Were he to have too great influence over one, this would alarm the rest. Were he to subdue a part, that which would still remain free might oppose him with forces independent of those which he had usurped, and overpower him before he could be settled in his usurpation.

"Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The state may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.

"As this government is composed of small republics, it enjoys the internal happiness of each; and with respect to its external situation, it is possessed, by means of the association, of all the advantages of large monarchies."

Alexander Hamilton, Federalist # 9

But if we are unwilling to be placed in this perilous situation; if we still will adhere to the design of a national government, or, which is the same thing, of a superintending power under the direction of a common council, we must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and a government; we must extend the authority of the Union to the persons of the citizens -- the only proper objects of government.

Alexander Hamilton, Federalist # 15

It seems to require no pains to prove that the States ought not to prefer a national Constitution which could only be kept in motion by the instrumentality of a large army continually on foot to execute the ordinary requisitions or decrees of the government. And yet this is the plain alternative involved by those who wish to deny it the power of extending its operations to individuals.

Alexander Hamilton, Federalist # 16

If it be possible at any rate to construct a federal government capable of regulating the common concerns and preserving the general tranquillity It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations, but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice.

Alexander Hamilton, Federalist # 16

The first question that offers itself is whether the general form and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the

Revolution; or with that honorable determination which animates every votary of freedom to rest all our political experiments on the capacity of mankind for self-government. If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible.

What, then, are the distinctive characters of the republican form? Were an answer to this question to be sought, not by recurring to principles but in the application of the term by political writers to the constitutions of different States, no satisfactory one would ever be found. ...

If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period, or during good behavior.

It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic. ...

Could any further proof be required of the republican complexion of this system, the most decisive one might be found in its absolute prohibition of titles of nobility, both under the federal and the State governments; and in its express guaranty of the republican form to each of the latter.

"But it was not sufficient," say the adversaries of the proposed Constitution, "for the convention to adhere to the republican form. They ought with equal care to have preserved the federal form, which regards the Union as a Confederacy of sovereign states; instead of which they have framed a national government, which regards the Union as a consolidation of the States." And it is asked by what authority this bold and radical innovation was

undertaken? The handle which has been made of this objection requires that it should be examined with some precision.

Without inquiring into the accuracy of the distinction on which the objection is founded, it will be necessary to a just estimate of its force, first, to ascertain the real character of the government in question; secondly, to inquire how far the convention were authorized to propose such a government; and thirdly, how far the duty they owed to their country could supply any defect of regular authority.

First. -- In order to ascertain the real character of the government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong.

It is to be the assent and ratification of the several States, derived from the supreme authority in each State the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a federal act.

That it will be a federal and not a national act, as these terms are understood by the objectors -- the act of the people, as forming so many independent States, not as forming one aggregate nation -- is obvious from this single consideration: that it is to result neither from the decision of a majority of the people of the Union, nor from that of a majority of the States.

It must result from the unanimous assent of the several States that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the

United States would bind the minority, in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States as evidence of the will of a majority of the people of the United States.

Neither of these rules has been adopted. Each State, in ratifying the Constitution, is considered as a sovereign body independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a federal and not a national constitution.

The next relation is to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion and on the same principle as they are in the legislature of a particular State.

So far the government is national, not federal. The Senate, on the other hand, will derive its powers from the States as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is federal, not national.

The executive power will be derived from a very compound source. ... From this aspect of the government it appears to be of a mixed character, presenting at least as many federal as national features.

The difference between a federal and national government, as it relates to the operation of the government, is by the adversaries of the plan of the convention supposed to consist in this, that in the former the powers operate on the political bodies composing the Confederacy in their political capacities; in the latter, on the individual citizens composing the nation in their individual capacities. ...

But if the government be national with regard to the operation of its powers, it changes its aspect again when we contemplate it in relation to the extent of its powers. The idea of a national government involves in it not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful

government. Among a people consolidated into one nation, this supremacy is completely vested in the national legislature.

Among communities united for particular purposes, it is vested partly in the general and partly in the municipal legislatures. In the former case, all local authorities are subordinate to the supreme; and may be controlled, directed, or abolished by it at pleasure.

In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them, within its own sphere. In this relation, then, the proposed government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects. ...

If we try the Constitution by its last relation to the authority by which amendments are to be made, we find it neither wholly national nor wholly federal. Were it wholly national, the supreme and ultimate authority would reside in the majority of the people of the Union; and this authority would be competent at all times, like that of a majority of every national society to alter or abolish its established government.

Were it wholly federal, on the other hand, the concurrence of each State in the Union would be essential to every alteration that would be binding on all. The mode provided by the plan of the convention is not founded on either of these principles. In requiring more than a majority, and particularly in computing the proportion by States, not by citizens, it departs from the national and advances towards the federal character; in rendering the concurrence of less than the whole number of States sufficient, it loses again the federal and partakes of the national character.

The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a federal Constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is national, not federal; in the extent of them, again, it is

federal, not national; and, finally in the authoritative mode of introducing amendments, it is neither wholly federal nor wholly national. James Madison, Federalist # 39

It is certainly true that the State legislatures, by forbearing the appointment of senators, may destroy the national government. So far as that construction may expose the Union to the possibility of injury from the State legislatures, it is an evil; but it is an evil which could not have been avoided without excluding the States, in their political capacities, wholly from a place in the organization of the national government.

If this had been done it would doubtless have been interpreted into an entire dereliction of the federal principle, and would certainly have deprived the State governments of that absolute safeguard which they will enjoy under this provision.

Alexander Hamilton, Federalist # 59

It is equally unnecessary to dilate on the appointment of senators by the State legislatures. Among the various modes which might have been devised for constituting this branch of the government, that which has been proposed by the convention is probably the most congenial with the public opinion.

It is recommended by the double advantage of favoring a select appointment, and of giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems.

. . . The equality of representation in the Senate is another point which, being evidently the result of compromise between the opposite pretensions of the large and the small States, does not call for much discussion.

If indeed it be right that among a people thoroughly incorporated into one nation every district ought to have a proportional share in the government and that among independent

and sovereign States, bound together by a simple league, the parties, however unequal in size, ought to have an equal share in the common councils, it does not appear to be without some reason that in a compound republic, partaking both of the national and federal character, the government ought to be founded on a mixture of the principles of proportional and equal representation.

James Madison, Federalist # 62

Federations/federal governments; nature of

[Quoting Montesquieu]: "It is very probable" (says he *) "that mankind would have been obliged at length to live constantly under the government of a SINGLE PERSON, had they not contrived a kind of constitution that has all the internal advantages of a republican, together with the external force of a monarchical, government. I mean a CONFEDERATE REPUBLIC.

"This form of government is a convention by which several smaller states agree to become members of a larger one, which they intend to form. It is a kind of assemblage of societies that constitute a new one, capable of increasing, by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

"A republic of this kind, able to withstand an external force, may support itself without any internal corruptions. The form of this society prevents all manner of inconveniences.

"If a single member should attempt to usurp the supreme authority, he could not be supposed to have an equal authority and credit in all the confederate states. Were he to have too great influence over one, this would alarm the rest. Were he to subdue a part, that which would still remain free might oppose him with forces independent of those which he had usurped, and overpower him before he could be settled in his usurpation.

"Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The state may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.

"As this government is composed of small republics, it enjoys the internal happiness of each; and with respect to its external situation, it is possessed, by means of the association, of all the advantages of large monarchies."

Alexander Hamilton, Federalist # 9

Foreign intrusions

Let us not forget how much more easy it is to receive foreign fleets into our ports, and foreign armies into our country, than it is to persuade or compel them to depart. How many conquests did the Romans and others make in the characters of allies, and what innovations did they under the same character introduce into the governments of those whom they pretended to protect.

John Jay, Federalist # 5

Future taken into consideration

In pursuing this inquiry, we must bear in mind that we are not to confine our view to the present period, but to look forward to remote futurity. Constitutions of civil government are not to be framed upon a calculation of existing exigencies, but upon a combination of these with the probable exigencies of ages, according to the natural and tried course of human affairs.

Nothing, therefore, can be more fallacious than to infer the extent of any power proper to be lodged in the national government from an estimate of its immediate necessities. There ought to be a CAPACITY to provide for future contingencies as they may happen

Alexander Hamilton, Federalist # 34

At present some of the States are little more than a society of husbandmen. Few of them have made much progress in those branches of industry which give a variety and complexity to the affairs of a nation.

These, however, will in all of them be the fruits of a more advanced population; and will require, on the part of each State, a fuller representation. The foresight of the convention has accordingly taken care that the progress of population may be accompanied with a proper increase of the representative branch of the government.

James Madison, Federalist # 56

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected.

The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the federal government.

The more adequate, indeed, the federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of NEW POWERS to the Union than in the invigoration of its ORIGINAL POWERS. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose and from which no apprehensions are entertained.

James Madison, Federalist # 45

General Welfare' not blank check

It has been urged and echoed that the power "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States," amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction.

Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions just cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms "to raise money for the general welfare."

But what color can the objection have, when a specification of the objects alluded to by these general terms immediately follows and is not even separated by a longer pause than a semicolon? If the different parts of the same instrument ought to be so expounded as to give meaning to every part which will bear it, shall one part of the same sentence be excluded altogether from a share in the meaning; and shall the more doubtful and indefinite terms be retained in their full extent, and the clear and precise expressions be denied any signification whatsoever? For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity

James Madison, Federalist # 41

From these observations this conclusion results: that the trial by jury in civil cases would not be abolished; and that the use attempted to be made of the maxims which have been quoted is contrary to reason and common sense, and therefore not admissible.

Even if these maxims had a precise technical sense, corresponding with the ideas of those who employ them upon the present occasion, which, however, is not the case, they would still be inapplicable to a constitution of government. In relation to such a subject, the natural and obvious sense of its provisions, apart from any technical rules, is the true criterion of construction.

Having now seen that the maxims relied upon will not bear the use made of them, let us endeavor to ascertain their proper use and true meaning. This will be best done by examples. The plan of the convention declares that the power of Congress, or, in other words, of the national legislature, shall extend to certain enumerated cases.

This specification of particulars evidently excludes all pretension to a general legislative authority, because an affirmative grant of special powers would be absurd as well as useless if a general authority was intended.

In like manner the judicial authority of the federal judicatures is declared by the Constitution to comprehend certain cases particularly specified. The expression of those cases marks the precise limits beyond which the federal courts cannot extend their jurisdiction, because the objects of their cognizance being enumerated, the specification would be nugatory if it did not exclude all ideas of more extensive authority.

Alexander Hamilton, Federalist # 83

Government for the benefit of those who govern

It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting anything by it; nay, that absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people.

John Jay, Federalist # 4

Was, then, the American Revolution effected, was the American Confederacy formed, was the precious blood of thousands spilt, and the hard-earned substance of millions lavished, not that the people of America should enjoy peace, liberty, and safety, but that the governments of the individual States, that particular municipal establishments, might enjoy a certain extent of power and be arrayed with certain dignities and attributes of sovereignty?

We have heard of the impious doctrine in the old world, that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the new, in another shape that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form?

It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people, is the supreme object to be pursued; and that no form of government whatever has any other value than as it may be fitted for the attainment of this object.

James Madison, Federalist # 45

the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society.

This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny.

If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

James Madison, Federalist # 57

Gridlock desirable

In this spirit it may be remarked that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States and an instrument for preserving that residuary sovereignty. So far the equality ought to be no less acceptable to the large than to the small States; since they are not less solicitous to guard, by every possible expedient, against an improper consolidation of the States into one simple republic.

Another advantage accruing from this ingredient in the constitution of the Senate is the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then of a majority of the States.

James Madison, Federalist # 62

the facility and excess of lawmaking seem to be the diseases to which our governments are most liable

James Madison, Federalist # 62

In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarring of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority.

Alexander Hamilton, Federalist # 70

The propriety of the thing [veto] does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn.

The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

Alexander Hamilton, Federalist # 73

[Regarding those who consider the propriety of veto power] They will consider every institution calculated to restrain the excess of lawmaking, and to keep things in the same state in which they happen to be at any given period as much more likely to do good than harm; because it is favorable to greater stability in the system of legislation. The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones. Alexander Hamilton, Federalist # 73

Human nature

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.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves.

The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society.

A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes

have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good.

So strong is this propensity of mankind to fall into mutual animosities that where no substantial occasion presents itself the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But 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.

James Madison, Federalist # 10

Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice without constraint. Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals?

The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons. Regard to reputation has a less active influence when the infamy of a bad action is to be divided among a number than when it is to fall singly upon one.

Alexander Hamilton, Federalist # 15

Power controlled or abridged is almost always the rival and enemy of that power by which it is controlled or abridged. This simple proposition will teach us how little reason there is to expect that the persons intrusted with the administration of the affairs of the particular members of a confederacy will at all times be ready with perfect good humor and an unbiased regard to the public weal to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of man.

Alexander Hamilton, Federalist # 15

Nations pay little regard to rules and maxims calculated in their very nature to run counter to the necessities of society. Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

Alexander Hamilton, Federalist # 25

The hope of impunity is a strong incitement to sedition; the dread of punishment, a proportionately strong discouragement to it.

Alexander Hamilton, Federalist # 27

As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form.

James Madison, Federalist # 55

in all legislative assemblies the greater the number composing them may be, the fewer will be the men who will in fact direct their proceedings. In the first place, the more numerous any assembly may be, of whatever characters composed, the greater is known to be the ascendancy of passion over reason.

In the next place, the larger the number, the greater will be the proportion of members of limited information and of weak capacities. Now, it is precisely on characters of this description that the eloquence and address of the few are known to act with all their force. In the ancient republics, where the whole body of the people assembled in person, a single orator, or an artful statesman, was generally seen to rule with as complete a sway as if a scepter had been placed in his single hand.

On the same principle, the more multitudinous a representative assembly may be rendered, the more it will partake of the infirmities incident to collective meetings of the people. Ignorance will be the dupe of cunning, and passion the slave of sophistry and declamation.

The people can never err more than in supposing that by multiplying their representatives beyond a certain limit they strengthen the barrier against the government of a few. Experience will forever admonish them that, on the contrary, after securing a sufficient number for the purposes of safety, of local information, and of diffusive sympathy with the whole society, they will counteract their own views by every addition to their representatives.

The countenance of the government may become more democratic, but the soul that animates it will be more oligarchic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

James Madison, Federalist # 58

An individual who is observed to be inconstant to his plans, or perhaps to carry on his affairs without any plan at all, is marked at once by all prudent people as a speedy victim to his own unsteadiness and folly. His more friendly neighbors may pity him, but all will

decline to connect their fortunes with his; and not a few will seize the opportunity of making their fortunes out of his.

One nation is to another what one individual is to another; with this melancholy distinction, perhaps, that the former, with fewer of the benevolent emotions than the latter, are under fewer restraints also from taking undue advantage of the indiscretions of each other.

Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of its wiser neighbors.

James Madison, Federalist # 62

They who have turned their attention to the affairs of men must have perceived that there are tides in them; tides very irregular in their duration, strength, and direction, and seldom found to run twice exactly in the same manner or measure.

John Jay, Federalist # 64

There are men who could neither be distressed nor won into a sacrifice of their duty; but this stern virtue is the growth of few soils; and in the main it will be found that a power over the man's support is a power over his will.

Alexander Hamilton, Federalist # 73

In the general course of human nature, a power over a man's subsistence amounts to a power over his will.

Alexander Hamilton, Federalist # 79

Impeachment

In several of the States, however, no explicit provision is made for the impeachment of the chief magistrate. And in Delaware and Virginia he is not impeachable till out of office. The President of the United States is impeachable at any time during his continuance in office.

James Madison, Federalist # 39

the punishment which may be the consequence of conviction upon impeachment is not to terminate the chastisement of the offender. After having been sentenced to a perpetual ostracism from the esteem and confidence and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of law.

Alexander Hamilton, Federalist # 65

The remaining inquiry is: Does it also combine the requisites to safety, in the republican sense -- due dependence on the people, a due responsibility? The answer to this question has been anticipated in the investigation of its other characteristics, and is satisfactorily deducible from these circumstances; the election of the President once in four years by persons immediately chosen by the people for that purpose, and his being at all times liable to impeachment, trial, dismissal from office, incapacity to serve in any other, and to the forfeiture of life and estate by subsequent prosecution in the common course of law.

Alexander Hamilton, Federalist # 77

. . . the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security.

There never can be danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations.

Alexander Hamilton, Federalist # 81

Judiciary; nature of the

Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, must be considered as part of the law of the land. Their true import, as far as respects individuals, must, like all other laws, be ascertained by judicial determinations. To produce uniformity in these determinations, they ought to be submitted, in the last resort, to one SUPREME TRIBUNAL.

And this tribunal ought to be instituted under the same authority which forms the treaties themselves. These ingredients are both indispensable. If there is in each State a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts.

There are endless diversities in the opinions of men. We often see not only different courts but the judges of the same court differing from each other. To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last resort a uniform rule of civil justice.

Alexander Hamilton, Federalist # 22

The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like.

Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the

manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Alexander Hamilton, Federalist # 78

It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents. It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature in order, among other things, to keep the latter within the limits assigned to their authority.

The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body.

If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both, and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws rather than by those which are not fundamental.

