The constitutionalism of The Federalist Papers directs our attention away from its scientific and historical roots and toward its particular ambitions. The reason for this is that the term "constitution" is too narrowly construed as a structure of institutions. That is merely the transferable portion-the Persian fire-of a given society, that characteristics which it possesses but which any society may possess upon election. By contrast there are other characteristics of any given society which no other society may possess. This non-transferable portion of every society is included in Aristotle's definition of the constitution as an "arrangement of offices," and is what we mean by "a way of life."

The Antifederalists have generally been regarded as misnamed; far from being anti-confederation, anti-federal in the sense of a loose alignment of states, they were precisely the people who thought we should have a loose alignment, a federal alignment, instead of a nation, instead of a strongly centralized state. One inquires, then, why they should be called Antifederalists. Was it in fact as some theorists have speculated, a clever ruse on the part of that political party which favored the Constitution? Did the Federalists steal the name Federalist because they knew that the American people were predisposed to the federal form and would not accept anything else?

The portrait is intriguing; the clever Federalists swept in, picked up the popular, glorified name, Federalists, and left their opponents to be mere Antifederalists. It makes a nice story, good in the retelling. It lends drama and interest and humor, but it does not in fact recapture the historical circumstance, and thereby permit us to understand the constitutionalism involved.

The Antifederalists were properly named, not improperly named. We must remember that our context is not life under the Constitution-that is not the world which greeted the opening of the Constitutional Convention-but rather life under the Articles of Confederation. And in that universe, in that solar system, the center of the system was not the confederation but the states. It may well seem a geometrical absurdity to

1. Cf., W.B. Allen, "Justice and the General Good: Federalist 51," in Saving the Revolution: The Federalist Papers and the American Founding, ed. by Charles R. Kesler (New York: The Free Press, 1987), 140: ‘It is correct to say regime rather than government here [speaking of the ‘safety’ of the regime, particularly when in motion], for when the whole moves together its deeds are presumably determined by its character as a regime. What Aristotle means when he defines ‘regime’ as an arrangement of offices is more than just institutional framework; he means the human characteristics that predominate in a society and give it its decisive character.’
have thirteen centers in one system, but that is, of course, the reason the Federalists often described the notion of a central government with independent states as a "solecism in politics." Nevertheless, for practical purposes the states were indeed the center of public attention in the period prior to the twenty-fifth of May, 1787.

At that era, when the states constituted the center, there were naturally people primarily disposed toward the states, who saw them as most important, gave them their greatest loyalty, and were suspicious of folk who turned away from the states and toward the confederation proper. They used to say of these people, "they are federal-minded, federal men." That was originally a term of abuse, of opprobrium. Naturally, they who reflected upon their states as the most important political institutions came to be called "un-federal men, state-minded men," and that was a term of praise as they understood it originally.

The struggles of these original groupings produced the parties that struggled subsequently over the Constitution and, indeed, over the new constitutionalism defended in the pages of *The Federalist Papers*. This is all the more true to the extent that federal-minded men like James Madison and Alexander Hamilton had become involved with something resembling an organized political caucus with a single mission. That mission was to strengthen the Confederation, and that meant, in the end, at the expense of the states. There was no way to solve the problems of the Confederation without in some way limiting and altering the powers of the states.

The federal-minded men pushed from as early as 1781, and indisputably from 1783, toward their objective. Largely coalesced around George Washington, they sought a path in American politics whereby they might refocus this solar system in such a way that the center would no longer be the states, but rather a central governing body. One says "a central governing body" rather than "centralized power" because the entire difficulty in America is to know exactly what kind of constitutionalism prevailed in the end.

Nothing is clearer than that America did not produce one overwhelmingly powerful political center, with everything else dependent upon it, as occurred in the French Revolution. All the tensions of American life reflect the fact that the founders never wished to create merely a centralized political universe. Yet, Federalists did aim to produce a central governing body as the sun of our political universe. That is why they came to be called Federalists, and the story of their constitutionalism, the constitutionalism that prevailed, is largely the account of how that term came to be, instead of a term of abuse, a term of praise.

The term "federalism" in its contemporary sense began to emerge in the debate over ratification of the Constitution. As such the term itself is
subordinate to the question of what the Constitution is, what it actually accomplishes. How the Constitution is to be interpreted proves to be a much larger question than the text of the Constitution. The text is, of course, absolutely crucial; the point here is not to minimize that. But to find the Constitution itself we must factor in such persons and events as Patrick Henry, in the Virginia ratifying convention, drawing from people like James Madison definitive statements about the meaning of the Constitution. Such concessions emerged from the party struggle during the founding period. Even Madison himself recurred to them twenty years later in seeking the "original intent" of the Constitution. The ratification process enlarged the skeletal structure of the Constitution-it shaped the Constitution, giving it direction and meaning-because in that process there was a level of agreement or consensus that was very important in achieving ultimate ratification.

This poses a problem insofar as we have no longer a precise clearcut text but rather a somewhat confusing, culturally complex, and socially involved process to master before we can identify the Constitution exactly. Insert The Federalist Papers, and their role as the definitive interpretation of the original text, and it will be fair to conclude that the Constitution derives above all from the specific political process that unfolded during the founding. Consider: Where in the Constitution does one find the separation of powers mentioned? Where does the expression "checks and balances" occur in the Constitution? Where is the notion of limited government delineated in the Constitution? Where are any of the decisive terms that professors habitually use in classrooms? They are not in the Constitution. We use them because they are terms upon the basis of which the Constitution was accepted. They were the terms of debate; they were the points of contention between parties. And it is the agreement reached on those things between those parties that constitutes the true Constitution of the United States.

Federalists and Antifederalists began, however, not in agreement but in disagreement. The Antifederalists relied upon the funded wisdom of the past to pose several challenges-several fears-to the Federalists. Those questions outlined the task the Federalists had to confront. Today, still, we can surface expressions of Antifederalist fears which continue to characterize constitutionalism in the United States. At the most basic level, "when we hear the argument that the founding fathers feared power, and thus separated government into three branches and tried to ensure that no one branch would dominate, we are in fact hearing what the Antifederalists feared and desired."  

The argument continues. Today we will hear that the founding fathers were wealthy and undemocratic men who designed a government for their own benefit, which is only a vulgarization of the Antifederalists' critique. The Antifederalists maintained, not that Madison and Hamilton were wealthy and ambitious, but that they were fostering a plan that would indeed lead to men of such status and character controlling all political and social life.

When we hear the claim that our representatives are drawn from a minority of the population, that they operate in a manner which is independent of the people, that the Congress does not represent the broad cross-section of interests, we are in fact revisiting the Antifederalist critique of the scheme of representation in the Constitution. When we hear the argument that the federal government is out of control, that it interferes too much in the lives of American citizens, that state and local officials understand the needs of the people far better, we are in fact echoing the warnings of the Antifederalists.