This exercise of judicial discretion in determining between two contradictory laws is exemplified in a familiar instance. It not uncommonly happens that there are two statutes existing at one time, clashing in whole or in part with each other and neither of them containing any repealing clause or expression. In such a case, it is the province of the

courts to liquidate and fix their meaning and operation. So far as they can, by fair construction, be reconciled to each other, reason and law conspire to dictate that this should be done; where this is impracticable, it becomes a matter of necessity to give effect to one in exclusion of the other.

The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred to the first. But this is a mere rule of construction, not derived from any positive law but from the nature and reason of the thing. It is a rule not enjoined upon the courts by legislative provision but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable that between the interfering acts of an equal authority that which was the last indication of its will should have the preference.

But in regard to the interfering acts of a superior and subordinate authority of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed.

They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that accordingly, whenever a particular statute contravenes the Constitution, it will be the duty of the judicial tribunals to adhere to the latter and disregard the former.

Alexander Hamilton, Federalist # 78

The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure for that of the legislative body.

Alexander Hamilton, Federalist # 78

the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments

Alexander Hamilton, Federalist # 78

Though I trust the friends of the proposed Constitution will never concur with its enemies in questioning that fundamental principle of republican government which admits the right of the people to alter or abolish the established Constitution whenever they find it inconsistent with their happiness; yet it is not to be inferred from this principle that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constituents incompatible with the provisions in the existing Constitution, would, on that account, be justifiable in a violation of those provisions.

Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiment can warrant their representatives in a departure from it prior to such an act.

But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community.

Alexander Hamilton, Federalist # 78

But it is not with a view to infractions of the Constitution only that the independence of the judges may be an essential safeguard against the effects of occasional ill humors in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws.

Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity and confining the operation of such laws. It not only serves to moderate the

immediate mischiefs of those which may have been passed but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of an iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled, by the very motives of the injustice they meditate, to qualify their attempts.

Alexander Hamilton, Federalist # 78

a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them

Alexander Hamilton, Federalist # 78

there is not a syllable in the plan under consideration which directly empowers the national courts to construe the laws according to the spirit of the Constitution, or which gives them any greater latitude in this respect than may be claimed by the courts of every State. I admit, however, that the Constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the Constitution.

Alexander Hamilton, Federalist # 81

The theory, neither of the British, nor the State constitutions, authorizes the revisal of a judicial sentence by a legislative act. Nor is there anything in the proposed Constitution, more than in either of them, by which it is forbidden. In the former, as well as in the latter, the impropriety of the thing, on the general principles of law and reason, is the sole obstacle.

A legislature, without exceeding its province, cannot reverse a determination once made in a particular case; though it may prescribe a new rule for future cases. This is the principle and it applies in all its consequences, exactly in the same manner and extent, to the State governments, as to the national government now under consideration.

Alexander Hamilton, Federalist # 81

. . . the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations.

Alexander Hamilton, Federalist # 81

The rules of legal interpretation are rules of common sense, adopted by the courts in the construction of the laws. The true test, therefore, of a just application of them is its conformity to the source from which they are derived.

Alexander Hamilton, Federalist # 83

A power to constitute courts is a power to prescribe the mode of trial

Alexander Hamilton, Federalist # 83

Jurisdiction of federal/national government limited to certain enumerated objects

In the first place it is to be remembered that the general government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects, which concern all the members of the republic, but which are not to be attained by the separate provisions of any. The subordinate governments, which can extend their care to all those other objects which can be separately provided for, will retain their due authority and activity.

James Madison, Federalist # 14

AN OBJECTION of a nature different from that which has been stated and answered in my last address may perhaps be likewise urged against the principle of legislation for the individual citizens of America.

It may be said that it would tend to render the government of the Union too powerful, and to enable it to absorb those residuary authorities, which it might be judged proper to leave with the States for local purposes. Allowing the utmost latitude to the love of power which any reasonable man can require, I confess I am at a loss to discover what temptation the persons intrusted with the administration of the general government could ever feel to divest the States of the authorities of that description.

The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition. Commerce, finance, negotiation, and war seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought in the first instance to be lodged in the national depository.

The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in

short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the federal councils to usurp the powers with which they are connected; because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the national government.

Alexander Hamilton, Federalist # 17

Do these principles, in fine, require that the powers of the general government should be limited, and that, beyond this limit, the States should be left in possession of their sovereignty and independence? We have seen that in the new government, as in the old, the general powers are limited; and that the States, in all unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction.

James Madison, Federalist # 40

In every political institution, a power to advance the public happiness involves a discretion which may be misapplied and abused. They will see, therefore, that in all cases where power is to be conferred, the point first to be decided is whether such a power be necessary to the public good; as the next will be, in case of an affirmative decision, to guard as effectually as possible against a perversion of the power to the public detriment.

That we may form a correct judgment on this subject, it will be proper to review the several powers conferred on the government of the Union; and that this may be the more conveniently done they may be reduced into different classes as they relate to the following different objects:

1. Security against foreign danger;
2. Regulation of the intercourse with foreign nations;

3. Maintenance of harmony and proper intercourse among the States;
4. Certain miscellaneous objects of general utility;
5. Restraint of the States from certain injurious acts;
6. Provisions for giving due efficacy to all these powers.

James Madison, Federalist # 41

It has been urged and echoed that the power "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States, amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction.

Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions just cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms "to raise money for the general welfare."

But what color can the objection have, when a specification of the objects alluded to by these general terms immediately follows and is not even separated by a longer pause than a semicolon? If the different parts of the same instrument ought to be so expounded as to give meaning to every part which will bear it, shall one part of the same sentence be excluded altogether from a share in the meaning; and shall the more doubtful and indefinite terms be retained in their full extent, and the clear and precise expressions be denied any signification whatsoever?

For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity

James Madison, Federalist # 41

the most minute provisions become important when they tend to obviate the necessity or the pretext for gradual and unobserved usurpations of power. A list of the cases in which Congress have been betrayed, or forced by the defects of the Confederation, into violations of their chartered authorities would not a little surprise those who have paid no attention to the subject; and would be no inconsiderable argument in favor of the new Constitution, which seems to have provided no less studiously for the lesser than the more obvious and striking defects of the old.

James Madison, Federalist # 42

[Regarding the] "power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof."

. . . There are four other possible methods which the Convention might have taken on this subject. They might have copied the second article of the existing Confederation, which would have prohibited the exercise of any power not expressly delegated; they might have attempted a positive enumeration of the powers comprehended under the general terms "necessary and proper"; they might have attempted a negative enumeration of them by specifying the powers excepted from the general definition; they might have been

altogether silent on the subject, leaving these necessary and proper powers to construction and inference.

. . . As the powers delegated under the new system are more extensive, the government which is to administer it would find itself still more distressed with the alternative of betraying the public interests by doing nothing, or of violating the Constitution by exercising powers indispensably necessary and proper, but, at the same time, not expressly granted.

. . . for in every new application of a general power, the particular powers, which are the means of attaining the object of the general power, must always necessarily vary with that object, and be often properly varied whilst the object remains the same.

Had they attempted to enumerate the particular powers or means not necessary or proper for carrying the general powers into execution, the task would have been no less chimerical; and would have been liable to this further objection, that every defect in the enumeration would have been equivalent to a positive grant of authority.

. . . No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included.

. . . If it be asked what is to be the consequence, in case the Congress shall misconstrue this part of the Constitution and exercise powers not warranted by its true meaning. I answer the same as if they should misconstrue or enlarge any other power vested in them; as if the general power had been reduced to particulars, and any one of these were to be violated; the same, in short, as if the State legislatures should violate their respective constitutional authorities.

In the first instance, the success of the usurpation will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in the last resort a remedy must be obtained from the people, who can, by the election of more faithful representatives, annul the acts of the usurpers. The truth is that this ultimate redress may be more confided in against unconstitutional acts of the federal than of the

State legislatures, for this plain reason that as every such act of the former will be an invasion of the rights of the latter, these will be ever ready to mark the innovation, to sound the alarm to the people, and to exert their local influence in effecting a change of federal representatives.

There being no such intermediate body between the State legislatures and the people interested in watching the conduct of the former, violations of the State constitutions are more likely to remain unnoticed and unredressed.

James Madison, Federalist # 44

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected.

The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the federal government.

The more adequate, indeed, the federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of NEW POWERS to the Union than in the invigoration of its ORIGINAL POWERS. The regulation of commerce,

it is true, is a new power; but that seems to be an addition which few oppose and from which no apprehensions are entertained.

James Madison, Federalist # 45

It is a sound and important principle that the representative ought to be acquainted with the interests and circumstance of his constituents. But this principle can extend no further than to those circumstances and interests to which the authority and care of the representative relate.

James Madison, Federalist # 56

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

Alexander Hamilton, Federalist # 78

From these observations this conclusion results: that the trial by jury in civil cases would not be abolished; and that the use attempted to be made of the maxims which have been quoted is contrary to reason and common sense, and therefore not admissible. Even if these maxims had a precise technical sense, corresponding with the ideas of those who employ them upon the present occasion, which, however, is not the case, they would still be inapplicable to a constitution of government. In relation to such a subject, the natural and

obvious sense of its provisions, apart from any technical rules, is the true criterion of construction.

Having now seen that the maxims relied upon will not bear the use made of them, let us endeavor to ascertain their proper use and true meaning. This will be best done by examples. The plan of the convention declares that the power of Congress, or, in other words, of the national legislature, shall extend to certain enumerated cases. This specification of particulars evidently excludes all pretension to a general legislative authority, because an affirmative grant of special powers would be absurd as well as useless if a general authority was intended.

In like manner the judicial authority of the federal judicatures is declared by the Constitution to comprehend certain cases particularly specified. The expression of those cases marks the precise limits beyond which the federal courts cannot extend their jurisdiction, because the objects of their cognizance being enumerated, the specification would be nugatory if it did not exclude all ideas of more extensive authority.

Alexander Hamilton, Federalist # 83

Law and equity

It has also been asked, what need of the word "equity"? What equitable causes can grow out of the Constitution and laws of the United States? There is hardly a subject of litigation between individuals which may not involve those ingredients of fraud, accident, trust, or hardship, which would render the matter an object of equitable rather than of legal jurisdiction, as the distinction is known and established in several of the States. It is the peculiar province, for instance, of a court of equity to relieve against what are called hard bargains: these are contracts in which, though there may have been no direct fraud or deceit sufficient to invalidate them in a court of law, yet there may have been some undue and unconscionable advantage taken of the necessities or misfortunes of one of the parties which a court of equity would not tolerate.

In such cases, where foreigners were concerned on either side, it would be impossible for the federal judicatories to do justice without an equitable as well as legal jurisdiction. Agreements to convey lands claimed under the grants of different States may afford another example of the necessity of an equitable jurisdiction in the federal courts. This reasoning may not be so palpable in those States where the formal and technical distinction between LAW and EQUITY is not maintained as in this State, where it is exemplified by every day's practice.

Alexander Hamilton, Federalist # 80

My convictions are equally strong that great advantages result from the separation of the equity from the law jurisdiction, and that the causes which belong to the former would be improperly committed to juries. The great and primary use of a court of equity is to give relief in extraordinary cases, which are exceptions* to general rules.

*It is true that the principles by which that relief is governed are now reduced to a regular system; but it is not the less true that they are in the main applicable to SPECIAL circumstances, which form exceptions to general rules.

Alexander Hamilton, Federalist # 83

It is true that the separation of the equity from the legal jurisdiction is peculiar to the English system of jurisprudence, which is the model that has been followed in several of the States.

Alexander Hamilton, Federalist # 83

The nature of a court of equity will readily permit the extension of its jurisdiction to matters of law; but it is not a little to be suspected that the attempt to extend the jurisdiction of the courts of law to matters of equity will not only be unproductive of the advantages which may be derived from courts of chancery, on the plan upon which they are established in this State, but will tend gradually to change the nature of the courts of law, and to undermine the trial by jury, by introducing questions too complicated for a decision in that mode.

Alexander Hamilton, Federalist # 83

It is obvious therefore, that the Massachusetts proposition upon this subject cannot operate as a general regulation until some uniform plan, with respect to the limits of common-law and equitable jurisdictions, shall be adopted by the different States.

Alexander Hamilton, Federalist # 83

Laws must be executed

Government implies the power of making laws. It is essential to the idea of a law that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation.

Alexander Hamilton, Federalist # 15

Laws must be few, understandable, and stable

The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?

Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few over the industrious and uninformed mass of the people.

Every new regulation concerning commerce or revenue, or in any manner affecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens.

This is a state of things in which it may be said with some truth that laws are made for the few, not for the many.

James Madison, Federalist # 62

What prudent merchant will hazard his fortunes in any branch of commerce when he knows not but that his plans may be rendered unlawful before they can be executed?

James Madison, Federalist # 62

No government, any more than an individual, will long be respected without being truly respectable; nor be truly respectable without possessing a certain portion of order and stability.

James Madison, Federalist # 62

Laws; various types of

The experience of ages, with the continued and combined labors of the most enlightened legislators and jurists, has been equally unsuccessful in delineating the several objects and limits of different codes of laws and different tribunals of justice.

The precise extent of the common law, and the statute law, the maritime law, the ecclesiastical law, the law of corporations, and other local laws and customs, remains still to be clearly and finally established in Great Britain, where accuracy in such subjects has been more industriously pursued than in any other part of the world. The jurisdiction of her several courts, general and local, of law, of equity, of admiralty, etc., is not less a source of frequent and intricate discussions, sufficiently denoting the indeterminate limits by which they are respectively circumscribed.

James Madison, Federalist # 37

Felony is a term of loose signification even in the common law of England; and of various import in the statute law of that kingdom.

James Madison, Federalist # 42

It has also been asked, what need of the word "equity"? What equitable causes can grow out of the Constitution and laws of the United States? There is hardly a subject of litigation between individuals which may not involve those ingredients of fraud, accident, trust, or hardship, which would render the matter an object of equitable rather than of legal jurisdiction, as the distinction is known and established in several of the States.

It is the peculiar province, for instance, of a court of equity to relieve against what are called hard bargains: these are contracts in which, though there may have been no direct fraud or deceit sufficient to invalidate them in a court of law, yet there may have been

some undue and unconscionable advantage taken of the necessities or misfortunes of one of the parties which a court of equity would not tolerate. In such cases, where foreigners were concerned on either side, it would be impossible for the federal judicatories to do justice without an equitable as well as legal jurisdiction.

Agreements to convey lands claimed under the grants of different States may afford another example of the necessity of an equitable jurisdiction in the federal courts. This reasoning may not be so palpable in those States where the formal and technical distinction between LAW and EQUITY is not maintained as in this State, where it is exemplified by every day's practice.

Alexander Hamilton, Federalist # 80

The propriety of this appellate jurisdiction has been scarcely called in question in regard to matters of law; but the clamors have been loud against it as applied to matters of fact. Some well-intentioned men in this State, deriving their notions from the language and forms which obtain in our courts, have been induced to consider it as an implied supersedure of the trial by jury, in favor of the civil-law mode of trial, which prevails in our courts of admiralty, probate, and chancery.

Alexander Hamilton, Federalist # 81

The following train of ideas may well be imagined to have influenced the convention in relation to this particular provision. The appellate jurisdiction of the Supreme Court (it may have been argued) will extend to causes determinable in different modes, some in the course of the COMMON LAW, others in the course of the CIVIL LAW. In the former, the revision of the law only will be, generally speaking, the proper province of the Supreme Court

Alexander Hamilton, Federalist # 81

The legislature of the United States would certainly have full power to provide that in appeals to the Supreme Court there should be no re-examination of facts where they had been tried in the original causes by juries. This would certainly be an authorized exception; but if, for the reason already intimated, it should be thought too extensive, it might be qualified with a limitation to such causes only as are determinable at common law in that mode of trial.

Alexander Hamilton, Federalist # 81

In this State, our judicial establishments resemble, more nearly than in any other, those of Great Britain. We have courts of common law, courts of probates (analogous in certain matters to the spiritual courts in England), a court of admiralty, and a court of chancery. In the courts of common law only, the trial by jury prevails, and this with some exceptions. In all the others a single judge presides, and proceeds in general either according to the course of the canon or civil law, without the aid of a jury.

In New Jersey, there is a court of chancery which proceeds like ours, but neither courts of admiralty nor of probates, in the sense in which these last are established with us. In that State the courts of common law have the cognizance of those causes which with us are determinable in the courts of the admiralty and of probates, and of course the jury trial is more extensive in New Jersey than in New York. In Pennsylvania, this is perhaps still more the case, for there is no court of chancery in that State, and its common-law courts have equity jurisdiction. It has a court of admiralty, but none of probates, at least on the plan of ours.

Alexander Hamilton, Federalist # 83

I believe, however, that in some of those States which have distinct courts of admiralty, the causes depending in them are triable by juries. In Georgia there are none but common-law

courts, and an appeal of course lies from the verdict of one jury to another, which is called a special jury, and for which a particular mode of appointment is marked out. In Connecticut, they have no distinct courts either of chancery or of admiralty, and their courts of probates have no jurisdiction of causes. Their common-law courts have admiralty and, to a certain extent, equity jurisdiction.

Alexander Hamilton, Federalist # 83

Massachusetts and New Hampshire, in regard to the blending of law, equity, and admiralty jurisdictions, are in a similar predicament. In the four Eastern States, the trial by jury not only stands upon a broader foundation than in the other States, but it is attended with a peculiarity unknown, in its full extent, to any of them. There is an appeal of course from one jury to another, till there have been two verdicts out of three on one side.