It is for such reasons as this that the Antifederalists are essential in working through *The Federalist Papers*. There is in fact only one argument with two sides, and the Federalists can be understood clearly and well only to the degree that we understand them to be responding to such fears as were expressed. We should have to proceed so merely from a sense of historical perspective; but it is additional, though unnecessary, motivation that such fears continue to inform our understanding and appreciation of the Constitution. Antifederalist fears are, for very many people, the American Constitution.

**The End of The Federalist Papers**

The best example of this phenomenon in *The Federalist Papers* is found in essay number eighty-four. That paper responds precisely to the leading Antifederalist fear, namely, the absence of a bill of rights in the original Constitution. In that essay we find a statement about what the Antifederalist argument amounts to that is of crucial importance. In #84 Hamilton elaborates, "This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers by the indulgence of an injudicious zeal for bills of rights." Focus on the expression, "the doctrine of constructive powers." What are constructive powers, and how do they aid in understanding the debate between Federalists and Antifederalists?

Antifederalists claimed that a bill of rights was needed in order to avoid government assuming powers not expressly proscribed. They frequently employed the example of the liberty of the press. Where that
liberty is not expressly conveyed, the argument goes, then the government will assume the power to regulate and control the press. That is precisely what Hamilton means by a "constructive power," where one gains power through construction or interpretation of the Constitution and not from its express delegation of authority. Hamilton, however, believed the danger from the doctrine to lie in the opposite direction.

Much of what is at stake between Antifederalists and Federalists turns on this doctrine. The objective is to find a means to hem in the construction, the interpretation of the document such that the safety which is aimed at initially can be guaranteed indefinitely. The Antifederalists resorted to listing bills of rights, while the Federalists rejected that approach. Federalists claimed that a bill of rights would not work precisely because of an oddity in the government that was being created. It was said not to be the kind of government one could restrain with a bill of rights. It was not like a monarch who grants concessions to barons and nobles. It was not like a despotism where one defends himself against the arbitrary power of the throne. There was no target at which to aim a bill of rights. To the Federalists, bills of rights were weapons against power too great for human beings to hold. But no one was intended to hold such power under the Constitution.

Hamilton continues his argument with the famous expression, "the Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS." But that is only part of his argument, one of two main parts. Earlier he had avowed that numerous provisions of the Constitution are indeed the terms one would seek in a bill of rights. He recited seven different sections of the Constitution, and such protections as the prohibition against bills of attainder and the guarantee of habeas corpus. The Constitution includes such provisions; he maintains, because it is in general only a limited grant of power and does not create a sovereign independent of the people.

That expression, "no sovereign independent of the people," is absolutely central to essay number fifty-one and hence to the constitutionalism of The Federalist Papers. It serves in essay number eighty-four, however, to underline the basis on which the "Constitution is itself . . . a bill of rights." At the end of the twelfth paragraph (84.12) Hamilton wrote, as we might paraphrase, "I've intimated this upon another occasion. Everything depends upon public opinion in this government. This is the only solid basis of all our rights." The other occasions were essays number twenty-two, twenty-three, thirty-seven, thirty-nine, forty, forty-three, fifty-one, and seventy-eight. In those essays Publius either repeats the historical language itself, "true fountain of all authority," or at least confirms its sense.

The sense of that language is that, though the people need to defend
themselves against illegitimate governments, they do not need to de-

fend themselves against government where the people retain control
(without actually governing). The eighty-fourth essay builds upon that
idea. The government is designed to remain permanently subject to the
will of the people and therefore permanently incapable of violating the
people’s rights. The government is meant to be subordinate.

This language does not design a utopia, the eighty-fourth essay aims
not at perfection. The eighty-fifth essay loudly insists, “I never expect to
see a perfect work from imperfect man.” Hence, the provision for
amendment. Amendments, however, would ideally repair omissions in
describing or circumscribing powers actually conveyed, for the idea of
listing protected rights is altogether discountenanced by the reflection
that mankind is too imperfect to attempt the task. That was the second
response to the Antifederalist challenge—namely, that to follow the
model of the state constitutions, with a bill of rights, would presuppose
comprehensiveness in the listing or otherwise imperil rather than pro-
tect rights. If the government should lack authority to repress the press
only insofar as it is written, then it would follow that where it is not writ-
ten the government retains the authority.

Worse, still, according to Hamilton, is that once one admits the argu-
ment, the government has authority to do everything which is not
explicitly written out as prohibited. No liberties can be reserved to the
people or to the states. Yet, it presses the argument too far to attribute
to Hamilton the absurdity in all its logical force. The problem he means
to elucidate, the possibility of maintaining a government which lacks
certain powers simply because they were not conveyed at the outset, is
settled neither by a bill of rights nor by his concession that the seven pro-
visions already included in the Constitution resemble a bill of rights.

While it appears to be a contradiction, to maintain the propriety of
guaranteeing a right of habeas corpus while denying the propriety of a
bill of rights, it ceases to be so from the moment one introduces, as
Hamilton did, the problem of constructive powers. Once we know what
can serve to limit interpretation to the protections aimed at, we can then
ascertain the value of any particular provision. Thus he insisted in #84
that the protections which will in fact work are those which depend al-
together upon public opinion and the general spirit of the people and of
the government. This answer is less difficult to assess, for it is readily ap-
parent from the diverse amendments proposed by Antifederalists and
others how spare in fact was the set of provisions which Americans gen-
erally agreed upon as necessary in a bill of rights. Fundamentally, the

3. That, incidentally, is the reason that similar language in the Ninth and Tenth Amend-
ments to the Constitution was finally inserted. The language comes out of the debate be-
tween the parties. The reservation amendments respond to the Federalist arguments.
limitation under which the Constitution must operate is to persevere through a public mind, public opinion. Where it does not operate so, nothing that is written on paper will accomplish the result. Thus, the real distinction between the Antifederalists and the Federalists in this regard is in the role they expect public opinion to play in shaping the very Constitution itself and in preserving the essence of limited government.

To assure that he be understood Hamilton appended to the above-referenced passage a footnote:

It would be quite as significant to declare that government ought to be free, that taxes ought not to be excessive, etc., as that the liberty of the press ought not to be restrained.

I take this passage to mean that there is no provision that one can write respecting free government that can make government free; that government can be free only to the extent that it s a government whose citizens maintain it as free. That would be sufficient reason for the reference to public opinion. The explanation we seek of the constitutionalism of the Federalists, therefore, is precisely this point: namely, how has the polity been so organized that it becomes possible for us to speak of a free people as the condition of a free government? The question must be emphasized, for we are accustomed to speak of free governments that make free peoples. Hamilton seems to say the reverse. Free people make free governments. The trick of The Federalist Papers, as the definitive interpretation of the Constitution and the response to the Antifederalists, is to demonstrate how that is done.

In the space provided here we can only present an overview of this accomplishment. Fortunately, however, we have available just such an overview in the works of The Federalist Papers themselves. While a detailed analysis would explicate each essay, we find the entire series explicated in a general way by the two final essays and the opening essays. Accordingly, we will confine this introductory analysis to those essays. We note in passing the peculiar significance of the fact that the two final essays played no role in the actual ratification debate in New York, for they were added for publication of the collected titles and appeared only later in the newspaper serialization.

Beyond the question of the bill of rights, as exposed in the eighty-fourth paper, one finds a revealing set of questions in the eighty-fifth paper, in which, in classical expository form, we see the return of the thesis. The author employs a final essay to survey his handiwork, laid out in the first essay, then elaborated through eighty-three succeeding essays. At the outset it seemed that two pledges remained unfulfilled: "the
analogy of the proposed government to your own State constitution " and " the additional security which its adoption will afford to republican government, to liberty, and to property. " Though these topics were not discussed thematically, however, they nevertheless did arise in the course of other discussions. Hamilton concluded that they had been entirely provided for in the foregoing discussion, leaving space only for repetition.

The repetition was anything but perfunctory. In paragraph three of paper number eighty-five he surveyed "the additional securities" to republicanism and concluded that they "consist chiefly in the restraints which the preservation of the Union will impose on local factions and insurrections, and on the ambition of the powerful individuals in single States who might . . . become the despots of the people." This amounts to a repetition with a difference. Two promises are renewed with uncharacteristically bold confidence. First, to suppress local factions in the states. It remained courageous by the eighty-fifth essay to declare outright that the new government would have the power to rein in the petty warlords in the states. Secondly, to prevent despotism. That is not so easily accomplished, and it may be alleged that the foregoing discussion had not satisfactorily made clear how it could be accomplished. 4

The questions which flow from this are of enormous significance. If the chief goal, the noble ambition, is to prevent despotism, how is it done? How might it be that powerful individuals in single states acquire credit and influence enough to become "despots of the people?" Is it true that the state governments as they existed prior to the Constitution were actual threats of despotism in the United States? Is this the Federalists’ motivation for changing the Constitution? Were the original democratic constitutions set in place after 1776, after the Revolution, so bad as to threaten an American degeneration into despotism? Would the American experience have looked more like the experience in France, first with the Terror and then with the Bonapartistes, save for the work of the drafters of the Constitution?

These questions point to the enormity of the claim of The Federalist Papers, namely, to save the Declaration of Independence from a collapse into despotism. The claim was enormous when written in 1788; it looms more largely so in light of the history now commonly known. For all revolutions since that time have enjoyed a single history—the col-

4. See the discussion in “Justice and the General Good: Federalist 51,” referenced above. I elaborate the argument that the requirement to avoid a "will independent of the society" imposes an extraordinary burden on the constitutionalism of the regime. What remains, upon analysis, is the notion of the just majority (which Judge Robert Bork has misconstrued as the "mere majority") as the authority and operative power in the government, thus averting despotism rather by means of the character of the people than the power of the state.
lapse into despotism in one form or another. In those terms Federalists aimed to set America outside the dominant course of history. To do so they focused on the danger deriving chiefly from the form of organization of the constitutions in the states.

Upon surveying the accomplishments of the essays, however, Hamilton offered the broader foundation we now seek. Not only have the general terms of the thesis been fully discussed (he claimed), but it is as well necessary for the citizen, everyman, to judge how satisfactorily the questions have been answered. That is to say, the judgment of the citizen is not an extraneous part of the process; it is rather integral to the process. Thus, it is a moral duty, imposed by all the obligations that form the bands of society. The essays were written precisely because the people must make a decision freighted with grave moral consequences. The fifth paragraph of the final essay is emphatic:

No partial motive, no particular interest, no pride of opinion, no temporary passion or prejudice, will justify to himself, to his country, or to his posterity, an improper election of the part he is to act. Let him [this everyman, this citizen] beware of an obstinate adherence to party; let him reflect that the object upon which he is to decide is not a particular interest of the community, but the very existence of the nation.

In short, after having already reviewed the steps of the argument, claiming to have dealt with all issues, and presenting a conclusion as logically and morally necessary, Hamilton yet presents the entire package to the citizen as a moment of decision. This could pass as mere rhetoric, save for the special relation the argument from detachment, disinterestedness, and impartiality in the eighty-fifth paper bears to the argument made at the outset of The Federalist Papers.

The Beginning of The Federalist Papers

Turning to the fifth paragraph of the first essay, we notice immediately that Hamilton forswears any intention to resolve diverse perspectives on the Constitution into self-interested motives. In the third paragraph he had indicated that there may exist such a diversity of motives, including ambition and self-aggrandisement. At length, however, he declared that he would not "dwell upon observations of this nature," for the sufficient reason that some may judge dispassionately even in situations where human nature might be tempted. That is the reason the argument of every opponent is treated seriously-treated as if the greatest patriotism and disinterestedness informed their position-although we know enough of human nature to know that most fail in this regard.

The argument did not end there, however, for it is necessary to bring aids to human nature ("establishing good government from reflection and choice"). He continued thus:
Candor will oblige us to admit that even such men may be actuated by upright intentions; and it cannot be doubted that much of the opposition that has made its appearance or may be apt to make its appearance, will spring from sources, blameless at least if not respectable—the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes which serve to give a false bias to the judgment, that, upon many occasions, we see wise and good men on the wrong as well as on the right side of questions of the first magnitude.

We rightly demand that this passage be explicated in light of the charge given at the end of The Federalist Papers. To turn to the citizens in the end and request that they judge dispassionately, judge with the fate of posterity in mind, and judge without regard to particular ambition, beggars the imagination which had made such grand concessions in the first essay. Perhaps it was anticipated at the outset that one of the accomplishments of the entire series would be to prepare the reader to do, finally, what we could not imagine the reader doing at the start. He would have had to work in such a way as to remove all of the power of the prejudices and biases described in Federalist number one. The question, then, is whether something present in the work has eliminated bias, or at least its power?