Alexander Hamilton, Federalist # 83

Legislature; Nature of the

the tendency of republican governments is to an aggrandizement of the legislative at the expense of the other departments.

James Madison, Federalist # 49

one branch of the legislature is a representation of citizens, the other of the States

James Madison, Federalist # 58

a constitutional and infallible resource still remains with the larger States by which they will be able at all times to accomplish their just purposes. The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the support of government.

They, in a word, hold the purse --- that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government.

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

James Madison, Federalist # 58

in all legislative assemblies the greater the number composing them may be, the fewer will be the men who will in fact direct their proceedings. In the first place, the more numerous any assembly may be, of whatever characters composed, the greater is known to be the ascendancy of passion over reason.

In the next place, the larger the number, the greater will be the proportion of members of limited information and of weak capacities. Now, it is precisely on characters of this description that the eloquence and address of the few are known to act with all their force. In the ancient republics, where the whole body of the people assembled in person, a single orator, or an artful statesman, was generally seen to rule with as complete a sway as if a scepter had been placed in his single hand. On the same principle, the more multitudinous a representative assembly may be rendered, the more it will partake of the infirmities incident to collective meetings of the people.

Ignorance will be the dupe of cunning, and passion the slave of sophistry and declamation. The people can never err more than in supposing that by multiplying their representatives beyond a certain limit they strengthen the barrier against the government of a few. Experience will forever admonish them that, on the contrary, after securing a sufficient number for the purposes of safety, of local information, and of diffusive sympathy with the whole society, they will counteract their own views by every addition to their representatives.

The countenance of the government may become more democratic, but the soul that animates it will be more oligarchic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

James Madison, Federalist # 58

The republican principle demands that the deliberate sense of the community should govern the conduct of those to whom they intrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men, who flatter

their prejudices to betray their interests. It is a just observation that the people commonly intend the PUBLIC GOOD.

This often applies to their very errors. But their good sense would despise the adulator who should pretend that they always reason right about the means of promoting it. They know from experience that they sometimes err; and the wonder is that they so seldom err as they do, beset as they continually are by the wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate, by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess rather than to deserve it.

When occasions present themselves in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed to be the guardians of those interests to withstand the temporary delusion in order to give them time and opportunity for more cool and sedate reflection. Instances might be cited in which a conduct of this kind has saved the people from very fatal consequences of their own mistakes, and has procured lasting monuments of their gratitude to the men who had courage and magnanimity enough to serve them at the peril of their displeasure.

Alexander Hamilton, Federalist # 71

The essence of the legislative authority is to enact laws, or, in other words, to prescribe rules for the regulation of the society; while the execution of the laws and the employment of the common strength, either for this purpose or for the common defense, seem to comprise all the functions of the executive magistrate.

Alexander Hamilton, Federalist # 75

. . . the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security.

There never can be danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations.

Alexander Hamilton, Federalist # 81

Legislature not to accord themselves privileges

Is it not natural that a man who is a candidate for the favor of the people, and who is dependent on the suffrages of his fellow-citizens for the continuance of his public honors, should take care to inform himself of their dispositions and inclinations and should be willing to allow them their proper degree of influence upon his conduct? This dependence, and the necessity of being bound, himself and his posterity, by the laws to which he gives his assent are the true and they are the strong cords of sympathy between the representative and the constituent.

Alexander Hamilton, Federalist # 35

it is essential to liberty that the government in general should have a common interest with the people

James Madison, Federalist # 52

the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy

can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny.

If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

James Madison, Federalist # 57

Limited jurisdiction of the federal/national government

In the first place it is to be remembered that the general government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects, which concern all the members of the republic, but which are not to be attained by the separate provisions of any. The subordinate governments, which can extend their care to all those other objects which can be separately provided for, will retain their due authority and activity.

James Madison, Federalist # 14

AN OBJECTION of a nature different from that which has been stated and answered in my last address may perhaps be likewise urged against the principle of legislation for the individual citizens of America. It may be said that it would tend to render the government of the Union too powerful, and to enable it to absorb those residuary authorities, which it might be judged proper to leave with the States for local purposes.

Allowing the utmost latitude to the love of power which any reasonable man can require, I confess I am at a loss to discover what temptation the persons intrusted with the administration of the general government could ever feel to divest the States of the authorities of that description. The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition.

Commerce, finance, negotiation, and war seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought in the first instance to be lodged in the national depository. The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the federal councils to usurp

the powers with which they are connected; because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the national government.

Alexander Hamilton, Federalist # 17

Do these principles, in fine, require that the powers of the general government should be limited, and that, beyond this limit, the States should be left in possession of their sovereignty and independence? We have seen that in the new government, as in the old, the general powers are limited; and that the States, in all unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction.

James Madison, Federalist # 40

in every political institution, a power to advance the public happiness involves a discretion which may be misapplied and abused. They will see, therefore, that in all cases where power is to be conferred, the point first to be decided is whether such a power be necessary to the public good; as the next will be, in case of an affirmative decision, to guard as effectually as possible against a perversion of the power to the public detriment.

That we may form a correct judgment on this subject, it will be proper to review the several powers conferred on the government of the Union; and that this may be the more conveniently done they may be reduced into different classes as they relate to the following different objects: 1. Security against foreign danger; 2. Regulation of the intercourse with foreign nations; 3. Maintenance of harmony and proper intercourse among the States; 4. Certain miscellaneous objects of general utility; 5. Restraint of the States from certain injurious acts; 6. Provisions for giving due efficacy to all these powers.

James Madison, Federalist # 41

It has been urged and echoed that the power "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States," amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction.

Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions just cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms "to raise money for the general welfare."

But what color can the objection have, when a specification of the objects alluded to by these general terms immediately follows and is not even separated by a longer pause than a semicolon? If the different parts of the same instrument ought to be so expounded as to give meaning to every part which will bear it, shall one part of the same sentence be excluded altogether from a share in the meaning; and shall the more doubtful and indefinite terms be retained in their full extent, and the clear and precise expressions be denied any signification whatsoever?

For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity

James Madison, Federalist # 41

the most minute provisions become important when they tend to obviate the necessity or the pretext for gradual and unobserved usurpations of power. A list of the cases in which Congress have been betrayed, or forced by the defects of the Confederation, into violations of their chartered authorities would not a little surprise those who have paid no attention to the subject; and would be no inconsiderable argument in favor of the new Constitution, which seems to have provided no less studiously for the lesser than the more obvious and striking defects of the old.

James Madison, Federalist # 42

[Regarding the] "power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof."

. . . There are four other possible methods which the Convention might have taken on this subject. They might have copied the second article of the existing Confederation, which would have prohibited the exercise of any power not expressly delegated; they might have attempted a positive enumeration of the powers comprehended under the general terms "necessary and proper"; they might have attempted a negative enumeration of them by specifying the powers excepted from the general definition; they might have been altogether silent on the subject, leaving these necessary and proper powers to construction and inference.

. . . As the powers delegated under the new system are more extensive, the government which is to administer it would find itself still more distressed with the alternative of betraying the public interests by doing nothing, or of violating the Constitution by exercising powers indispensably necessary and proper, but, at the same time, not expressly granted.

. . . for in every new application of a general power, the particular powers, which are the means of attaining the object of the general power, must always necessarily vary with that object, and be often properly varied whilst the object remains the same.

Had they attempted to enumerate the particular powers or means not necessary or proper for carrying the general powers into execution, the task would have been no less chimerical; and would have been liable to this further objection, that every defect in the enumeration would have been equivalent to a positive grant of authority.

. . . No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included.

. . . If it be asked what is to be the consequence, in case the Congress shall misconstrue this part of the Constitution and exercise powers not warranted by its true meaning. I answer the same as if they should misconstrue or enlarge any other power vested in them; as if the general power had been reduced to particulars, and any one of these were to be violated; the same, in short, as if the State legislatures should violate their respective constitutional authorities. In the first instance, the success of the usurpation will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in the last resort a remedy must be obtained from the people, who can, by the election of more faithful representatives, annul the acts of the usurpers. The truth is that this ultimate redress may be more confided in against unconstitutional acts of the federal than of the State legislatures, for this plain reason that as every such act of the former will be an invasion of the rights of the latter, these will be ever ready to mark the innovation, to sound the alarm to the people, and to exert their local influence in effecting a change of federal representatives. There being no such intermediate body between the State legislatures and the people interested in watching the conduct of the former, violations of the State constitutions are more likely to remain unnoticed and unredressed.

James Madison, Federalist # 44

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the federal government. The more adequate, indeed, the federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of NEW POWERS to the Union than in the invigoration of its ORIGINAL POWERS. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose and from which no apprehensions are entertained.

James Madison, Federalist # 45

It is a sound and important principle that the representative ought to be acquainted with the interests and circumstance of his constituents. But this principle can extend no further than to those circumstances and interests to which the authority and care of the representative relate.

James Madison, Federalist # 56

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

Alexander Hamilton, Federalist # 78

From these observations this conclusion results: that the trial by jury in civil cases would not be abolished; and that the use attempted to be made of the maxims which have been quoted is contrary to reason and common sense, and therefore not admissible. Even if these maxims had a precise technical sense, corresponding with the ideas of those who employ them upon the present occasion, which, however, is not the case, they would still be inapplicable to a constitution of government. In relation to such a subject, the natural and obvious sense of its provisions, apart from any technical rules, is the true criterion of construction.

Having now seen that the maxims relied upon will not bear the use made of them, let us endeavor to ascertain their proper use and true meaning. This will be best done by examples. The plan of the convention declares that the power of Congress, or, in other words, of the national legislature, shall extend to certain enumerated cases. This specification of particulars evidently excludes all pretension to a general legislative authority, because an affirmative grant of special powers would be absurd as well as useless if a general authority was intended.

In like manner the judicial authority of the federal judicatures is declared by the Constitution to comprehend certain cases particularly specified. The expression of those cases marks the precise limits beyond which the federal courts cannot extend their

jurisdiction, because the objects of their cognizance being enumerated, the specification would be nugatory if it did not exclude all ideas of more extensive authority.

Alexander Hamilton, Federalist # 83

Maxims

There is, perhaps, nothing more likely to disturb the tranquillity of nations than their being bound to mutual contributions for any common object that does not yield an equal and coincident benefit.

Alexander Hamilton, Federalist # 7

Safety from external danger is the most powerful director of national conduct.

Alexander Hamilton, Federalist # 8

When the sword is once drawn, the passions of men observe no bounds of moderation.

Alexander Hamilton, Federalist # 16

... a victorious and powerful ally is but another name for a master.

James Madison, Federalist # 18

the persons from whose agency the attainment of any end is expected ought to possess the means by which it is to be attained.

Alexander Hamilton, Federalist # 23

For it is a truth, which the experience of all ages has attested, that the people are commonly most in danger when the means of injuring their rights are in the possession of those of whom they entertain the least suspicion.

Alexander Hamilton, Federalist # 25

every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

Alexander Hamilton, Federalist # 25

I believe it may be laid down as a general rule that their confidence in and obedience to a government will commonly be proportioned to the goodness or badness of its administration.

Alexander Hamilton, Federalist # 27

It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority.

Alexander Hamilton, Federalist # 28

every POWER ought to be proportionate to its OBJECT Alexander Hamilton, Federalist # 30

Necessity, especially in politics, often occasions false hopes, false reasonings, and a system of measures correspondingly erroneous.

Alexander Hamilton, Federalist # 35

There are two rules of construction, dictated by plain reason as well as founded on legal axioms. The one is that every part of the expression ought, if possible, to be allowed some meaning, and be made to conspire to some common end, The other is that where the several parts cannot be made to coincide, the less important should give way to the more important part; the means should be sacrificed to the end, rather than the end to the means.

James Madison, Federalist # 40

The prudent inquiry, in all cases, ought surely to be not so much from whom the advice comes, as whether the advice be good.

James Madison, Federalist # 40

a right implies a remedy

James Madison, Federalist # 43

But theoretic reasoning, in this as in most other cases, must be qualified by the lessons of practice.

James Madison, Federalist # 43

The existence of a right to interpose will generally prevent the necessity of exerting it.

James Madison, Federalist # 43

A compact between independent sovereigns, founded on ordinary acts of legislative authority, can pretend to no higher validity than a league or treaty between the parties. It is an established doctrine on the subject of treaties that all the articles are mutually conditions of each other; that a breach of any one article is a breach of the whole treaty; and that a breach, committed by either of the parties, absolves the others, and authorizes them, if they please, to pronounce the compact violated and void.

James Madison, Federalist # 43

an extinction of parties necessarily implies either a universal alarm for the public safety, or an absolute extinction of liberty.

James Madison, Federalist # 50

it is essential to liberty that the government in general should have a common interest with the people

James Madison, Federalist # 52

It is a received and well-founded maxim that where no other circumstances affect the case, the greater the power is, the shorter ought to be its duration; and, conversely, the smaller the power, the more safely may its duration be protracted.

James Madison, Federalist # 52

In all very numerous assemblies, of whatever characters composed, passion never fails to wrest the scepter from reason.

James Madison, Federalist # 55

It is a sound and important principle that the representative ought to be acquainted with the interests and circumstance of his constituents.

James Madison, Federalist # 56

every government ought to contain in itself the means of its own preservation.

Alexander Hamilton, Federalist # 59

the facility and excess of lawmaking seem to be the diseases to which our governments are most liable

James Madison, Federalist # 62

A good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained.

James Madison, Federalist # 62

An individual who is observed to be inconstant to his plans, or perhaps to carry on his affairs without any plan at all, is marked at once by all prudent people as a speedy victim to his own unsteadiness and folly. His more friendly neighbors may pity him, but all will

decline to connect their fortunes with his; and not a few will seize the opportunity of making their fortunes out of his. One nation is to another what one individual is to another; with this melancholy distinction, perhaps, that the former, with fewer of the benevolent emotions than the latter, are under fewer restraints also from taking undue advantage of the indiscretions of each other. Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of its wiser neighbors.

James Madison, Federalist # 62

No government, any more than an individual, will long be respected without being truly respectable

James Madison, Federalist # 62

liberty may be endangered by the abuses of liberty as well as by the abuses of power

James Madison, Federalist # 63

the demon of faction will, at certain seasons, extend his scepter over all numerous bodies of men.

Alexander Hamilton, Federalist # 65

in the main it will be found that a power over the man's support is a power over his will.

Alexander Hamilton, Federalist # 73

When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of

opposition from doing what they would with eagerness rush into if no such external impediments were to be feared.

Alexander Hamilton, Federalist # 73

the sense of responsibility is always strongest in proportion as it is undivided

Alexander Hamilton, Federalist # 74

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void.

Alexander Hamilton, Federalist # 78

In the general course of human nature, a power over a man's subsistence amounts to a power over his will.

Alexander Hamilton, Federalist # 79

there ought always to be a constitutional method of giving efficacy to constitutional provisions.

Alexander Hamilton, Federalist # 80

Militia

The smallness of the army renders the natural strength of the community an overmatch for it; and the citizens, not habituated to look up to the military power for protection, or to submit to its oppressions, neither love nor fear the soldiery; they view them with a spirit of jealous acquiescence in a necessary evil and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights.

The army under such circumstances may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

Alexander Hamilton, Federalist # 8

The improvements in the art of navigation have, as to the facility of communication, rendered distant nations, in a great measure, neighbors.

Alexander Hamilton, Federalist # 24

If, to obviate this consequence, it should be resolved to extend the prohibition to the raising of armies in time of peace, the United States would then exhibit the most extraordinary spectacle which the world has yet seen -- that of a nation incapacitated by its Constitution to prepare for defense before it was actually invaded.

As the ceremony of a formal denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for as the legal warrant to the government to begin its levies of men for the protection of the State. We must receive the blow before we could even prepare to return it.

All that kind of policy by which nations anticipate distant danger and meet the gathering storm must be abstained from, as contrary to the genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders and invite them by our weakness to seize the naked and defenseless prey, because we are afraid that rulers, created by our choice, dependent on our will, might endanger that liberty by an abuse of the means necessary to its preservation.

Here I expect we shall be told that the militia of the country is its natural bulwark, and would be at all times equal to the national defense. This doctrine, in substance, had like to have lost us our independence. It cost millions to the United States that might have been saved. The facts which from our own experience forbid a reliance of this kind are too recent to permit us to be the dupes of such a suggestion.

The steady operations of war against a regular and disciplined army can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigor, confirm this position. The American militia, in the course of the late war, have, by their valor on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

Alexander Hamilton, Federalist # 25

the State legislatures, who will always be not only vigilant but suspicious and jealous guardians of the rights of the citizens against encroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if anything improper appears, to sound the alarm to the people, and not only to be the VOICE, but, if necessary, the ARM of their discontent.

Schemes to subvert the liberties of a great community require time to mature them for execution. An army, so large as seriously to menace those liberties, could only be formed

by progressive augmentations; which would suppose not merely a temporary combination between the legislature and executive, but a continued conspiracy for a series of time.

Alexander Hamilton, Federalist # 26

It is not easy to conceive a possibility that dangers so formidable can assail the whole Union as to demand a force considerable enough to place our liberties in the least jeopardy, especially if we take into our view the aid to be derived from the militia, which ought always to be counted upon as a valuable and powerful auxiliary.