Essay number thirty-one specifically discusses prejudice and bias, where they come from and how they obstruct political judgment. The essay discusses as well what must be done to remove them (as obstacles to judgment). The context in which that work is undertaken is the demonstration of what, exactly, a "self-evident truth" is. Self-evident truths are important because of the principles that inform the Declaration of Independence. A self-evident truth must be something that can be rationally, intellectually established in order for men to take the Declaration seriously. That is the goal of the thirty-first essay, in which Hamilton employs the model of geometry and similar principles to establish the principle that, by self-evidence, is meant that the truth of a proposition is contained within the terms of the proposition itself—that it is not subject to demonstration.

The self-evident truth of the Declaration of Independence—"that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these rights are life, liberty, and the pursuit of happiness"—this self-evident proposition is like an axiom of geometry. The idea does not invoke the phenomenon of "evident to every self;" it means that the proposition which leads us to conclude that the sum of the angles of a triangle will be one-hundred-eighty degrees cannot be demonstrated. We are able to demonstrate what the sum of
the angles is because we have the axiom—the truth which subtends the axiom.

Despite this clarity, we know that not every human being—not every self-sees the truth. Powerful effects obstruct the view of the truth. Biases are such powerful effects. There are additionally defects of the mind, as he called them, or accidents that also occur and affect people. But very powerful prejudices, biases, and interests (as he names them in the essay) are the most significant, for the reason that, if there are indeed moral axioms, nothing is more important for human beings than to gain access to them. Thence may they construct their lives in accord with true notions of human felicity. That is the reason it is urgent to discover a means of dealing with the fact that self-evident truths are not always evident and to find means to make them so. The point is not to demonstrate the truth itself, but rather to remove whatever obstructs its view.

Our purpose does not require that we trace this process through the thirty-first essay. We are more concerned with the setting forth in essay number one, where the conversation begins, so to speak, with friends and fellow citizens—taking them just as they are. As such they arrive at the discussion with many powerful biases, interests, and ambitions. In spite of that fact, the essay forswears the attempt to separate folk into the appropriate categories determined by their prejudices. The reason to eschew such an approach is that men cannot determine the reason that people hold the positions they do hold. We have no access to the nexus between their motive and their opinion. They may choose the right position for the wrong reason as easily as they may choose the wrong position for the right reason. The ways for human imperfection to manifest itself are virtually infinite. Thus, Hamilton recommends a short-cut; look simply at the arguments themselves! Assess the arguments to see how far they are right or wrong.

I submit that more is involved here than the protestation that Publius will avoid unfairly stigmatizing opponents of the Constitution. As the balance of the passage demonstrates, we are no less concerned to appreciate why people wind up on the right or wrong side of questions of the first magnitude. The reason we wish to know this is that it would furnish a lesson of moderation for them that are certain of the truth. The conclusion that Hamilton draws goes to the heart of the rule of conduct he derives for himself in this process. The desire to defend liberty is not determinative, for it, too, can spawn despotisms. Thus, he has warned his fellow-citizens, not only against the opposition, but against himself! The confession that he is a “source not unfriendly to the new Constitution” turns out to be not much of a confession at all.

1 I shall not multiply professions on this head. My motives must remain
in the depository of my own breast. My arguments will be open to all and may be judged by all.

The affectation of inscrutability serves admirably to disarm suspicion, at the same time as it invites the reader to aim at no less an achievement. That seems to be the relation to the eighty-fifth essay. Everyman must try to accomplish the same degree of detachment, presenting his judgments to be weighed, keeping his motives to himself as by nature we must. It is a truism to protest that "my motives must remain in the depository of my own breast." Thus, even if he had professed his motives, his reader would have possessed no means to verify them. Hamilton knew that. Accordingly, he effected in a gentle way a form of political education, suggesting that it is possible for us to arrive at the truth about politics ("good government from reflection and choice") independently of the things that we cannot know, the secrets of human life. We do not need to know all the darker recesses of the human soul in order to judge the fairest prospects of the human soul.

The final paragraph in essay number eighty-five cautions the people not to attempt to amend the Constitution before adopting it. Hamilton explains that amendment will be easy enough after adoption, but we are not incorrect in imagining that the greater argument is that pre-adoption amendment would introduce a diversity of opinions which could never be resolved. To bolster the weaker argument he invoked David Hume to explain the importance of relying on experience and time, learning the inconveniences before attempting corrections so as not to create new inconveniences. To these sentiments Hamilton adds,

these judicious reflections contain a lesson of moderation to all the sincere lovers of the Union, and ought to put them upon their guard against hazarding anarchy, civil war, a perpetual alienation of the States from each other, and perhaps the military despotism of a victorious demagogue, in pursuit of what they are not likely to obtain, but from TIME and EXPERIENCE . . . 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 the whole people, is a PRODIGY, to the completion of which I look forward with trembling anxiety.

It was perhaps the "moderation" with which Hamilton opened this discussion in Federalist number one that enabled him to appeal for "moderation" in number eighty-five, but at the same time as presenting the boldest form of the ambition pursued in this work—the aim to create a nation.

This is the honest expression of sentiment, not mere propaganda. We
need not take it at face value to recognize here an ambitious project. We know at the outset that the word, nation, is a scare word in 1787-88. The American people did not presumably want a nation. They did want a union; they identified it with George Washington. The word nation, however, frightened them, because the ideas they were familiar with suggested that nation meant despotism in their circumstances.

Hamilton was not unaware that people were afraid of the word. Yet, in that very context of which he is no less aware than anyone else (remember, he invented the term representative democracy in 1777), he envisioned going beyond the ordinary horizon. He dared to write, though with "trembling anxiety," that the thing the people most feared is the thing they ought to long for. By placing it at the conclusion of his work, moreover, he seemed to declare that, in his judgment, he had vindicated that vision. To transform separated peoples into one people, wholly apart from the American experience, has always been recognized as the greatest possible political undertaking—by greatest possible I mean the one of utmost difficulty. Peoples do not mesh easily. Not even the presumption of homogeneity among the colonists minimizes that concern. We must not overemphasize that homogeneity. There was great diversity in the American states, even several languages spoken. There were people from backgrounds widely separate and differing. The language of the Declaration, and of the Articles of Confederation, which seems to abstract from this reality, is akin to Hamilton's language—it is the language of people who mean to change the world they live in.

This appears at the outset of The Federalist Papers, though not in such stark relief as when compared with the final essays. The ambitious pretensions of Publius were laid out immediately. There he maintained that the most important question is the question of union, "the fate of an empire in many respects the most interesting in the world." Union aimed to replace what existed theretofore, namely, the federal government. The reason to emphasize union over federation is that it fulfills the common observation that America, uniquely, will "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."