Alexander Hamilton, Federalist # 26

there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community and to maintain the just authority of the laws against those violent invasions of them which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and, after all, the only efficacious security for the rights and privileges of the people which is attainable in civil society.

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers may be exerted with infinitely better prospect of success than against those of the rulers of an individual State.

In a single State, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts of which it consists, having no distinct government in each, can take no regular measures for defense. The citizens must rush

tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo.

The smaller the extent of the territory, the more difficult will it be for the people to form a regular or systematic plan of opposition, and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements, and the military force in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. In this situation there must be a peculiar coincidence of circumstances to insure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state, provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small, and of course more competent to a struggle with the attempts of the government to establish a tyranny.

But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate.

If their rights are invaded by either, they can make use of the other as the instrument of redress. How wise will it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large. The legislatures will have better means of information.

They can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect against the enterprises of ambitious rulers in the national councils. If the federal army should be able to quell the resistance of one State, the distant States would be able to make head with fresh forces.

The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself, its efforts would be renewed, and its resistance revive.

We should recollect that the extent of the military force must, at all events, be regulated by the resources of the country. For a long time to come it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase.

When will the time arrive that the federal government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire, who are in a situation, through the medium of their State governments, to take measures for their own defense, with all the celerity, regularity, and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

Alexander Hamilton, Federalist # 28

If a well-regulated militia be the most natural defense of a free country, it ought certainly to be under the regulation and at the disposal of that body which is constituted the guardian

of the national security. If standing armies are dangerous to liberty, an efficacious power over the militia in the same body ought, as far as possible, to take away the inducement and the pretext to such unfriendly institutions.

If the federal government can command the aid of the militia in those emergencies which call for the military arm in support of the civil magistrate, it can the better dispense with the employment of a different kind of force. If it cannot avail itself of the former, it will be obliged to recur to the latter. To render an army unnecessary will be a more certain method of preventing its existence than a thousand prohibitions upon paper.

In order to cast an odium upon the power of calling forth the militia to execute the laws of the Union, it has been remarked that there is nowhere any provision in the proposed Constitution for requiring the aid of the POSSE COMITATUS to assist the magistrate in the execution of his duty; whence it has been inferred that military force was intended to be his only auxiliary.

Alexander Hamilton, Federalist # 29

The same persons who tell us in one breath that the powers of the federal government will be despotic and unlimited inform us in the next that it has not authority sufficient even to call out the POSSE COMITATUS. The latter, fortunately, is as much short of the truth as the former exceeds it.

It would be as absurd to doubt that a right to pass all laws necessary and proper to execute its declared powers would include that of requiring the assistance of the citizens to the officers who may be intrusted with the execution of those laws as it would be to believe that a right to enact laws necessary and proper for the imposition and collection of taxes would involve that of varying the rules of descent and of the alienation of landed property, or of abolishing the trial by jury in cases relating to it.

It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of color, it will follow that the conclusion which

has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid as it is illogical. What reason could there be to infer that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary?

Alexander Hamilton, Federalist # 29

"The project of disciplining all the militia of the United States is as futile as it would be injurious if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day, nor a week nor even a month, that will suffice for the attainment of it.

To oblige the great body of the yeomanry and of the other classes of the citizens to be under arms for the purpose of going through military exercises and evolutions, as often as might be necessary to acquire the degree of perfection which would entitle them to the character of a well-regulated militia, would be a real grievance to the people and a serious public inconvenience and loss. It would form an annual deduction from the productive labor of the country to an amount which, calculating upon the present numbers of the people, would not fall far short of a million pounds.

To attempt a thing which would abridge the mass of labor and industry to so considerable an extent would be unwise: and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

"But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable; yet it is a matter of the utmost importance that a well-digested plan should, as soon as possible, be adopted for the proper establishment of the militia.

The attention of the government ought particularly to be directed to the formation of a select corps of moderate size, upon such principles as will really fit it for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of well-trained militia ready to take the field whenever the defense of the State shall require it.

This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist."

Alexander Hamilton, Federalist # 29

There is something so far-fetched and so extravagant in the idea of danger to liberty from the militia that one is at a loss whether to treat it with gravity or with raillery ... Where in the name of common sense are our fears to end if we may not trust our sons, our brothers, our neighbors, our fellow-citizens? What shadow of danger can there be from men who are daily mingling with the rest of their countrymen and who participate with them in the same feelings, sentiments, habits, and interests?

Alexander Hamilton, Federalist # 29

If there should be an army to be made use of as the engine of despotism, what need of the militia? If there should be no army, whither would the militia, irritated at being required to undertake a distant and distressing expedition for the purpose of riveting the chains of slavery upon a part of their countrymen, direct their course, but to the seat of the tyrants, who had meditated so foolish as well as so wicked a project to crush them in their

imagined intrenchments of power, and to make them an example of the just vengeance of an abused and incensed people?

Alexander Hamilton, Federalist # 29

The only refuge left for those who prophesy the downfall of the State governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger.

That the people and the States should, for a sufficient period of time, elect an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm and continue to supply the materials until it should be prepared to burst on their own heads must appear to everyone more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism.

Extravagant as the supposition is, let it, however, be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government: still it would not be going too far to say that the State governments with the people on their side would be able to repel the danger.

The highest number to which, according to the best computation, a standing army can be carried in any country does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men.

To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common

liberties and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it.

Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms.

And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it.

Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment by a blind and tame submission to the long train of insidious measures which must precede and produce it.

James Madison, Federalist # 46

Minority rights

... the public good is disregarded in the conflicts of rival parties, and that 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 overbearing majority.

James Madison, Federalist # 10

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens?

James Madison, Federalist # 10

The inference to which we are brought is that the causes of faction cannot be removed and that relief is only to be sought in the means of controlling its effects.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens.

James Madison, Federalist # 10

Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other.

James Madison, Federalist # 10

It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority -- that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major as the rightful interests of the minor party, and may possibly be turned against both parties.

The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority.

James Madison, Federalist # 51

Miscellaneous

It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.

Alexander Alexander Hamilton, Federalist # 1

Let Americans disdain to be the instruments of European greatness! Let the thirteen States, bound together in a strict and indissoluble Union, concur in erecting one great American system superior to the control of all transatlantic force or influence and able to dictate the terms of the connection between the old and the new world!

Alexander Hamilton, Federalist # 11

Civil power, properly organized and exerted, is capable of diffusing its force to a very great extent, and can in a manner reproduce itself in every part of a great empire by a judicious arrangement of subordinate institutions.

Alexander Hamilton, Federalist # 13

there is in the nature of sovereign power an impatience of control that disposes those who are invested with the exercise of it to look with an evil eye upon all external attempts to restrain or direct its operations.

Alexander Hamilton, Federalist # 15

the execution of the plans, framed by the councils of the whole, will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part.

Alexander Hamilton, Federalist # 15

If the interposition of the State legislatures be necessary to give effect to a measure of the Union, they have only NOT TO ACT, or TO ACT EVASIVELY, and the measure is defeated.

Alexander Hamilton, Federalist # 16

[speaking of poorly instituted governments] they increase the mischief which they were instituted to remedy.

James Madison, Federalist # 19

... a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals, as it is a solecism in theory, so in practice it is subversive of the order and ends of civil polity, by substituting violence in place of the mild and salutary coercion of the magistracy.

James Madison, Federalist # 20

To form a safe and satisfactory judgment of the proper remedy, it is absolutely necessary that we should be well acquainted with the extent and malignity of the disease.

Alexander Hamilton, Federalist # 21

To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser number.

Alexander Hamilton, Federalist # 22

The improvements in the art of navigation have, as to the facility of communication, rendered distant nations, in a great measure, neighbors.

Alexander Hamilton, Federalist # 24

IT WAS a thing hardly to be expected that in a popular revolution the minds of men should stop at that happy mean which marks the salutary boundary between POWER and PRIVILEGE, and combines the energy of government with the security of private rights. A failure in this delicate and important point is the great source of the inconveniences we experience, and if we are not cautious to avoid a repetition of the error in our future attempts to rectify and ameliorate our system we may travel from one chimerical project to another; we may try change after change; but we shall never be likely to make any material change for the better.

Alexander Hamilton, Federalist # 26

The citizens of America have too much discernment to be argued into anarchy.

Alexander Hamilton, Federalist # 26

the laws of the Confederacy as to the enumerated and legitimate objects of its jurisdiction will become the SUPREME LAW of the land; to the observance of which all officers, legislative, executive, and judicial in each State will be bound by the sanctity of an oath. Thus the legislatures, courts, and magistrates, of the respective members will be incorporated into the operations of the national government as far as its just and constitutional authority extends; and will be rendered auxiliary to the enforcement of its laws.

Alexander Hamilton, Federalist # 27

A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible, free from every other control but a regard to the public good and to the sense of the people.

Alexander Hamilton, Federalist # 31

There are strong minds in every walk of life that will rise superior to the disadvantages of situation and will command the tribute due to their merit, not only from the classes to which they particularly belong, but from the society in general.

Alexander Hamilton, Federalist # 36

Happy will it be for ourselves, and most honorable for human nature, if we have wisdom and virtue enough to set so glorious an example to mankind!

Alexander Hamilton, Federalist # 36

Persons of this character will proceed to an examination of the plan submitted by the convention, not only without a disposition to find or to magnify faults; but will see the propriety of reflecting that a faultless plan was not to be expected. Nor will they barely make allowances for the errors which may be chargeable on the fallibility to which the convention, as a body of men, were liable; but will keep in mind that they themselves also are but men and ought not to assume an infallibility in rejudging the fallible opinions of others.

James Madison, Federalist # 37

Energy in government is essential to that security against external and internal danger and to that prompt and salutary execution of the laws which enter into the very definition of good government. Stability in government is essential to national character and to the advantages annexed to it, as well as to that repose and confidence in the minds of the people, which are among the chief blessings of civil society. An irregular and mutable legislation is not more an evil in itself than it is odious to the people

James Madison, Federalist # 37

The experience of ages, with the continued and combined labors of the most enlightened legislators and jurists, has been equally unsuccessful in delineating the several objects and limits of different codes of laws and different tribunals of justice.

The precise extent of the common law, and the statute law, the maritime law, the ecclesiastical law, the law of corporations, and other local laws and customs, remains still to be clearly and finally established in Great Britain, where accuracy in such subjects has been more industriously pursued than in any other part of the world.

The jurisdiction of her several courts, general and local, of law, of equity, of admiralty, etc., is not less a source of frequent and intricate discussions, sufficiently denoting the indeterminate limits by which they are respectively circumscribed.

James Madison, Federalist # 37

Experience has instructed us that no skill in the science of government has yet been able to discriminate and define, with sufficient certainty, its three great provinces -- the legislative, executive, and judiciary

James Madison, Federalist # 37

It could not be unknown to them that the hopes and expectations of the great body of citizens, throughout this great empire, were turned with the keenest anxiety to the event of their deliberations.

James Madison, Federalist # 40

How difficult it is for error to escape its own condemnation.

James Madison, Federalist # 41

But the mild voice of reason, pleading the cause of an enlarged and permanent interest, is but too often drowned, before public bodies as well as individuals, by the clamors of an impatient avidity for immediate and immoderate gain.

James Madison, Federalist # 42

And how the trade with Indians, though not members of a State, yet residing within its legislative jurisdiction can be regulated by an external authority, without so far intruding on the internal rights of legislation, is absolutely incomprehensible.

James Madison, Federalist # 42

there are certain parts of the State constitutions which are so interwoven with the federal Constitution that a violent blow cannot be given to the one without communicating the wound to the other.

James Madison, Federalist # 43

I take no notice of an unhappy species of population abounding in some of the States, who, during the calm of regular government, are sunk below the level of men; but who, in the tempestuous scenes of civil violence, may emerge into the human character and give a superiority of strength to any party with which they may associate themselves.

James Madison, Federalist # 43

[Regarding the decision to] "consider all debts contracted and engagements entered into before the adoption of this Constitution as being no less valid against the United States under this Constitution than under the Confederation."

This can only be considered as a declaratory proposition; and may have been inserted, among other reasons, for the satisfaction of the foreign creditors of the United States, who cannot be strangers to the pretended doctrine that a change in the political form of civil society has the magical effect of dissolving its moral obligations.

James Madison, Federalist # 43

The federal and State governments are in fact but different agents and trustees of the people, constituted with different powers and designed for different purposes.

James Madison, Federalist # 46

it is only within a certain sphere that the federal power can, in the nature of things, be advantageously administered.

James Madison, Federalist # 46

If it be true that all governments rest on opinion, it is no less true that the strength of opinion in each individual, and its practical influence on his conduct, depend much on the number which he supposes to have entertained the same opinion. The reason of man, like man himself, is timid and cautious when left alone, and acquires firmness and confidence in proportion to the number with which it is associated.

James Madison, Federalist # 49

We are to recollect that all the existing constitutions were formed in the midst of a danger which repressed the passions most unfriendly to order and concord: of an enthusiastic confidence of the people in their patriotic leaders, which stifled the ordinary diversity of opinions on great national questions; of a universal ardor for new and opposite forms, produced by a universal resentment and indignation against the ancient government; and whilst no spirit of party connected with the changes to be made, or the abuses to be reformed, could mingle its leaven in the operation, The future situations in which we must expect to be usually placed do not present any equivalent security against the danger which is apprehended.

James Madison, Federalist # 49

Let us consult experience, the guide that ought always to be followed whenever it can be found.

James Madison, Federalist # 52

It is not possible that an assembly of men called for the most part from pursuits of a private nature, continued in appointment for a short time and led by no permanent motive to devote the intervals of public occupation to a study of the laws, the affairs, and the comprehensive interests of their country, should, if left wholly to themselves, escape a variety of important errors in the exercise of their legislative trust.

James Madison, Federalist # 62

In proportion as the United States assume a national form and a national character, so will the good of the whole be more and more an object of attention, and the government must be a weak one indeed if it should forget that the good of the whole can only be promoted by advancing the good of each of the parts or members which compose the whole.

John Jay, Federalist # 64

If mankind were to resolve to agree in no institution of government, until every part of it had been adjusted to the most exact standard of perfection, society would soon become a general scene of anarchy, and the world a desert.

Alexander Hamilton, Federalist # 65

the true test of a good government is its aptitude and tendency to produce a good administration.

Alexander Hamilton, Federalist # 68

But the principal argument for reposing the power of pardoning in this case in the Chief Magistrate is this: in seasons of insurrection or rebellion, there are often critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquillity of the commonwealth; and which, if suffered to pass unimproved, it may never be possible afterwards to recall.

Alexander Hamilton, Federalist # 74

No advocate of the measure can be found who will not declare as his sentiment that the system, though it may not be perfect in every part, is, upon the whole, a good one; is the best that the present views and circumstances of the country will permit; and is such a one as promises every species of security which a reasonable people can desire.

Alexander Hamilton, Federalist # 85

I never expect to see a perfect work from imperfect man. The result of the deliberations of all collective bodies must necessarily be a compound, as well of the errors and prejudices as of the good sense and wisdom of the individuals of whom they are composed.

Alexander Hamilton, Federalist # 85

[Quoting Hume's Essays, Vol. I, page 128: "The Rise of Arts and Sciences."] "To balance a large state or society [says he], whether monarchical or republican, on general laws, is a work of so great difficulty that no human genius, however comprehensive, is able, by the mere dint of reason and reflection, to effect it. The judgments of many must unite in the work; EXPERIENCE must guide their labor; TIME must bring it to perfection, and the

FEELING of inconveniences must correct the mistakes which they inevitably fall into in their first trials and experiments."

Alexander Hamilton, Federalist # 85

A NATION without a NATIONAL GOVERNMENT is, in my view, an awful spectacle. The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a PRODIGY, to the completion of which I look forward with trembling anxiety.

Alexander Hamilton, Federalist # 85

Monetary system

The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of paper money on the necessary confidence between man and man, on the necessary confidence in the public councils, on the industry and morals of the people, and on the character of republican government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice of the power which has been the instrument of it.

In addition to these persuasive considerations, it may be observed that the same reasons which show the necessity of denying to the States the power of regulating coin prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin. 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.

The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit paper money than to coin gold or silver. The power to make anything but gold and silver a tender in payment of debts is withdrawn from the States on the same principle with that of issuing a paper currency.

James Madison, Federalist # 44

National concerns sacrificed to local interests (pork barreling)

Everyone knows that a great proportion of the errors committed by the State legislatures proceeds from the disposition of the members to sacrifice the comprehensive and permanent interest of the State to the particular and separate views of the counties or districts in which they reside.

And if they do not sufficiently enlarge their policy to embrace the collective welfare of their particular State, how can it be imagined that they will make the aggregate prosperity of the Union, and the dignity and respectability of its government, the objects of their affections and consultations? For the same reason that the members of the State legislatures will be unlikely to attach themselves sufficiently to national objects, the members of the federal legislature will be likely to attach themselves too much to local objects.

The States will be to the latter what counties and towns are to the former. Measures will too often be decided according to their probable effect, not on the national prosperity and happiness, but on the prejudices, interests, and pursuits of the governments and people of the individual States.

James Madison, Federalist # 46

the members [of the Continental Congress] have but too frequently displayed the character rather of partisans of their respective States than of impartial guardians of a common interest

James Madison, Federalist # 46

Novelty of the Constitution

But why is the experiment of an extended republic to be rejected merely because it may comprise what is new? Is it not the glory of the people of America that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience?

To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness.

Had no important step been taken by the leaders of the Revolution for which a precedent could not be discovered, no government established of which an exact model did not present itself, the people of the United States might at this moment have been numbered among the melancholy victims of misguided councils, must at best have been laboring under the weight of some of those forms which have crushed the liberties of the rest of mankind.

Happily for America, happily we trust for the whole human race, they pursued a new and more noble course. They accomplished a revolution which has no parallel in the annals of human society. They reared the fabrics of governments which have no model on the face of the globe. They formed the design of a great Confederacy, which it is incumbent on their successors to improve and perpetuate. If their works betray imperfections, we wonder at the fewness of them.

James Madison, Federalist # 14

Paper money

A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it, in the same proportion as such a malady is more likely to taint a particular county or district than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government.

James Madison, Federalist # 10

The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of paper money on the necessary confidence between man and man, on the necessary confidence in the public councils, on the industry and morals of the people, and on the character of republican government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice of the power which has been the instrument of it.

In addition to these persuasive considerations, it may be observed that the same reasons which show the necessity of denying to the States the power of regulating coin prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin. 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.

The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit paper money than to coin gold or silver. The power to make anything but gold and silver a tender in payment of debts is withdrawn from the States on the same principle with that of issuing a paper currency.

James Madison, Federalist # 44

It has been asked what is meant by "cases arising under the Constitution," in contradistinction from those "arising under the laws of the United States"? The difference has been already explained. All the restrictions upon the authority of the State legislatures furnish examples of it.

They are not, for instance, to emit paper money; but the interdiction results from the Constitution and will have no connection with any law of the United States. Should paper money, notwithstanding, be emitted, the controversies concerning it would be cases arising under the Constitution and not the laws of the United States, in the ordinary signification of the terms.

Alexander Hamilton, Federalist # 80

Parchment barriers insufficient

Will it be sufficient to mark, with precision, the boundaries of these departments in the constitution of the government, and to trust to these parchment barriers against the encroaching spirit of power?

But experience assures us that the efficacy of the provision has been greatly overrated; and that some more adequate defense is indispensably necessary for the more feeble against the more powerful members of the government. The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex.

James Madison, Federalist # 48

a mere demarcation on parchment of the constitutional limits of the several departments is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands.

James Madison, Federalist # 48

Part-time legislature

The representatives of each State will not only bring with them a considerable knowledge of its laws, and a local knowledge of their respective districts, but will probably in all cases have been members, and may even at the very time be members, of the State legislature

James Madison, Federalist # 56

People - the ultimate source of authority

It has not a little contributed to the infirmities of the existing federal system that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers, and has in some instances given birth to the enormous doctrine of a right of legislative repeal.

Owing its ratification to the law of a State, it has been contended that the same authority might repeal the law by which it was ratified. However gross a heresy it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates.

The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.

Alexander Hamilton, Federalist # 22

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government

Alexander Hamilton, Federalist # 28

The genius of republican liberty seems to demand on one side not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people by a short duration of their appointments; and that even during

this short period the trust should be placed not in a few, but a number of hands. Stability, on the contrary, requires that the hands in which power is lodged should continue for a length of time the same. A frequent change of men will result from a frequent return of elections; and a frequent change of measures from a frequent change of men: whilst energy in government requires not only a certain duration of power, but the execution of it by a single hand.

James Madison, Federalist # 37

If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period, or during good behavior.

It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic.

James Madison, Federalist # 39

In order to ascertain the real character of the government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by

the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a federal act.

James Madison, Federalist # 39

They must have reflected that in all great changes of established governments forms ought to give way to substance; that a rigid adherence in such cases to the former would render nominal and nugatory the transcendent and precious right of the people to "abolish or alter their governments as to them shall seem most likely to effect their safety and happiness," since it is impossible for the people spontaneously and universally to move in concert towards their object; and it is therefore essential that such changes be instituted by some informal and unauthorized propositions, made by some patriotic and respectable citizen or number of citizens.

James Madison, Federalist # 40

Truth, no less than decency, requires that the event in every case should be supposed to depend on the sentiments and sanction of their common constituents.

James Madison, Federalist # 46

Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority.

James Madison, Federalist # 51

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

Alexander Hamilton, Federalist # 78

It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents. It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts.

A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both, and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws rather than by those which are not fundamental.

This exercise of judicial discretion in determining between two contradictory laws is exemplified in a familiar instance. It not uncommonly happens that there are two statutes existing at one time, clashing in whole or in part with each other and neither of them containing any repealing clause or expression. In such a case, it is the province of the courts to liquidate and fix their meaning and operation. So far as they can, by fair construction, be reconciled to each other, reason and law conspire to dictate that this should be done; where this is impracticable, it becomes a matter of necessity to give effect to one in exclusion of the other.

The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred to the first. But this is a mere rule of construction, not derived from any positive law but from the nature and reason of the thing. It is a rule not enjoined upon the courts by legislative provision but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable that between the interfering acts of an equal authority that which was the last indication of its will should have the preference.

But in regard to the interfering acts of a superior and subordinate authority of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that accordingly, whenever a particular statute contravenes the Constitution, it will be the duty of the judicial tribunals to adhere to the latter and disregard the former.

Alexander Hamilton, Federalist # 78

People must protect themselves from the government

The smallness of the army renders the natural strength of the community an overmatch for it; and the citizens, not habituated to look up to the military power for protection, or to submit to its oppressions, neither love nor fear the soldiery; they view them with a spirit of jealous acquiescence in a necessary evil and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights.

The army under such circumstances may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

Alexander Hamilton, Federalist # 8

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government

Alexander Hamilton, Federalist # 28

Were it admitted, however, that the federal government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such encroachments. If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and, of course, by means on the spot and depending on the State alone.

The opposition of the federal government, or the interposition of federal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be

resorted to with reluctance and difficulty. On the other hand, should an unwarrantable measure of the federal government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand.

The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the State; the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised; would form, in a large State, very serious impediments; and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the federal government would hardly be willing to encounter.

But ambitious encroachments of the federal government on the authority of the State governments would not excite the opposition of a single State, or of a few States only. They would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened.

Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other. But what degree of madness could ever drive the federal government to such an extremity?

James Madison, Federalist # 46

The only refuge left for those who prophesy the downfall of the State governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger. That the people and the States should, for a sufficient period of time, elect

an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm and continue to supply the materials until it should be prepared to burst on their own heads must appear to everyone more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism.

Extravagant as the supposition is, let it, however, be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government: still it would not be going too far to say that the State governments with the people on their side would be able to repel the danger.

The highest number to which, according to the best computation, a standing army can be carried in any country does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops.

Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the

people with arms. And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it.

Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment by a blind and tame submission to the long train of insidious measures which must precede and produce it.

James Madison, Federalist # 46

The true question to be decided, then, is whether the smallness of the number, as a temporary regulation, be dangerous to the public liberty? Whether sixty-five members for a few years, and a hundred or two hundred for a few more, be a safe depositary for a limited and well-guarded power of legislating for the United States? I must own that I could not give a negative answer to this question, without first obliterating every impression which I have received with regard to the present genius of the people of America, the spirit which actuates the State legislatures, and the principles which are incorporated with the political character of every class of citizens.

I am unable to conceive that the people of America, in their present temper, or under any circumstances which can speedily happen, will choose, and every second year repeat the choice of, sixty-five or a hundred men who would be disposed to form and pursue a scheme of tyranny or treachery.

I am unable to conceive that the State legislatures, which must feel so many motives to watch and which possess so many means of counteracting the federal legislature, would fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents. I am equally unable to conceive that there are at this time, or can be in any short time, in the United States, any sixty-five or a hundred men capable of recommending themselves to the choice of the people at large, who would either desire or dare, within the short space of two years, to betray the solemn trust committed to them.

What change of circumstances time, and a fuller population of our country may produce requires a prophetic spirit to declare, which makes no part of my pretensions. But judging from the circumstances now before us, and from the probable state of them within a moderate period of time, I must pronounce that the liberties of America cannot be unsafe in the number of hands proposed by the federal Constitution.

James Madison, Federalist # 55

the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together.

It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government

degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

James Madison, Federalist # 57

WE HAVE seen that an uncontrollable power over the elections to the federal government could not, without hazard, be committed to the State legislatures. Let us now see what would be the danger on the other side; that is, from confiding the ultimate right of regulating its own elections to the Union itself. . . . But it is alleged that it might be employed in such a manner as to promote the election of some favorite class of men in exclusion of others by confining the places of election to particular districts and rendering it impracticable to the citizens at large to partake in the choice.

. . . The improbability of the attempt may be satisfactorily inferred from this single reflection, that it could never be made without causing an immediate revolt of the great body of the people, headed and directed by the State governments. It is not difficult to conceive that this characteristic right of freedom may, in certain turbulent and factious seasons, be violated, in respect to a particular class of citizens, by a victorious majority; but that so fundamental a privilege, in a country so situated and enlightened, should be invaded to the prejudice of the great mass of the people by the deliberate policy of the government without occasioning a popular revolution, is altogether inconceivable and incredible.

Alexander Hamilton, Federalist # 60

Policy changes

The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and indignation that sudden changes and legislative interferences, in cases affecting personal rights, become jobs in the hands of enterprising and influential speculators, and snares to the more industrious and less informed part of the community.

They have seen, too, that one legislative interference is but the first link of a long chain of repetitions, every subsequent interference being naturally produced by the effects of the preceding.

James Madison, Federalist # 44

The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?

Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few over the industrious and uninformed mass of the people. Every new regulation concerning commerce or revenue, or in any manner affecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens. This is a state of things in which it may be said with some truth that laws are made for the few, not for the many.

James Madison, Federalist # 62

What prudent merchant will hazard his fortunes in any branch of commerce when he knows not but that his plans may be rendered unlawful before they can be executed?

James Madison, Federalist # 62

It may perhaps be said that the power of preventing bad laws includes that of preventing good ones; and may be used to the one purpose as well as to the other. But this objection will have little weight with those who can properly estimate the mischiefs of that inconstancy and mutability in the laws, which form the greatest blemish in the character and genius of our governments. They will consider every institution calculated to restrain the excess of lawmaking, and to keep things in the same state in which they happen to be at any given period as much more likely to do good than harm; because it is favorable to greater stability in the system of legislation. The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones.

Alexander Hamilton, Federalist # 73

Property

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.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves.

The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society.

A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes

have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities that where no substantial occasion presents itself the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts.

But 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.

James Madison, Federalist # 10

Purpose of government

The principal purposes to be answered by union are these the common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries.

Alexander Hamilton, Federalist # 23

Was, then, the American Revolution effected, was the American Confederacy formed, was the precious blood of thousands spilt, and the hard-earned substance of millions lavished, not that the people of America should enjoy peace, liberty, and safety, but that the governments of the individual States, that particular municipal establishments, might enjoy a certain extent of power and be arrayed with certain dignities and attributes of sovereignty?

We have heard of the impious doctrine in the old world, that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the new, in another shape that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form? It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people, is the supreme object to be pursued; and that no form of government whatever has any other value than as it may be fitted for the attainment of this object.

James Madison, Federalist # 45

it is the reason, alone, of the public, that ought to control and regulate the government.

James Madison, Federalist # 49

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.

James Madison, Federalist # 51

Government is instituted no less for protection of the property than of the persons of individuals. James Madison, Federalist # 54

A good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained. Some governments are deficient in both these qualities; most governments are deficient in the first. I scruple not to assert that in American governments too little attention has been paid to the last.

James Madison, Federalist # 62

Qualifications for office

Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people.

James Madison, Federalist # 57

Ratification; Method and significance of

First. -- In order to ascertain the real character of the government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a federal act.

James Madison, Federalist # 39

Rebellion

But it may be again asked, Who is to judge of the necessity and propriety of the laws to be passed for executing the powers of the Union? I answer first that this question arises as well and as fully upon the simple grant of those powers as upon the declaratory clause; and I answer in the second place that the national government, like every other, must judge, in the first instance, of the proper exercise of its powers, and its constituents in the last. If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify. The propriety of a law, in a constitutional light, must always be determined by the nature of the powers upon which it is founded.

Alexander Hamilton, Federalist # 33

WE HAVE seen that an uncontrollable power over the elections to the federal government could not, without hazard, be committed to the State legislatures. Let us now see what would be the danger on the other side; that is, from confiding the ultimate right of regulating its own elections to the Union itself. . . . But it is alleged that it might be employed in such a manner as to promote the election of some favorite class of men in exclusion of others by confining the places of election to particular districts and rendering it impracticable to the citizens at large to partake in the choice.

. . . The improbability of the attempt may be satisfactorily inferred from this single reflection, that it could never be made without causing an immediate revolt of the great body of the people, headed and directed by the State governments. It is not difficult to conceive that this characteristic right of freedom may, in certain turbulent and factious seasons, be violated, in respect to a particular class of citizens, by a victorious majority; but that so fundamental a privilege, in a country so situated and enlightened, should be invaded to the prejudice of the great mass of the people by the deliberate policy of the

government without occasioning a popular revolution, is altogether inconceivable and incredible.

Alexander Hamilton, Federalist # 60

[Speaking of those who would devise unjust election rules:] Would they not fear that citizens, not less tenacious than conscious of their rights, would flock from the remotest extremes of their respective States to the places of election, to overthrow their tyrants and to substitute men who would be disposed to avenge the violated majesty of the people?

Alexander Hamilton, Federalist # 60

Representatives to control purse strings

a constitutional and infallible resource still remains with the larger States by which they will be able at all times to accomplish their just purposes. The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the support of government.

They, in a word, hold the purse --- that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government.

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

James Madison, Federalist # 58

Representatives to know the will of constituents

Is it not natural that a man who is a candidate for the favor of the people, and who is dependent on the suffrages of his fellow-citizens for the continuance of his public honors, should take care to inform himself of their dispositions and inclinations and should be willing to allow them their proper degree of influence upon his conduct? This dependence, and the necessity of being bound, himself and his posterity, by the laws to which he gives his assent are the true and they are the strong cords of sympathy between the representative and the constituent.

Alexander Hamilton, Federalist # 35

It is a sound and important principle that the representative ought to be acquainted with the interests and circumstance of his constituents. But this principle can extend no further than to those circumstances and interests to which the authority and care of the representative relate.

James Madison, Federalist # 56

Republican form; ingredients of

A republic, by which I mean a government in which the scheme of representation takes place

James Madison, Federalist # 10

Let us examine the points in which it varies from pure democracy, ...

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens and greater sphere of country over which the latter may be extended.

The effect of the first difference is, on the one hand, 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.

On the other hand, the effect may be inverted. 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. The question resulting is, whether small or extensive republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the republic may be the representatives must be raised to a certain number in order to guard against the cabals of a few; and that however large it may be they must be limited to a certain number in order to

guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionally greatest in the small republic, it follows that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, 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; and the suffrages of the people being more free, will be more likely to center on men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

James Madison, Federalist # 10

Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other.

James Madison, Federalist # 10

... in a democracy the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy,

consequently, must be confined to a small spot. A republic may be extended over a large region. James Madison, Federalist # 14

As the natural limit of a democracy is that distance from the central point which will just permit the most remote citizens to assemble as often as their public functions demand, and will include no greater number than can join in those functions, so the natural limit of a republic is that distance from the center which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.

James Madison, Federalist # 14

The genius of republican liberty seems to demand on one side not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people by a short duration of their appointments; and that even during this short period the trust should be placed not in a few, but a number of hands.

Stability, on the contrary, requires that the hands in which power is lodged should continue for a length of time the same. A frequent change of men will result from a frequent return of elections; and a frequent change of measures from a frequent change of men: whilst energy in government requires not only a certain duration of power, but the execution of it by a single hand.

James Madison, Federalist # 37

The first question that offers itself is whether the general form and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom to rest all our political experiments on the capacity of mankind for self-government.

James Madison, Federalist # 39

What, then, are the distinctive characters of the republican form? Were an answer to this question to be sought, not by recurring to principles but in the application of the term by political writers to the constitutions of different States, no satisfactory one would ever be found. ...

If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period, or during good behavior.

It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic.

James Madison, Federalist # 39

The republican principle demands that the deliberate sense of the community should govern the conduct of those to whom they intrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men, who flatter their prejudices to betray their interests.

It is a just observation that the people commonly intend the PUBLIC GOOD. This often applies to their very errors. But their good sense would despise the adulator who should pretend that they always reason right about the means of promoting it. They know from experience that they sometimes err; and the wonder is that they so seldom err as they do,

beset as they continually are by the wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate, by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess rather than to deserve it.

When occasions present themselves in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed to be the guardians of those interests to withstand the temporary delusion in order to give them time and opportunity for more cool and sedate reflection. Instances might be cited in which a conduct of this kind has saved the people from very fatal consequences of their own mistakes, and has procured lasting monuments of their gratitude to the men who had courage and magnanimity enough to serve them at the peril of their displeasure.

Alexander Hamilton, Federalist # 71

Republics require enlightened citizenry

It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.

Alexander Hamilton, Federalist # 1

the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together.

It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional

laws; and, above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

James Madison, Federalist # 57

A good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained. Some governments are deficient in both these qualities; most governments are deficient in the first. I scruple not to assert that in American governments too little attention has been paid to the last.