The things of accident and force? Those are the things customarily referred to as cultural—the accident of birth in this or that tribe, and the force that comes from being subjected to authorities one has not chosen nor even reflected upon. Conquest in war, or even personal conquests as, for example, the development and emergence of slavery. The differences which make one a Frenchman and the other a German, as opposed to reflection and choice. Accident and force in this sense do not
refer to hurricanes and earthquakes; they refer to that side of humanity which keeps the humanity itself in the shadow of a particular tribe. To live otherwise is to reflect on what it means to be human beyond tribe: good government, by reflection and choice. Hamilton does not rule out the possibility of men enjoying good government by accident and force; his question is rather, can we know whether we enjoy good government. Can we know that the government we have is the government we would choose if we were informed?

When we weigh the extent of that ambition—an ambition to stand outside all human history—we might be disposed to discredit it by its sheer enormity alone. Still more might we be skeptical when we recall human imperfection. But Hamilton begins by admitting that imperfection; this ambition does not claim perfection for humanity. The claim is rather, within the limits of human imperfection, that humans can live lives better than those which had been characteristic, and they need not depend on the whims of history for their fate. If that is true, then this constitutional process must eventuate, not simply in a government or in a constitution, but in new opportunities for perfection for those who enjoy it. That produces a double legacy. The way of life, the culture, the government—that's one thing. From it descend certain obligations that are imposed upon citizens or that they willingly assume. At the same time, though, the overriding premise of reflection remains: Can we address ourselves to this notion of an humanity grown so large that it can dare to assert itself against the face of all human history? I use the term, "humanity," deliberately, because the ambition that is expressed in Federalist number one is expressed in the first person plural. It hinges not on Alexander Hamilton being a great intellect, but on what ordinary humanity can accomplish and its willingness to undertake the task.

**Federalist Constitutionalism**

1. There remains now but to see how Publius sets out in pursuit of this goal, and whether there is present at the beginning any indication by which the claims at the end may be justified. Fortunately, he elaborated an outline immediately, at the very end of the first essay. Reviewing that we discover certain signposts to look out for. The first "interesting particular" was "the utility of the UNION to your political prosperity." The union is an instrument, a tool which has a certain utility toward an as yet undefined political prosperity. The point last emphasized in the book is also the point first discussed (through the first fourteen essays). Next in order is "the insufficiency of the present Confederation to preserve that Union." In other words, a distinction is made between the union and the political form appropriate to it—the nation is different
from the union. The confederation is not the union. If one regards the union as morally or logically prior, then the institutional form will not be sacrosanct.

Thirdly, he proposed "the necessity of a government at least equally energetic with the one proposed, to the attainment of this object." The object is still union, and it requires a form invested with energy—there is a general principle of energy in government. That would entail a government able to do something, though it is left unspecified just what it is to do. Fourthly, "the conformity of the proposed Constitution to the true principles of republican government" required to be demonstrated. That yields union and the idea of republicanism as governing principles, the former of which was nonetheless identified as a "means" or "tool." Thus, the problem to be solved must make the people not monarchists, not aristocrats, and not oligarchs, and at the same time secure their "political prosperity."

The last two "interesting particulars" were, of course, those which were unveiled in the final essay as having been adequately unfolded during the discussion of the first eighty-four, and the discussion of which at that point returned us to the opening essay. I believe we can show the character of the constitutionalism envisioned by The Federalist Papers by indicating how the initial terms of debate—union, political prosperity, and republicanism—are defined in the opening essays. For that purpose, I will concentrate this survey on an explication of essays number two through eight—that is, by analyzing the papers which present the claims of The Federalist Papers before it becomes necessary to respond to the greatest challenges to this political theory.

The language of the "new federalism" is introduced in the second essay. The introduction comes in the form of a fundamental question; namely, how necessary is government? "Nothing is more certain than the indispensable necessity of government ..." The statement is a challenge. Are we in fact safely beyond any reflection at all that we might be able to live without government, in some kind of spontaneous order, interacting with one another freely, without any common judge or superior above us? Further, it imports much to know whether all humanity is confirmed in this impression of things, for then the first essay's notion of reflection and choice takes on still greater force. Given the moral certainty that government is necessary, the question of whether we can choose the government we wish becomes urgent. Organized society is the human way; that's the horizon. Accordingly, government is necessary—not a necessary evil, but morally compelling.

The conclusion that government is necessary is connected with the argument from natural rights. That argument projects the notion that human beings, in order to defend the rights they have by nature, must
cede a portion of them. Publius repeats that claim in the second paragraph. Some portion of one’s rights must be assigned to a common pool, to society, in order for the people to protect those dearest of their rights. The part that has to be assigned is at least the right to execute judgments founded on the law of nature. Depositing that authority in the hands of society, of the government, introduces that stability and predictability which allows all to be secure in the rights they retain.

The general objective of this move is to eliminate force and fraud in human transactions. The concept is introduced, however, in the context of the first question on the outline for *The Federalist Papers*, the utility of union. The response is that government is necessary, in the first place, and in the second place the work of government is precisely to make those tough judgment calls that every individual would otherwise have to make on his own in dealing with his life, property, and liberty.

As a consequence certain things become manifest in the argument. The consequence of this theory is presented with particular focus on the United States.

It has until lately been a received and uncontradicted opinion that the prosperity of the people of America depended on their continuing firmly united, and the wishes, prayers, and efforts of our best and wisest citizens have been constantly directed to that object. But politicians now appear who insist that this opinion is erroneous, and that instead of looking for safety and happiness in union, we ought to seek it in a division of the States into distinct confederacies of sovereignties.

From theory we turn to opinion, a general opinion in the society that union is necessary for prosperity. This term, prosperity, recurs with great frequency in these early essays, but we can ill afford to assume its meaning. It is ultimately defined counter-intuitively as the condition, not the blessing, of civil peace. To understand why, it is necessary to grasp its connection with the argument for union.

If union is a condition of political happiness, then those who counsel disunion represent an emerging heresy. Publius gains a rhetorical advantage phrasing it thus, for if those who counsel disunion were defenders of the old order, Publius would be the heretic. Instead he claims to defend what has long been established in the court of public opinion. The role of “received and uncontradicted” opinion was acknowledged at the outset of the above passage. Over and above serving to establish political legitimacy, public opinion sets the limits of acceptable political opinions. Flesh sticks to the bones of political right only by means of public opinion.

The discussion now aims, not merely to benefit the favorable public opinion, but to preserve salutary opinion. To that end Publius essayed a
brief overview of American history. A fairy idyllic land, in it everything is readily accessible. It is a large country, but contiguous, and its peoples are more or less homogeneous. They have wonderful rivers, and they are in easy communication with one another. The land was clearly designed by Providence for a happy and prosperous people.

With equal pleasure I have as often taken notice that Providence has been pleased to give this one connected country to one united people-a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence.

The portrait is indeed idyllic, but scholarship knows that it was not so. More importantly, opponents such as Winthrop, who wrote the "Agrrippa" letters from Massachusetts, insisted that it was not so. To him the United States was so diverse, so heterogeneous, that it was impossible to imagine it being one people. We inquire, of course, which view is correct; but we do so prematurely. It matters more to know whether Publius meant his view for what had been or what he sought to construct.

The dispute on this score relates to the further question of homogeneity, or more precisely, the connection between geographical homogeneity and political homogeneity. It is a serious question, whether geographical homogeneity is in fact undermined by political diversity. In the face of an inviting land, not a forbidding land, which invites easy movement back and forth between people, easy development of exchange, is political diversity a disadvantage or an advantage? That is the context in which Publius resists those who counsel division. That is, he makes a theoretical argument, the answer to which must in large part hinge upon his appeal to uncontradicted opinion.

In order to achieve a satisfactory response to the theoretical question, Publius requires first to establish the practical question, which is older, the union or the states? Is it true that the people have always loved the union; that the union, not the states, was there first? Or is it rather what "Z" and other Antifederalists insisted, namely, that the states came first? Apart from the historical role of that dispute, it plays an important

5. See, for example, Luther Martin, in the Debates of the Federal Convention of 1787, on June 20, 1787, where he insisted, "At the separation from the British Empire, the people of America preferred the establishment of themselves into thirteen separate sovereignties instead of incorporating themselves into one." This is the very argument which Publius explicitly rejects at the outset of his work, every appearance to the contrary notwithstanding.
role in the constitutionalism of Publius right at the start. The reason for that is that the response is not merely historical but moral. For if the union is older, the union is in the position of conservator; the union becomes the conservative force against the revolutionary force of state sovereignties, as the second *Federalist* urges. If the states are older, then those who defend the states become the conservatives, their opponents the radicals. In this sense, by going back to the "mind of the people" Publius defends the notion of union not only as older but also as better.

2. The sense in which union is better is unfolded in the succeeding essays, beginning in number three. There Publius insists first and foremost upon the matter of safety. He addressed the question in several ways. In the fourth paragraph he speaks of considering it as "it respects security for the preservation of peace and tranquility, as well against dangers from foreign arms and influence as from dangers of the like kind arising from domestic causes." We see immediately the context in which to raise the question, which is better, the union or the states. Which is better for dealing with foreign enemies? The union is the obvious answer. Which is better for dealing with domestic violence? One thinks the states, but Publius will give a counter-intuitive response. The entire strength of the argument for the Constitution depends on the force of this new argument.

Publius dedicated essays three and four to dealing with the question concerning foreign arms and influence; and in essays five through nine, he answers primarily the question about domestic violence, saving the climax for essay ten. The "utility of union," the first part of the overall outline receives a rather large focus on a most elementary question, one dealing with the execution of the laws of nature. In the question of the self-preservation both of individuals and of nations the question of safety from violence comes first. We must inquire, however, how we intend "first" in this case, whether first in importance or value, first in dignity, or merely first in time? If we find it a necessary condition (but not sufficient) for further political reflection and effort, we imply that it is not sufficient for "political prosperity." The reason for this, however, has more to do with the counter-intuitive response to the question about domestic violence than with the mere matter of logical form. Political prosperity

6. There is an error here in the Rossiter and most other editions which Jacob Cooke corrected in his (Middletown, Conn.: Wesleyan University Press, 1961). Where the text reads "as well as against dangers", that second "as" does not belong. There are only two things being described, not three. With the second "as" it looks like a list of three, when it is meant to be a list of two, thus: as it respects security for the preservation of peace and tranquility, first against foreign enemies and, second, against domestic violence.
requires dealing with the necessary conditions of political life in a special way.

The third essay investigates the causes of war. Publius seems to raise this question not merely from curiosity but rather because it is important, not solely to be prepared to prevail in war but, to place oneself in a position to avoid war. *The Federalist Papers* seem, for the moment, to adopt this apparently passive perspective in its approach to foreign policy, inquiring not how to adopt an active posture for engaging in war but how to make war as little likely as possible. It is a curious form of what today we call deterrence theory. The argument is laid out by the end of the third essay and then stated outright in essay number four. There he ascribes this foreign policy to the American people, that intelligent and noble people from essay number two.

Wisely, therefore, do they consider union and a good national government as necessary to put and keep them in such a situation as, instead of inviting war, will tend to repress and discourage it.

This deterrence theory, however, is based on a number of factors deriving from human nature, ultimately. It therefore forces us to consider whether Publius genuinely understands the causes of war.

Returning to the third essay, we find the claim that the "peace of America" highly depends upon America's observance of the "laws of nations towards all these powers," a thing the more perfectly to be accomplished in proportion as "one national government" prevails over thirteen or fewer distinct sovereignties. We expect, therefore, to close with the argument from efficiency-less chance, greater consistency and stability in foreign policy. It is a surprise, therefore, when Publius rather concludes, "when once an efficient national government is established, the best men in the country will not only consent to serve, but also will generally be appointed." He claims that there are several reasons for increased efficiency, but the first is clearly that one obtains the best statesmen.

The argument is purely mathematical, formally. In any group of human beings, some number, x, will be found with those capacities sufficient to accomplish the work aimed at. Increase the number of human beings, one increases the size of x. Divide this last number into thirteen parts, and each part will have a smaller portion of x. The chance that x will be in office at any one point in any given state is never absolute. Yet, if one aggregates all the parts one at least has all the xes available in a single state, thereby enhancing the chances of placing affairs in the hands of some x. Publius invokes in this essay, accordingly, not so much class, status, or wealth but rather ability. Of the three sources of greater
efficiency, then, the first is the presence of the best men.

Secondly, one obtains consistency in the interpretation of treaties and articles of treaties. Mere consistency is insufficient; that is the reason that quality is assured first. Nevertheless, intelligent statesmanship will somehow be consistent statesmanship and far the more so in proportion as the number of sovereignties is reduced. I repeat: this discussion is focused on the most elemental things, not the most abstract. It is not the question of justice or of natural rights, but the question of safety that requires intelligence and consistency—a knowledge of the causes of war as the surest means of avoiding war and a steady foreign policy of avoiding war. In preference to a capacity for agility in war is a capacity to avoid war. That does not express a determination to live without agility. But it does suggest an odd turn to American constitutionalism.