James Madison, Federalist # 62

Respectability abroad

An individual who is observed to be inconstant to his plans, or perhaps to carry on his affairs without any plan at all, is marked at once by all prudent people as a speedy victim to his own unsteadiness and folly. His more friendly neighbors may pity him, but all will decline to connect their fortunes with his; and not a few will seize the opportunity of making their fortunes out of his. One nation is to another what one individual is to another; with this melancholy distinction, perhaps, that the former, with fewer of the benevolent emotions than the latter, are under fewer restraints also from taking undue advantage of the indiscretions of each other. Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of its wiser neighbors.

James Madison, Federalist # 62

No government, any more than an individual, will long be respected without being truly respectable; nor be truly respectable without possessing a certain portion of order and stability.

James Madison, Federalist # 62

Rights given up upon joining society

Nothing is more certain than the indispensable necessity of government; and it is equally undeniable that whenever and however it is instituted, the people must cede to it some of their natural rights, in order to vest it with requisite powers.

John Jay, Federalist # 2

Seat of government - exclusive legislation over

[Regarding power to] "exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the legislatures of the States in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

The indispensable necessity of complete authority at the seat of government carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it not only the public authority might be insulted and its proceedings interrupted with impunity, but a dependence of the members of the general government on the State comprehending the seat of the government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the government and dissatisfactory to the other members of the Confederacy.

This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to a removal of the government, as still further to abridge its necessary independence. The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to

concur in the cession will be derived from the whole people of the State in their adoption of the Constitution, every imaginable objection seems to be obviated.

James Madison, Federalist # 43

The necessity of a like authority over forts, magazines, etc., established by the general government, is not less evident. The public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular State. Nor would it be proper for the places on which the security of the entire Union may depend to be in any degree dependent on a particular member of it. All objections and scruples are here also obviated by requiring the concurrence of the States concerned in every such establishment.

James Madison, Federalist # 43

Senate; Nature of the

one branch of the legislature is a representation of citizens, the other of the States

James Madison, Federalist # 58

It is certainly true that the State legislatures, by forbearing the appointment of senators, may destroy the national government. . . . So far as that construction may expose the Union to the possibility of injury from the State legislatures, it is an evil; but it is an evil which could not have been avoided without excluding the States, in their political capacities, wholly from a place in the organization of the national government. If this had been done it would doubtless have been interpreted into an entire dereliction of the federal principle, and would certainly have deprived the State governments of that absolute safeguard which they will enjoy under this provision.

Alexander Hamilton, Federalist # 59

It is a misfortune incident to republican government, though in a less degree than to other governments, that those who administer it may forget their obligations to their constituents and prove unfaithful to their important trust. In this point of view a 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.

James Madison, Federalist # 62

Slavery

It were doubtless to be wished that the power of prohibiting the importation of slaves had not been postponed until the year 1808, or rather that it had been suffered to have immediate operation.

James Madison, Federalist # 42

It ought to be considered as a great point gained in favor of humanity that a period of twenty years may terminate forever, within these States, a traffic which has so long and so loudly upbraided the barbarism of modern policy

James Madison, Federalist # 42

Standing armies

Safety from external danger is the most powerful director of national conduct. Even 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.

Alexander Hamilton, Federalist # 8

The institutions chiefly alluded to are STANDING ARMIES and the correspondent appendages of military establishments.

Alexander Hamilton, Federalist # 8

Thus we should, in a little time, see established in every part of this country the same engines of despotism which have been the scourge of the old world. [Speaking of standing armies.]

Alexander Hamilton, Federalist # 8

The smallness of the army renders the natural strength of the community an overmatch for it; and the citizens, not habituated to look up to the military power for protection, or to submit to its oppressions, neither love nor fear the soldiery; they view them with a spirit of jealous acquiescence in a necessary evil and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights.

The army under such circumstances may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

Alexander Hamilton, Federalist # 8

garrisons must either be furnished by occasional detachments from the militia, or by permanent corps in the pay of the government. The first is impracticable; and if practicable, would be pernicious. The militia would not long, if at all, submit to be dragged from their occupations and families to perform that most disagreeable duty in times of profound peace. And if they could be prevailed upon or compelled to do it, the increased expense of a frequent rotation of service, and the loss of labor and disconcertion of the industrious pursuits of individuals, would form conclusive objections to the scheme. It would be as burdensome and injurious to the public as ruinous to private citizens.

Alexander Hamilton, Federalist # 24

As far as an army may be considered as a dangerous weapon of power, it had better be in those hands of which the people are most likely to be jealous than in those of which they are least likely to be jealous. For it is a truth, which the experience of all ages has attested, that the people are commonly most in danger when the means of injuring their rights are in the possession of those of whom they entertain the least suspicion.

Alexander Hamilton, Federalist # 25

If, to obviate this consequence, it should be resolved to extend the prohibition to the raising of armies in time of peace, the United States would then exhibit the most extraordinary spectacle which the world has yet seen -- that of a nation incapacitated by its Constitution to prepare for defense before it was actually invaded. As the ceremony of a formal

denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for as the legal warrant to the government to begin its levies of men for the protection of the State. We must receive the blow before we could even prepare to return it.

All that kind of policy by which nations anticipate distant danger and meet the gathering storm must be abstained from, as contrary to the genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders and invite them by our weakness to seize the naked and defenseless prey, because we are afraid that rulers, created by our choice, dependent on our will, might endanger that liberty by an abuse of the means necessary to its preservation.

Here I expect we shall be told that the militia of the country is its natural bulwark, and would be at all times equal to the national defense. This doctrine, in substance, had like to have lost us our independence. It cost millions to the United States that might have been saved.

The facts which from our own experience forbid a reliance of this kind are too recent to permit us to be the dupes of such a suggestion. The steady operations of war against a regular and disciplined army can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigor, confirm this position.

The American militia, in the course of the late war, have, by their valor on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

Alexander Hamilton, Federalist # 25

the people of America may be said to have derived an hereditary impression of danger to liberty from standing armies in time of peace.

Alexander Hamilton, Federalist # 26

The legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents.

They are not at liberty to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence.

Alexander Hamilton, Federalist # 26

the State legislatures, who will always be not only vigilant but suspicious and jealous guardians of the rights of the citizens against encroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if anything improper appears, to sound the alarm to the people, and not only to be the VOICE, but, if necessary, the ARM of their discontent.

Schemes to subvert the liberties of a great community require time to mature them for execution. An army, so large as seriously to menace those liberties, could only be formed by progressive augmentations; which would suppose not merely a temporary combination between the legislature and executive, but a continued conspiracy for a series of time.

Alexander Hamilton, Federalist # 26

It has been said that the provision which limits the appropriation of money for the support of an army to the period of two years would be unavailing, because the executive, when once possessed of a force large enough to awe the people into submission, would find resources in that very force sufficient to enable him to dispense with supplies from the acts

of legislature. But the question again recurs, upon what pretense could he be put in possession of a force of that magnitude in time of peace?

Alexander Hamilton, Federalist # 26

It is not easy to conceive a possibility that dangers so formidable can assail the whole Union as to demand a force considerable enough to place our liberties in the least jeopardy, especially if we take into our view the aid to be derived from the militia, which ought always to be counted upon as a valuable and powerful auxiliary.

Alexander Hamilton, Federalist # 26

there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community and to maintain the just authority of the laws against those violent invasions of them which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and, after all, the only efficacious security for the rights and privileges of the people which is attainable in civil society.

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers may be exerted with infinitely better prospect of success than against those of the rulers of an individual State.

In a single State, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts of which it consists, having no distinct government in each, can take no regular measures for defense. The citizens must rush

tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo. The smaller the extent of the territory, the more difficult will it be for the people to form a regular or systematic plan of opposition, and the more easy will it be to defeat their early efforts.

Intelligence can be more speedily obtained of their preparations and movements, and the military force in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. In this situation there must be a peculiar coincidence of circumstances to insure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state, provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small, and of course more competent to a struggle with the attempts of the government to establish a tyranny.

But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress. How wise will it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large.

The legislatures will have better means of information. They can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people,

they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect against the enterprises of ambitious rulers in the national councils. If the federal army should be able to quell the resistance of one State, the distant States would be able to make head with fresh forces. The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself, its efforts would be renewed, and its resistance revive.

We should recollect that the extent of the military force must, at all events, be regulated by the resources of the country. For a long time to come it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase.

When will the time arrive that the federal government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire, who are in a situation, through the medium of their State governments, to take measures for their own defense, with all the celerity, regularity, and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

Alexander Hamilton, Federalist # 28

If a well-regulated militia be the most natural defense of a free country, it ought certainly to be under the regulation and at the disposal of that body which is constituted the guardian of the national security. If standing armies are dangerous to liberty, an efficacious power over the militia in the same body ought, as far as possible, to take away the inducement and the pretext to such unfriendly institutions.

If the federal government can command the aid of the militia in those emergencies which call for the military arm in support of the civil magistrate, it can the better dispense with the employment of a different kind of force. If it cannot avail itself of the former, it will be obliged to recur to the latter. To render an army unnecessary will be a more certain method of preventing its existence than a thousand prohibitions upon paper.

In order to cast an odium upon the power of calling forth the militia to execute the laws of the Union, it has been remarked that there is nowhere any provision in the proposed Constitution for requiring the aid of the POSSE COMITATUS to assist the magistrate in the execution of his duty; whence it has been inferred that military force was intended to be his only auxiliary.

Alexander Hamilton, Federalist # 29

The same persons who tell us in one breath that the powers of the federal government will be despotic and unlimited inform us in the next that it has not authority sufficient even to call out the POSSE COMITATUS. The latter, fortunately, is as much short of the truth as the former exceeds it.

It would be as absurd to doubt that a right to pass all laws necessary and proper to execute its declared powers would include that of requiring the assistance of the citizens to the officers who may be intrusted with the execution of those laws as it would be to believe that a right to enact laws necessary and proper for the imposition and collection of taxes would involve that of varying the rules of descent and of the alienation of landed property, or of abolishing the trial by jury in cases relating to it.

It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of color, it will follow that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid as it is illogical. What reason could there be to infer that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary?

Alexander Hamilton, Federalist # 29

"The project of disciplining all the militia of the United States is as futile as it would be injurious if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day, nor a week nor even a month, that will suffice for the attainment of it.

To oblige the great body of the yeomanry and of the other classes of the citizens to be under arms for the purpose of going through military exercises and evolutions, as often as might be necessary to acquire the degree of perfection which would entitle them to the character of a well-regulated militia, would be a real grievance to the people and a serious public inconvenience and loss.

It would form an annual deduction from the productive labor of the country to an amount which, calculating upon the present numbers of the people, would not fall far short of a million pounds. To attempt a thing which would abridge the mass of labor and industry to so considerable an extent would be unwise: and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

"But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable; yet it is a matter of the utmost importance that a well-digested plan should, as soon as possible, be adopted for the proper establishment of the militia. The attention of the government ought particularly to be directed to the formation of a select corps of moderate size, upon such principles as will really fit it for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of well-trained militia ready to take the field whenever the defense of the State shall require it.

This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist."

Alexander Hamilton, Federalist # 29

There is something so far-fetched and so extravagant in the idea of danger to liberty from the militia that one is at a loss whether to treat it with gravity or with raillery ... Where in the name of common sense are our fears to end if we may not trust our sons, our brothers, our neighbors, our fellow-citizens? What shadow of danger can there be from men who are daily mingling with the rest of their countrymen and who participate with them in the same feelings, sentiments, habits, and interests?

Alexander Hamilton, Federalist # 29

If there should be an army to be made use of as the engine of despotism, what need of the militia? If there should be no army, whither would the militia, irritated at being required to undertake a distant and distressing expedition for the purpose of riveting the chains of slavery upon a part of their countrymen, direct their course, but to the seat of the tyrants, who had meditated so foolish as well as so wicked a project to crush them in their imagined intrenchments of power, and to make them an example of the just vengeance of an abused and incensed people?

Alexander Hamilton, Federalist # 29

A standing force, therefore, is a dangerous, at the same time that it may be a necessary, provision. On the smallest scale it has its inconveniences. On an extensive scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution. A wise nation will combine all these considerations; and, whilst it does not rashly preclude itself from any resource which may become essential to its safety, will exert all its prudence in diminishing both the necessity and the danger of resorting to one which may be inauspicious to its liberties.

James Madison, Federalist # 41

[Speaking of the navy:] The batteries most capable of repelling foreign enterprises on our safety are happily such as can never be turned by a perfidious government against our liberties.

James Madison, Federalist # 41

The only refuge left for those who prophesy the downfall of the State governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger.

That the people and the States should, for a sufficient period of time, elect an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm and continue to supply the materials until it should be prepared to burst on their own heads must appear to everyone more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism.

Extravagant as the supposition is, let it, however, be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government: still it would not be going too far to say that the State governments with the people on their side would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms.

This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties and united and conducted by governments possessing their affections and confidence.

It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it.

Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment by a blind and tame submission to the long train of insidious measures which must precede and produce it.

James Madison, Federalist # 46

State governments need voice in federal/national government

The definition of a confederate republic seems simply to be "an assemblage of societies," or an association of two or more states into one state. The extent, modifications, and objects of the federal authority are mere matters of discretion. So long as the separate organization of the members be not abolished; so long as it exists, by a constitutional necessity, for local purposes; though it should be in perfect subordination to the general authority of the union, it would still be, in fact and in theory, an association of states, or a confederacy.

The proposed Constitution, so far from implying an abolition of the State governments, makes them constituent parts of the national sovereignty, by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power. This fully corresponds, in every rational import of the terms, with the idea of a federal government.

Alexander Hamilton, Federalist # 9

It is certainly true that the State legislatures, by forbearing the appointment of senators, may destroy the national government. . . . So far as that construction may expose the Union to the possibility of injury from the State legislatures, it is an evil; but it is an evil which could not have been avoided without excluding the States, in their political capacities, wholly from a place in the organization of the national government.

If this had been done it would doubtless have been interpreted into an entire dereliction of the federal principle, and would certainly have deprived the State governments of that absolute safeguard which they will enjoy under this provision.

Alexander Hamilton, Federalist # 59

States' rights

I affirm that (with the sole exception of duties on imports and exports) they [the states] would, under the plan of the convention, retain that authority in the most absolute and unqualified sense; and that an attempt on the part of the national government to abridge them in the exercise of it would be a violent assumption of power, unwarranted by any article or clause of its Constitution.

An entire consolidation of the States into one complete national sovereignty would imply an entire subordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But 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.

This exclusive delegation, or rather this alienation, of State sovereignty would only exist in three cases: where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union, and in another prohibited the States from exercising the like authority; and where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant.

I use these terms to distinguish this last case from another which might appear to resemble it, but which would, in fact, be essentially different; I mean where the exercise of a concurrent jurisdiction might be productive of occasional interferences in the policy of any branch of administration, but would not imply any direct contradiction or repugnancy in point of constitutional authority.

The necessity of a concurrent jurisdiction in certain cases results from the division of the sovereign power; and the rule that all authorities, of which the States are not explicitly divested in favor of the Union, remain with them in full vigor is not only a theoretical consequence of that division, but is clearly admitted by the whole tenor of the instrument which contains the articles of the proposed Constitution. We there find that, notwithstanding the affirmative grants of general authorities, there has been the most pointed care in those cases where it was deemed improper that the like authorities should reside in the States to insert negative clauses prohibiting the exercise of them by the States.

The tenth section of the first article consists altogether of such provisions. This circumstance is a clear indication of the sense of the convention, and furnishes a rule of interpretation out of the body of the act, which justifies the position I have advanced and refutes every hypothesis to the contrary.

Alexander Hamilton, Federalist # 32

Was, then, the American Revolution effected, was the American Confederacy formed, was the precious blood of thousands spilt, and the hard-earned substance of millions lavished, not that the people of America should enjoy peace, liberty, and safety, but that the governments of the individual States, that particular municipal establishments, might enjoy a certain extent of power and be arrayed with certain dignities and attributes of sovereignty?

We have heard of the impious doctrine in the old world, that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the new, in another shape that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form? It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people, is the supreme object to be pursued; and that no form of government whatever has any other value than as it may be fitted for the attainment of this object.

James Madison, Federalist # 45

the States will retain all pre-existing authorities which may not be exclusively delegated to the federal head; and that this exclusive delegation can only exist in one of three cases: where an exclusive authority is, in express terms, granted to the Union; or where a particular authority is granted to the Union and the exercise of a like authority is prohibited to the States; or where an authority is granted to a Union with which a similar authority in the States would be utterly incompatible.

Alexander Hamilton, Federalist # 82

States to guard against encroachments of federal/national government

the State legislatures, who will always be not only vigilant but suspicious and jealous guardians of the rights of the citizens against encroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if anything improper appears, to sound the alarm to the people, and not only to be the VOICE, but, if necessary, the ARM of their discontent.

Alexander Hamilton, Federalist # 26

there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community and to maintain the just authority of the laws against those violent invasions of them which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and, after all, the only efficacious security for the rights and privileges of the people which is attainable in civil society.

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers may be exerted with infinitely better prospect of success than against those of the rulers of an individual State.

In a single State, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts of which it consists, having no distinct government in each, can take no regular measures for defense. The citizens must rush

tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo. The smaller the extent of the territory, the more difficult will it be for the people to form a regular or systematic plan of opposition, and the more easy will it be to defeat their early efforts.