A digression might serve to illuminate the character of this apparent isolationism, a frequently condemned aspect of American public opinion. The condemnations are based on a misreading of this important dimension of American life, in my opinion. This policy is not properly called isolationist. It places first priority on avoiding war, but not at all costs. That's the reason intelligent people are required. The unintelligent will avoid war at all costs and, in the end, will always produce worse wars rather than avoid wars at all. It is nevertheless wise to avoid war. Accordingly Publius provides an illustration. Still in the eighth paragraph of the third essay, he returns to the union-state moral dichotomy:

Hence, it will result that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical, and judicious than those of individual States, and consequently, more satisfactory with respect to other nations as well as more safe with respect to us.

The chief means of avoiding war (providing satisfaction to other nations) is good order at home. That is the first source of safety, which is enjoyed strictly from the perspective of the people of the United States. It is isolationist, therefore, only in the sense of accepting as its chief mission the safety of the United States. That, in turn, does not differ from maintaining the moral (as well as practical) superiority of the union to the states.

The third reason Publius assigns for this foreign policy is in the eleventh paragraph of the third essay, which insists,

If even the governing party in the state should be disposed to resist such temptations, yet as such temptations may and commonly do result from circumstances peculiar to the state and may affect a great
number of the inhabitants, the governing party may not be always able and willing to prevent the injustice meditated or to punish the aggressors.

The context in which this occurs is a discussion of the kinds of things that people do, wittingly or unwittingly, that expose their nations to war. Among them is the factor of yielding to temptation. More such opportunities will confront thirteen sovereignties than the nation. More importantly still, however, is the fact that such "local circumstances" will little influence the national government. Thus that government will possess means to checks others who could be seduced while, itself, being largely proof against seduction. The key to the argument plainly is the national government's detachment from "local circumstances," without which the other elements do not operate.

The expectation at the outset, then, Publius's expectation, is that the national government will be able to say no to local concerns and not yield to temptations which will expose the nation to danger. Then, in the following paragraph, skipping one, Publius adds that one national government will equally avert the dangers deriving from "those just causes of war proceeding from direct and unlawful violence." Even if we allow the claim, then, that the United States will give less offense under a single sovereignty than under thirteen, that is only half of the argument. We require no less to maintain that the United States will have less occasion to take offense under a single sovereignty. On this depends the greatest test.

To repeat: most of the argument has been intuitive. But we noted at the outset that the position respecting domestic violence was not intuitive; and we now note that the claim to have less occasion to take offense is, if not counter-intuitive, at least far from plain. Further implications of the argument put our intuitions to an even greater test. In the fourth essay the second paragraph acknowledges the claim that the United States must avoid placing itself in a position to invite hostilities or insult. But the third paragraph then shows precisely how difficult a thing this may be:

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. . . These and a variety of other motives which effect 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.

Reflecting on what that may mean, we see that many of the wars that arise will do so because people who have the power to make or to avoid war yield to the temptations we find ordinarily in human nature.
We questioned previously the causes of war, on the premise that, if we knew the causes, it would be easier to avoid war. Now, however, it appears that the very resource then relied upon, namely, those empowered to decide, is also the seat of many of the causes of war. They who either possess or exercise sovereign authority (whether one or many), yielding to temptations common to human nature, cause wars. That is not the exclusive cause; about this Publius is clear. It is, however, perhaps the most difficult to deal with. Under that aspect, we ask again, is the union better at dealing with that cause of war? Will the union make less likely that national officeholders yield to personal illusions to carry their nation into war?

Surprisingly, Publius answers yes. How can that be, since Publius manifestly does not pretend to alter human nature? Are the better sort, the more intelligent, who will take in hand this responsibility to be less moved by ordinary temptations? He raised the questions without answering them at this stage, implying that we need pay as close attention to the effect of the new government upon those who govern as upon the governed.

We return to the statement of deterrence theory in the fourth essay. "Wisely, therefore, do they consider union and a good national government as necessary to put and keep them in such a situation as instead of inviting war, will tend to repress and discourage it."

Just after introducing this deterrence theory, Publius repeated what he had said in the third essay.

As the safety of the whole is the interest of the whole, and cannot be provided for without government, either one or more or many, let us inquire whether one good government is not, relative to the object in question, more competent than any other given number whatever. One government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the Union they may be found. It can move on uniform principles of policy.

This is just a repetition of the argument, to all appearances merely strengthening the conclusion. But Publius added an important line: "It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each." That is entirely new—this notion of harmonizing interests and sentiments, assimilating diverse factors. This government will possess an active power, the power in fact to create homogeneity where diversity existed previously. The early idyllic portrait of American homogeneity was exaggerated. The geographic homogeneity was not accompanied by social and political homogeneity. The latter will be the product of the government itself. Part of the reason for the new Constitution, then, was so
to operate on the souls and characters of Americans as to make them more homogeneous in their sentiments and interests.

3. A powerful inducement to this enterprise was found in the very end of the fourth essay. Publius insisted that foreign nations would accurately assess the American situation, whether united or disunited.

... and they will act towards us accordingly. If they see that our national government is sufficient and well administered, our trade prudently regulated, our militia properly organized and disciplined, our resources and finances discreetly managed, our credit re-established, our people free, contented and united, they will be much more disposed to cultivate our friendship than to provoke our resentment.

If we read in this passage only the happy results of prudent statesmanship we will err significantly. For this passage is in fact strongly counter-intuitive. Something we never ordinarily anticipate is actually the burden of the argument; namely, if a people organize themselves well, if they become prosperous and successful, then they will have peace. The usual argument, if I mistake not, is that peace will bring prosperity. Though that is the familiar argument, that is not Publius's argument. He maintains that success and prosperity will bring peace, and that is the foundation of his deterrence theory ("they will be much more disposed to cultivate our friendship than to provoke our resentment"). Success and prosperity will yield strength as well as opportunities for other nations to profit from peaceful associations with the new country. And this is the angle of events that makes it possible to avoid war.

Success and prosperity are the conditions of peace. People who are not prosperous, who do not succeed in establishing stable institutions, are far more likely to have to live through war, according to this argument. And I think it safe to say that, historically, this would be hard to refute. We normally find people the most miserable, the most oppressed, having to undergo continual new conflict. The argument is counter-intuitive; it is new. It is not what anyone had previously thought. It is, perhaps, what hardly anyone since has thought, since we rarely return to *The Federalist Papers* in this spirit. Nevertheless, this is the view at the foundation of the new and modern order and which, therefore, describes for us what is really meant by avoiding war. It is not a craven posture, not a posture of submission. It is the notion that not only individuals can persuade other individuals, but entire nations can persuade other nations, if they strike the correct moral posture along with appropriate incentives and inducements to friendly intercourse.