Intelligence can be more speedily obtained of their preparations and movements, and the military force in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. In this situation there must be a peculiar coincidence of circumstances to insure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state, provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small, and of course more competent to a struggle with the attempts of the government to establish a tyranny.

But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government.

The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress. How wise will it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large. The legislatures will have better means of information.

They can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect against the enterprises of ambitious rulers in the national councils.

If the federal army should be able to quell the resistance of one State, the distant States would be able to make head with fresh forces. The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself, its efforts would be renewed, and its resistance revive.

We should recollect that the extent of the military force must, at all events, be regulated by the resources of the country. For a long time to come it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase.

When will the time arrive that the federal government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire, who are in a situation, through the medium of their State governments, to take measures for their own defense, with all the celerity, regularity, and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

Alexander Hamilton, Federalist # 28

Were it admitted, however, that the federal government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have

the advantage in the means of defeating such encroachments. If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and, of course, by means on the spot and depending on the State alone.

The opposition of the federal government, or the interposition of federal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty. On the other hand, should an unwarrantable measure of the federal government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand.

The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the State; the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised; would form, in a large State, very serious impediments; and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the federal government would hardly be willing to encounter.

But ambitious encroachments of the federal government on the authority of the State governments would not excite the opposition of a single State, or of a few States only. They would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole.

The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other. But what degree of madness could ever drive the federal government to such an extremity?

James Madison, Federalist # 46

The only refuge left for those who prophesy the downfall of the State governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger.

That the people and the States should, for a sufficient period of time, elect an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm and continue to supply the materials until it should be prepared to burst on their own heads must appear to everyone more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism. Extravagant as the supposition is, let it, however, be made.

Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government: still it would not be going too far to say that the State governments with the people on their side would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms.

This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who

are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it.

Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms.

And it is not certain that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it.

Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment by a blind and tame submission to the long train of insidious measures which must precede and produce it.

James Madison, Federalist # 46

The true question to be decided, then, is whether the smallness of the number, as a temporary regulation, be dangerous to the public liberty? Whether sixty-five members for a few years, and a hundred or two hundred for a few more, be a safe depositary for a limited

and well-guarded power of legislating for the United States? I must own that I could not give a negative answer to this question, without first obliterating every impression which I have received with regard to the present genius of the people of America, the spirit which actuates the State legislatures, and the principles which are incorporated with the political character of every class of citizens. I am unable to conceive that the people of America, in their present temper, or under any circumstances which can speedily happen, will choose, and every second year repeat the choice of, sixty-five or a hundred men who would be disposed to form and pursue a scheme of tyranny or treachery. I am unable to conceive that the State legislatures, which must feel so many motives to watch and which possess so many means of counteracting the federal legislature, would fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents. I am equally unable to conceive that there are at this time, or can be in any short time, in the United States, any sixty-five or a hundred men capable of recommending themselves to the choice of the people at large, who would either desire or dare, within the short space of two years, to betray the solemn trust committed to them. What change of circumstances time, and a fuller population of our country may produce requires a prophetic spirit to declare, which makes no part of my pretensions. But judging from the circumstances now before us, and from the probable state of them within a moderate period of time, I must pronounce that the liberties of America cannot be unsafe in the number of hands proposed by the federal Constitution. James Madison, Federalist # 55

The executive and legislative bodies of each State will be so many sentinels over the persons employed in every department of the national administration Alexander Hamilton, Federalist # 84

We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority. Alexander Hamilton, Federalist # 85

Suffrage; voters qualifications

Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States.

James Madison, Federalist # 57

Suing a sovereign

It is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent. This is the general sense and the general practice of mankind; and the exemption, as one of the attributes of sovereignty, is now enjoyed by the government of every State in the Union. Unless, therefore, there is a surrender of this immunity in the plan of the convention, it will remain with the States and the danger intimated must be merely ideal.

Alexander Hamilton, Federalist # 81

The contracts between a nation and individuals are only binding on the conscience of the sovereign, and have no pretensions to a compulsive force. They confer no right of action independent of the sovereign will.

Alexander Hamilton, Federalist # 81

Taxes

It is evident from the state of the country, from the habits of the people, from the experience we have had on the point itself that it is impracticable to raise any very considerable sums by direct taxation. Tax laws have in vain been multiplied; new methods to enforce the collection have in vain been tried; the public expectation has been uniformly disappointed, and the treasuries of the States have remained empty.

Alexander Hamilton, Federalist # 12

In so opulent a nation as that of Britain, where direct taxes from superior wealth must be much more tolerable, and from the vigor of the government, much more practicable than in America, far the greatest part of the national revenue is derived from taxes of the indirect kind, from imposts and from excises. Duties on imported articles form a large branch of this latter description.

In America it is evident that we must a long time depend for the means of revenue chiefly on such duties.

Alexander Hamilton, Federalist # 12

The genius of the people will ill brook the inquisitive and peremptory spirit of excise laws.

Alexander Hamilton, Federalist # 12

... personal property is too precarious and invisible a fund to be laid hold of in any other way than by the imperceptible agency of taxes on consumption.

Alexander Hamilton, Federalist # 12

[Speaking of tax collection patrols:] The arbitrary and vexatious powers with which the patrols are necessarily armed would be intolerable in a free country.

Alexander Hamilton, Federalist # 12

A nation cannot long exist without revenue.

Alexander Hamilton, Federalist # 12

Personal estate (as has been before remarked), from the difficulty of tracing it, cannot be subjected to large contributions by any other means than by taxes on consumption.

Alexander Hamilton, Federalist # 12

It is a signal advantage of taxes on articles of consumption that they contain in their own nature a security against excess. They prescribe their own limit, which cannot be exceeded without defeating the end proposed -- that is, an extension of the revenue. When applied to this object, the saying is as just as it is witty that, "in political arithmetic, two and two do not always make four." If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds.

Alexander Hamilton, Federalist # 21

... there must be interwoven in the frame of the government a general power of taxation, in one shape or another.

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 revenue, 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.

Alexander Hamilton, Federalist # 30

in the usual progress of things, the necessities of a nation, in every stage of its existence, will be found at least equal to its resources. Alexander Hamilton, Federalist # 30

It might be demonstrated that the most productive system of finance will always be the least burdensome.

Alexander Hamilton, Federalist # 35

The taxes intended to be comprised under the general denomination of internal taxes may be subdivided into those of the direct and those of the indirect kind. Though the objection be made to both, yet the reasoning upon it seems to be confined to the former branch. And indeed, as to the latter, by which must be understood duties and excises on articles of consumption

Alexander Hamilton, Federalist # 36

It is not contended that the number of people in each State ought not to be the standard for regulating the proportion of those who are to represent the people of each State. The establishment of the same rule for the apportionment of taxes will probably be as little

contested; though the rule itself, in this case, is by no means founded on the same principle. In the former case, the rule is understood to refer to the personal rights of the people, with which it has a natural and universal connection. In the latter, it has reference to the proportion of wealth of which it is in no case a precise measure, and in ordinary cases a very unfit one. But notwithstanding the imperfection of the rule as applied to the relative wealth and contributions of the States, it is evidently the least exceptionable among the practicable rules

James Madison, Federalist # 54

Term limits

The genius of republican liberty seems to demand on one side not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people by a short duration of their appointments; and that even during this short period the trust should be placed not in a few, but a number of hands. Stability, on the contrary, requires that the hands in which power is lodged should continue for a length of time the same. A frequent change of men will result from a frequent return of elections; and a frequent change of measures from a frequent change of men: whilst energy in government requires not only a certain duration of power, but the execution of it by a single hand.

James Madison, Federalist # 37

Titles of nobility

Could any further proof be required of the republican complexion of this system, the most decisive one might be found in its absolute prohibition of titles of nobility, both under the federal and the State governments; and in its express guaranty of the republican form to each of the latter.

James Madison, Federalist # 39

Nothing need be said to illustrate the importance of the prohibition of titles of nobility. This may truly be denominated the cornerstone of republican government; for so long as they are excluded there can never be serious danger that the government will be any other than that of the people.

Alexander Hamilton, Federalist # 84

Treaties

little dependence is to be placed on treaties which have no other sanction than the obligations of good faith, and which oppose general considerations of peace and justice to the impulse of any immediate interest or passion.

Alexander Hamilton, Federalist # 15

Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, must be considered as part of the law of the land. Their true import, as far as respects individuals, must, like all other laws, be ascertained by judicial determinations.

To produce uniformity in these determinations, they ought to be submitted, in the last resort, to one SUPREME TRIBUNAL. And this tribunal ought to be instituted under the same authority which forms the treaties themselves. These ingredients are both indispensable. If there is in each State a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. There are endless diversities in the opinions of men. We often see not only different courts but the judges of the same court differing from each other.

To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last resort a uniform rule of civil justice.

Alexander Hamilton, Federalist # 22

But it is said that the laws of the Union are to be the supreme law of the land. What inference can be drawn from this, or what would they amount to, if they were not to be

supreme? It is evident they would amount to nothing. A LAW, by the very meaning of the term, includes supremacy. It is a rule which those to whom it is prescribed are bound to observe. This results from every political association.

If individuals enter into a state of society, the laws of that society must be the supreme regulator of their conduct. If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers intrusted to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed. It would otherwise be a mere treaty, dependent on the good faith of the parties, and not a government, which is only another word for POLITICAL POWER AND SUPREMACY.

But it will not follow from this doctrine that acts of the larger society which are not pursuant to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. Hence we perceive that the clause which declares the supremacy of the laws of the Union, like the one we have just before considered, only declares a truth which flows immediately and necessarily from the institution of a federal government. It will not, I presume, have escaped observation that it expressly confines this supremacy to laws made pursuant to the Constitution; which I mention merely as an instance of caution in the convention; since that limitation would have been to be understood, though it had not been expressed.

Alexander Hamilton, Federalist # 33

Usurpation

[Quoting Montesquieu]: "It is very probable" (says he *) "that mankind would have been obliged at length to live constantly under the government of a SINGLE PERSON, had they not contrived a kind of constitution that has all the internal advantages of a republican, together with the external force of a monarchical, government. I mean a CONFEDERATE REPUBLIC.

"This form of government is a convention by which several smaller states agree to become members of a larger one, which they intend to form. It is a kind of assemblage of societies that constitute a new one, capable of increasing, by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

"A republic of this kind, able to withstand an external force, may support itself without any internal corruptions. The form of this society prevents all manner of inconveniences.

"If a single member should attempt to usurp the supreme authority, he could not be supposed to have an equal authority and credit in all the confederate states. Were he to have too great influence over one, this would alarm the rest. Were he to subdue a part, that which would still remain free might oppose him with forces independent of those which he had usurped, and overpower him before he could be settled in his usurpation.

"Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The state may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.

"As this government is composed of small republics, it enjoys the internal happiness of each; and with respect to its external situation, it is possessed, by means of the association, of all the advantages of large monarchies."

Alexander Hamilton, Federalist # 9

AN OBJECTION of a nature different from that which has been stated and answered in my last address may perhaps be likewise urged against the principle of legislation for the individual citizens of America. It may be said that it would tend to render the government of the Union too powerful, and to enable it to absorb those residuary authorities, which it might be judged proper to leave with the States for local purposes.

Allowing the utmost latitude to the love of power which any reasonable man can require, I confess I am at a loss to discover what temptation the persons intrusted with the administration of the general government could ever feel to divest the States of the authorities of that description. The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition.

Commerce, finance, negotiation, and war seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought in the first instance to be lodged in the national depository. The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction.

It is therefore improbable that there should exist a disposition in the federal councils to usurp the powers with which they are connected; because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the national government.

Alexander Hamilton, Federalist # 17

A weak constitution must necessarily terminate in dissolution for want of proper powers, or the usurpation of powers requisite for the public safety. Whether the usurpation, when once begun, will stop at the salutary point, or go forward to the dangerous extreme, must

depend on the contingencies of the moment. Tyranny has perhaps oftener grown out of the assumptions of power called for, on pressing exigencies, by a defective constitution, than out of the full exercise of the largest constitutional authorities.

James Madison, Federalist # 20

there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community and to maintain the just authority of the laws against those violent invasions of them which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and, after all, the only efficacious security for the rights and privileges of the people which is attainable in civil society.

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers may be exerted with infinitely better prospect of success than against those of the rulers of an individual State.

In a single State, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts of which it consists, having no distinct government in each, can take no regular measures for defense. The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo.

The smaller the extent of the territory, the more difficult will it be for the people to form a regular or systematic plan of opposition, and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements,

and the military force in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. In this situation there must be a peculiar coincidence of circumstances to insure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state, provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small, and of course more competent to a struggle with the attempts of the government to establish a tyranny.

But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress. How wise will it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large. The legislatures will have better means of information.

They can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect

against the enterprises of ambitious rulers in the national councils. If the federal army should be able to quell the resistance of one State, the distant States would be able to make head with fresh forces. The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself, its efforts would be renewed, and its resistance revive.

We should recollect that the extent of the military force must, at all events, be regulated by the resources of the country. For a long time to come it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase.

When will the time arrive that the federal government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire, who are in a situation, through the medium of their State governments, to take measures for their own defense, with all the celerity, regularity, and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

Alexander Hamilton, Federalist # 28

But it is said that the laws of the Union are to be the supreme law of the land. What inference can be drawn from this, or what would they amount to, if they were not to be supreme? It is evident they would amount to nothing. A LAW, by the very meaning of the term, includes supremacy. It is a rule which those to whom it is prescribed are bound to observe.

This results from every political association. If individuals enter into a state of society, the laws of that society must be the supreme regulator of their conduct. If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers intrusted to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed.

It would otherwise be a mere treaty, dependent on the good faith of the parties, and not a government, which is only another word for POLITICAL POWER AND SUPREMACY. But it will not follow from this doctrine that acts of the larger society which are not pursuant to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such.

Hence we perceive that the clause which declares the supremacy of the laws of the Union, like the one we have just before considered, only declares a truth which flows immediately and necessarily from the institution of a federal government. It will not, I presume, have escaped observation that it expressly confines this supremacy to laws made pursuant to the Constitution; which I mention merely as an instance of caution in the convention; since that limitation would have been to be understood, though it had not been expressed.

Alexander Hamilton, Federalist # 33

the most minute provisions become important when they tend to obviate the necessity or the pretext for gradual and unobserved usurpations of power. A list of the cases in which Congress have been betrayed, or forced by the defects of the Confederation, into violations of their chartered authorities would not a little surprise those who have paid no attention to the subject; and would be no inconsiderable argument in favor of the new Constitution, which seems to have provided no less studiously for the lesser than the more obvious and striking defects of the old.

James Madison, Federalist # 42

[Regarding the] "power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof."

. . . There are four other possible methods which the Convention might have taken on this subject. They might have copied the second article of the existing Confederation, which would have prohibited the exercise of any power not expressly delegated; they might have attempted a positive enumeration of the powers comprehended under the general terms "necessary and proper"; they might have attempted a negative enumeration of them by specifying the powers excepted from the general definition; they might have been altogether silent on the subject, leaving these necessary and proper powers to construction and inference.

. . . As the powers delegated under the new system are more extensive, the government which is to administer it would find itself still more distressed with the alternative of betraying the public interests by doing nothing, or of violating the Constitution by exercising powers indispensably necessary and proper, but, at the same time, not expressly granted.

. . . for in every new application of a general power, the particular powers, which are the means of attaining the object of the general power, must always necessarily vary with that object, and be often properly varied whilst the object remains the same.

Had they attempted to enumerate the particular powers or means not necessary or proper for carrying the general powers into execution, the task would have been no less chimerical; and would have been liable to this further objection, that every defect in the enumeration would have been equivalent to a positive grant of authority.

. . . No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included.

. . . If it be asked what is to be the consequence, in case the Congress shall misconstrue this part of the Constitution and exercise powers not warranted by its true meaning. I answer the same as if they should misconstrue or enlarge any other power vested in them; as if the general power had been reduced to particulars, and any one of these were to be violated; the same, in short, as if the State legislatures should violate their respective constitutional

authorities. In the first instance, the success of the usurpation will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in the last resort a remedy must be obtained from the people, who can, by the election of more faithful representatives, annul the acts of the usurpers.

The truth is that this ultimate redress may be more confided in against unconstitutional acts of the federal than of the State legislatures, for this plain reason that as every such act of the former will be an invasion of the rights of the latter, these will be ever ready to mark the innovation, to sound the alarm to the people, and to exert their local influence in effecting a change of federal representatives. There being no such intermediate body between the State legislatures and the people interested in watching the conduct of the former, violations of the State constitutions are more likely to remain unnoticed and unredressed.

James Madison, Federalist # 44

The true question to be decided, then, is whether the smallness of the number, as a temporary regulation, be dangerous to the public liberty? Whether sixty-five members for a few years, and a hundred or two hundred for a few more, be a safe depository for a limited and well-guarded power of legislating for the United States? I must own that I could not give a negative answer to this question, without first obliterating every impression which I have received with regard to the present genius of the people of America, the spirit which actuates the State legislatures, and the principles which are incorporated with the political character of every class of citizens.

I am unable to conceive that the people of America, in their present temper, or under any circumstances which can speedily happen, will choose, and every second year repeat the choice of, sixty-five or a hundred men who would be disposed to form and pursue a scheme of tyranny or treachery.

I am unable to conceive that the State legislatures, which must feel so many motives to watch and which possess so many means of counteracting the federal legislature, would

fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents. I am equally unable to conceive that there are at this time, or can be in any short time, in the United States, any sixty-five or a hundred men capable of recommending themselves to the choice of the people at large, who would either desire or dare, within the short space of two years, to betray the solemn trust committed to them.

What change of circumstances time, and a fuller population of our country may produce requires a prophetic spirit to declare, which makes no part of my pretensions. But judging from the circumstances now before us, and from the probable state of them within a moderate period of time, I must pronounce that the liberties of America cannot be unsafe in the number of hands proposed by the federal Constitution.

James Madison, Federalist # 55

the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together.

It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government

degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

James Madison, Federalist # 57

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid.

To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

Alexander Hamilton, Federalist # 78

encroachments have generally originated with the men who endeavor to persuade the people they are the warmest defenders of popular liberty, but who have rarely suffered constitutional obstacles to arrest them in a favorite career.

The truth is that the general GENIUS of a government is all that can be substantially relied upon for permanent effects. Particular provisions, though not altogether useless, have far less virtue and efficacy than are commonly ascribed to them; and the want of them will

never be, with men of sound discernment, a decisive objection to any plan which exhibits the leading characters of a good government.

Alexander Hamilton, Federalist # 83

Veto power

An absolute or qualified negative in the executive upon the acts of the legislative body is admitted, by the ablest adepts in political science, to be an indispensable barrier against the encroachments of the latter upon the former.

Alexander Hamilton, Federalist # 66

The propriety of the thing [veto] does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn. The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

Alexander Hamilton, Federalist # 73

They will consider every institution calculated to restrain the excess of lawmaking, and to keep things in the same state in which they happen to be at any given period as much more likely to do good than harm; because it is favorable to greater stability in the system of legislation. The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones.

Alexander Hamilton, Federalist # 73

A man who might be afraid to defeat a law by his single VETO might not scruple to return it for reconsideration, subject to being finally rejected only in the event of more than one third of each house concurring in the sufficiency of his objections.

Alexander Hamilton, Federalist # 73

War

It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting anything by it; nay, that absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people.

John Jay, Federalist # 4

Safety from external danger is the most powerful director of national conduct. Even 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.

Alexander Hamilton, Federalist # 8

It is of the nature of war to increase the executive at the expense of the legislative authority.

Alexander Hamilton, Federalist # 8

If, to obviate this consequence, it should be resolved to extend the prohibition to the raising of armies in time of peace, the United States would then exhibit the most extraordinary spectacle which the world has yet seen -- that of a nation incapacitated by its Constitution to prepare for defense before it was actually invaded. As the ceremony of a formal denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for as the legal warrant to the government to begin its levies of men for the protection of the State.

We must receive the blow before we could even prepare to return it. All that kind of policy by which nations anticipate distant danger and meet the gathering storm must be abstained from, as contrary to the genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders and invite them by our weakness to seize the naked and defenseless prey, because we are afraid that rulers, created by our choice, dependent on our will, might endanger that liberty by an abuse of the means necessary to its preservation.

Here I expect we shall be told that the militia of the country is its natural bulwark, and would be at all times equal to the national defense. This doctrine, in substance, had like to have lost us our independence. It cost millions to the United States that might have been saved. The facts which from our own experience forbid a reliance of this kind are too recent to permit us to be the dupes of such a suggestion.

The steady operations of war against a regular and disciplined army can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigor, confirm this position. The American militia, in the course of the late war, have, by their valor on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

Alexander Hamilton, Federalist # 25

Let us recollect that peace or war will not always be left to our option; that however moderate or unambitious we may be, we cannot count upon the moderation, or hope to extinguish the ambition of others.

Alexander Hamilton, Federalist # 34

To judge from the history of mankind, we shall be compelled to conclude that the fiery and destructive passions of war reign in the human breast with much more powerful sway than the mild and beneficent sentiments of peace; and that to model our political systems upon speculations of lasting tranquillity would be to calculate on the weaker springs of the human character.

Alexander Hamilton, Federalist # 34

Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand.

Alexander Hamilton, Federalist # 74

Appendix 1- The Constitution

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.

Article. I.

Section. 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.

Section. 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their 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 [Modified by Amendment XIV]. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof [Modified by Amendment XVII], for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies [Modified by Amendment XVII].

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4. 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 Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December [Modified by Amendment XX], unless they shall by Law appoint a different Day.

Section. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; [2] If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have 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; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports,

shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President [Modified by Amendment XII].

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected [Modified by Amendment XXV].

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: — "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior

Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article. III.

Section. 1. The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State [Modified by Amendment XI]; — between Citizens of different States; — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due [Modified by Amendment XIII].

Section. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic Violence.

Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate [Possibly abrogated by Amendment XVII].

Article. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be

bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

Attest William Jackson

Secretary

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

Go. WASHINGTON — Presidt.

and deputy from Virginia

New Hampshire {

JOHN LANGDON

NICHOLAS GILMAN

Massachusetts {

NATHANIEL GORHAM

RUFUS KING

Connecticut {

WM. SAML. JOHNSON

ROGER SHERMAN

New York

ALEXANDER HAMILTON

New Jersey {

WIL: LIVINGSTON

DAVID BREARLEY.

WM. PATERSON.

JONA: DAYTON

Pennsylvania {

B FRANKLIN

THOMAS MIFFLIN

ROBT MORRIS

GEO. CLYMER

THOS. FITZ SIMONS

JARED INGERSOLL

JAMES WILSON

GOUV MORRIS

Delaware {

GEO: READ

GUNNING BEDFORD jun

JOHN DICKINSON

RICHARD BASSETT

JACO: BROOM

Maryland {

JAMES MCHENRY

DAN OF ST THOS. JENIFER

DANL CARROLL

Virginia {

JOHN BLAIR

JAMES MADISON jr

North Carolina {

WM. BLOUNT

RICHD. DOBBS SPAIGHT

HU WILLIAMSON

South Carolina {

J. RUTLEDGE

CHARLES COTESWORTH PINCKNEY

CHARLES PINCKNEY

PIERCE BUTLER

Georgia {

WILLIAM FEW

ABR BALDWIN

In Convention Monday, September 17th, 1787.

Present

The States of

New Hampshire, Massachusetts, Connecticut, MR. Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

Resolved,

That the preceeding Constitution be laid before the United States in Congress assembled, and that it is the Opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the Recommendation of its Legislature, for their Assent and Ratification; and that each Convention assenting to, and ratifying the Same, should give Notice thereof to the United States in Congress assembled. Resolved, That it is the Opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which Electors should be appointed by the States which have ratified the same, and a Day on which the Electors should assemble to vote for the President, and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the Day fixed for the Election of the President, and should transmit their Votes certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and Representatives should convene at the Time and Place assigned; that the Senators should appoint a President of the Senate, for the sole purpose of receiving, opening and counting the Votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without Delay, proceed to execute this Constitution.

By the Unanimous Order of the Convention

Go. WASHINGTON — Presidt.

W. JACKSON Secretary.

Appendix 2 - The Federalist Papers – Links

#	Date			Title
1	1787	Oct	27	General Introduction
2	1787	Oct	31	Concerning Dangers from Foreign Force and Influence
3	1787	Nov	3	Concerning Dangers from Foreign Force and Influence (continued)
4	1787	Nov	7	Concerning Dangers from Foreign Force and Influence (continued)
5	1787	Nov	10	Concerning Dangers from Foreign Force and Influence (continued)
6	1787	Nov	14	Concerning Dangers from Dissensions Between the States
7	1787	Nov	15	Concerning Dangers from Dissensions Between the States (continued) and Particular Causes Enumerated
8	1787	Nov	20	Consequences of Hostilities Between the States
9	1787	Nov	21	The Utility of the Union as a Safeguard Against Domestic Faction and Insurrection
10	1787	Nov	22	The Utility of the Union as a Safeguard Against Domestic Faction and Insurrection (continued)
11	1787	Nov	24	The Utility of the Union in Respect to Commercial Relations and a Navy
12	1787	Nov	27	The Utility of the Union In Respect to Revenue
13	1787	Nov	28	Advantage of the Union in Respect to Economy in Government
14	1787	Nov	30	Objections to the Proposed Constitution From Extent of Territory Answered
15	1787	Dec	1	Insufficiency of the Present Confederation to Preserve the Union
16	1787	Dec	4	Insufficiency of the Present Confederation to Preserve the Union

				(continued)
17	1787	Dec	5	Insufficiency of the Present Confederation to Preserve the Union (continued)
18	1787	Dec	7	Insufficiency of the Present Confederation to Preserve the Union (continued)
19	1787	Dec	8	Insufficiency of the Present Confederation to Preserve the Union (continued)
20	1787	Dec	11	Insufficiency of the Present Confederation to Preserve the Union (continued)
21	1787	Dec	12	Other Defects of the Present Confederation
22	1787	Dec	14	Other Defects of the Present Confederation (continued)
23	1787	Dec	18	Necessity of a Government as Energetic as the One Proposed to the Preservation of the Union
24	1787	Dec	19	Powers Necessary to the Common Defense Further Considered
25	1787	Dec	21	Powers Necessary to the Common Defense Further Considered (continued)
26	1787	Dec	22	Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered
27	1787	Dec	25	Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered (continued)
28	1787	Dec	26	Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered (continued)
29	1788	Jan	9	Concerning the Militia
30	1787	Dec	28	Concerning the General Power of Taxation
31	1788	Jan	1	Concerning the General Power of Taxation (continued)

32	1788	Jan	2	Concerning the General Power of Taxation (continued)
33	1788	Jan	2	Concerning the General Power of Taxation (continued)
34	1788	Jan	5	Concerning the General Power of Taxation (continued)
35	1788	Jan	5	Concerning the General Power of Taxation (continued)
36	1788	Jan	8	Concerning the General Power of Taxation (continued)
37	1788	Jan	11	Concerning the Difficulties of the Convention in Devising a Proper Form of Government
38	1788	Jan	12	The Same Subject Continued, and the Incoherence of the Objections to the New Plan Exposed
39	1788	Jan	16	Conformity of the Plan to Republican Principles
40	1788	Jan	18	On the Powers of the Convention to Form a Mixed Government Examined and Sustained
41	1788	Jan	19	General View of the Powers Conferred by The Constitution
42	1788	Jan	22	The Powers Conferred by the Constitution Further Considered
43	1788	Jan	23	The Powers Conferred by the Constitution Further Considered (continued)
44	1788	Jan	25	Restrictions on the Authority of the Several States
45	1788	Jan	26	Alleged Danger From the Powers of the Union to the State Governments Considered
46	1788	Jan	29	The Influence of the State and Federal Governments Compared
47	1788	Jan	30	The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts
48	1788	Feb	1	These Departments Should Not Be So Far Separated as to Have No Constitutional Control Over Each Other

49	1788	Feb	2	Method of Guarding Against the Encroachments of Any One Department of Government by Appealing to the People Through a Convention
50	1788	Feb	5	Periodical Appeals to the People Considered
51	1788	Feb	6	The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments
52	1788	Feb	8	The House of Representatives
53	1788	Feb	9	The House of Representatives (continued)
54	1788	Feb	12	Apportionment of Members of the House of Representatives Among the States
55	1788	Feb	13	The Total Number of the House of Representatives
56	1788	Feb	16	The Total Number of the House of Representatives (continued)
57	1788	Feb	19	The Alleged Tendency of the New Plan to Elevate the Few at the Expense of the Many Considered in Connection with Representation
58	1788	Feb	20	Objection That The Number of Members Will Not Be Augmented as the Progress of Population Demands Considered
59	1788	Feb	22	Concerning the Power of Congress to Regulate the Election of Members
60	1788	Feb	23	Concerning the Power of Congress to Regulate the Election of Members (continued)
61	1788	Feb	26	Concerning the Power of Congress to Regulate the Election of Members (continued)
62	1788	Feb	27	The Senate
63	1788	Mar	1	The Senate (continued)

64	1788	Mar	5	The Powers of the Senate
65	1788	Mar	7	The Powers of the Senate (continued)
66	1788	Mar	8	Objections to the Power of the Senate To Set as a Court for Impeachments Further Considered
67	1788	Mar	11	The Executive Department
68	1788	Mar	12	The Mode of Electing the President
69	1788	Mar	14	The Real Character of the Executive
70	1788	Mar	15	The Executive Department Further Considered
71	1788	Mar	18	The Duration in Office of the Executive
72	1788	Mar	19	The Same Subject Continued, and Re-Eligibility of the Executive Considered
73	1788	Mar	21	The Provision For The Support of the Executive, and the Veto Power
74	1788	Mar	25	The Command of the Military and Naval Forces, and the Pardoning Power of the Executive
75	1788	Mar	26	The Treaty-Making Power of the Executive
76	1788	Apr	1	The Appointing Power of the Executive
77	1788	Apr	2	The Appointing Power Continued and Other Powers of the Executive Considered
78	1788	Jun	14	The Judiciary Department
79	1788	Jun	18	The Judiciary Continued
80	1788	Jun	21	The Powers of the Judiciary
81	1788	Jun	25	The Judiciary Continued, and the Distribution of the Judicial Authority

<u>82</u>	1788	Jul	2	The Judiciary Continued
<u>83</u>	1788	Jul	5 12	The Judiciary Continued in Relation to Trial by Jury
<u>84</u>	1788	JulAug	16	Certain General and Miscellaneous Objections to the Constitution Considered and Answered
<u>85</u>	1788	Aug	13	Concluding Remarks

Appendix 3 - Chronology of the Federalist Papers

Year	Month	Day	Event	Pro-	Anti-	Subject	Opposes
1781	Mar	1	Articles of Confederation adopted				
1786	Sep.	14	Annapolis Convention				
1787	Feb	21	Congress calls for convention in Philadelphia				
1787	Apr	16	Madison's Virginia Plan				
	May	25	Constitutional Convention opens				
	May	29	Virginia Plan				
	Jun	15	New Jersey Plan				
	Jun	18	Hamilton Plan				
	Jul	16	Great Compromise				
	Aug	6	First Draft				
	Sep	17	Final version approved, Conv. closes				
	Oct	5			Centinel # 1	Responsibility, Checks	Federalist # 10 , 51
	Oct	6		James Wilson			
	Oct	8			Federal Farmer # 1	Extended republics, taxation	Federalist # 8 , 10 , 14 , 35 , 36
	Oct	9			Federal Farmer # 2	Extended republics, taxation	Federalist # 8 , 10 , 15 , 35 , 36
	Oct	18			Brutus # 1	Extent of union, States' Rights,	Federalist # 10 , 32 ,

						Bill of Rights, Taxation	33 , 35 , 36 , 39 , 45 , 84
	Oct	22			John DeWitt # 1	Need for stronger union	Federalist # 1-6
	Oct	27		Federalist # 1	John DeWitt # 2	Need for stronger union	Federalist # 1-6
	Oct	31		Federalist # 2			
	Nov	5			John DeWitt # 2	Bill of Rights	Wilson (Nov. 28) , Federalist # 84
	Nov	14		Federalist # 6			
	Nov	22		Federalist # 10			
	Nov	27			Cato # 5	Executive powers	Federalist # 67
	Nov	29			Brutus # 4	House of Representatives	Federalist # 27 , 28 , 52-54 , 57
	Nov	30		Federalist # 14			
	Dec	7	Delaware ratifies				
	Dec	12	Pennsylvania ratifies				
	Dec	18	New Jersey ratifies	Federalist # 23	Penn. Minority	Extent of union, States' Rights, Bill of Rights, Taxation	Federalist # 10 , 32 , 33 , 35 , 36 , 39 , 45 , 84
	Dec	27			Brutus # 6	Broad construction, taxing powers	Federalist # 23 , 30-34
1788	Jan	2	Georgia ratifies				
	Jan	3			Cato # 7	Regulating election	Federalist # 59
	Jan	9	Connecticut ratifies				

	Jan	16		Federalist #39			
	Jan	24			Brutus #10	Defense, standing armies	Federalist #24-29
	Jan	26		Federalist #45			
	Jan	31			Brutus #11	Judiciary	Federalist #78-83
	Feb	6	Massachusetts ratifies	Federalist #51			
	Feb	7	Massachusetts proposed amendments		Brutus #12, Pt. 1	Judiciary	Federalist #78-83
	Feb	14			Brutus #12, Pt. 2	Judiciary	Federalist #78-83
	Feb	19		Federalist #57			
	Feb	27		Federalist #62			
	Mar	15		Federalist #70			
	Mar	20			Brutus #15	Judiciary	Federalist #78-83
	Apr	10			Brutus #16	Senate	Federalist #62, 63
	Apr	26	Maryland ratifies				
	May	23	S. Carolina ratifies				
	May	28		Federalist #78, 84			
	Jun	5,7			Patrick Henry	Nature and powers of Union	Federalist #1, 14, 15
	Jun	21	New Hampshire ratifies; the 9th state				
	Jun	20- 27			Melancton Smith	Representation in Congress	Federalist #52-57, 62- 63

	Jun	25	Virginia ratifies				
	Jun	27	Virginia proposed amendments				
	Jul	26	New York ratifies				
	Aug	4	N. Carolina rejects				
1789	Mar	4	Constitution takes effect				
	Jun	8	Madison introduces Bill of Rights amendments				
	Nov	21	N. Carolina ratifies				
1790	May	29	Rhode Island ratifies				
1791	Nov	3	Bill of Rights amendments take effect				