This view maintains, then, that the union can operate in a way the states cannot. The states cannot command the talent and the resources that would permit them to do the same. The states cannot maintain a
policy consistent among themselves. The union can do both, and accordingly the idea of an energetic union begins to take shape in our minds. We come to know it rather by the image of what it is intended to accomplish than by a theory. It is energetic precisely in the sense that it can pursue this foreign policy which is meant to guarantee peace, but to guarantee peace first by building a prosperous society internally, one that succeeds politically in terms of its institutions and practices, but also materially. Prosperity is not merely material, but it is always at least material. Thus, the political prosperity that is being described is a prosperity in terms of political happiness-political institutions sound and stable—and also a material prosperity. In these terms, *political prosperity* for Publius is but another term for *constitutionalism*.

4. Essays five through eight complete the construction of Publius’s constitutionalism, insofar as to construct it is sufficient to demonstrate its origins and intentions. The defense cannot be completed until the lineaments of this constitutionalism’s institutions are made precise. That process begins with the introduction of the “improved science of politics” in the ninth essay. But for our purposes it suffices just to notice that we solve the problem of our counter-intuitive handling of domestic violence in essays five through eight, and in such a manner as to demonstrate that the definition of constitutionalism as the particular version of political prosperity already developed is the sufficient justification of the founding.

Essay number two in *The Federalist Papers* cited two areas of concern with respect to providing safety. The second area was that of domestic violence. That topic, however, is not really discussed until essay number five. The context in which it is introduced points to the previous question of the causes of war, in the sense that it is unclear that the causes of war are differently affected by a confederation than a single national government. Perhaps the causes of war are internalized and controlled in a union when a single national government prevails. That was the purpose of taking the ablest citizens and harmonizing and assimilating political diversity. The same causes are not less present in a confederation than in the separate states, however. Thus, if the causes of war continue to operate internally, not just vis-a-vis foreign enemies but state to state, then aggrandizing warfare will result within the union. This provides a new view of domestic violence.

The presentation at this point focuses on Queen Anne and the union of England and Scotland. That union resolved a problem which would ordinarily be called war, pure and simply, rather than domestic violence. What distinguishes England and Scotland from the United States, however, is the fact that England and Scotland were indeed separate sovereignties. For Americans the union came first, morally and
politically. They did not enjoy a proper political organization, but they always intended to be Americans. Thus, when their form of political organization introduces the prospect of war from one state or region to another, that is a family problem, a domestic problem, even when it operates on the scale of international conflict.

The question of domestic violence, primarily and emphatically, is the question of poor political organization.

Should the people of America divide themselves into three or four nations, would not the same thing happen? Would not similar jealousies arise, and be in like manner cherished? .. like most of the bordering nations, they would always be either involved in disputes and war, or live in the constant apprehension of them.

The reason for this is only partially those aspects of human nature which were previously identified among the causes of war. There are as well matters of interest which conspire to that end.

The North is generally the region of strength, and many local circumstances render it probable that the most Northern of the proposed confederacies would, at a period not very distant, be unquestionably more formidable than any of the others. No sooner would this become evident than the Northern Hive would excite the same ideas and sensations in the more southern parts of America which it formerly did in the southern parts of Europe.

Finally, in the next to last paragraph,

... neighboring nations, acting under the impulse of opposite interests and unfriendly passions, would frequently be found taking different sides.

These passages, taken together, describe the disintegration of the union. Publius argues, in effect, that disintegration would be a necessary consequence of the existence of the union either as separate sovereignties or as a confederation; that this would inevitably happen because of the causes of war. One of the reasons or causes is manifest; rather than people being assimilated, their differences will increase. Their living separately, however much friendly and allied defensively, will encourage heterogeneity, and as their differences increase, the causes and occasions of war increase.

7. Publius takes advantage of this distinction in *Federalist* number forty-three to portray the defense of republicanism as the defense of domestic order against alien force.
Union, then, is proposed with the firm intention to eliminate the strongest regional differences among Americans. This is a conscious effort to construct a nation which will operate to shape citizens in a certain direction, in terms of their habits, opinions, and characters and, above all, to assure that, at least in North America, there will not be occasion for war. Taking seriously the desire to avoid war then has these two interesting aspects: to avoid war with foreign powers, to be sure, but also to avoid war state to state. That becomes the problem of domestic violence because the only remedy for it is to efface the distinction itself. But that confirms, finally, that the vaunted homogeneity of the second essay was mythical or illusory; while the people spoke mainly the same language and had practically the same religion, politically they were not the same. What is decisive in human affairs is the political distinction; that settles the question of what is near and dear. That distinction lies at the root of warfare. It follows, therefore, that one lessens the chance of war by arranging that as many people as possible call the same things near and dear.

We make the foregoing argument no more strongly than required for the sake of demonstrating the constitutionalism of *The Federalist Papers*. That caution is advised by the knowledge that Publius makes no attempt whatever to envision a human landscape from which war has been comprehensively removed. The sixth essay is even explicit that this argument has no relation to utopian speculation. And we know why. "Men are ambitious, vindictive, and rapacious," perhaps precisely because they do have things near and dear. In any event, that is the way human beings are, and one seeks only to mitigate this characteristic by teaching men to call the same things near and dear. It should also be noted that the statement about the human character does not append the familiar, "by nature." It is not required to conclude that human nature is evil in order to perceive that certain evils attach to human nature. That seems to be Publius's sense.

This perspective is sufficiently elucidated in the paragraph following, which echoes a previous discussion:

The causes . . . of hostility are innumerable. There are some which have a general and almost constant operation upon the collective bodies of society ... love of power, jealousy of power.... There are others which have a more [narrow sphere].... Such are the rivalships and competitions of commerce between commercial nations. And there are others, not less numerous than either of the former, which take their origin entirely in private passions; in the attachments, enmities, interests, hopes, and fears of leading individuals in the communities of which they are members.
These separate categories all relate to one another, but the most important thing about them immediately is the fact that they are separate. The love of power, for example, is a different thing than private passions on this account. The rivalships and competitions of commerce are also different from private passions.

In a certain manner of speaking, these factors may not be passions at all; they may be perfectly rational. The causes of war, therefore, are not necessarily irrational. To imagine that wars only come about because of failures of reason is one of the greatest mistakes. Some wars are thoroughly rational, above all in the case where a people place themselves in a situation to invite war. When it is in the interest of others to wage war against a people, then war is perfectly rational. Put another way, it may be irrational not to assail a people ripe for plucking when to do so would benefit the assailant. Publius seeks to avoid war by being open-eyed about war.

5. The private passions are not less interesting for being arational. We noted at the outset their significance, bearing as they do upon public opinion. Publius’s reasoning in this essay, set forth in the seventh paragraph, provides a further statement of the problem. Having discussed the general causes and examples of war, Publius focuses on the United States and remarks that great national events may be produced by matters petty and even personal.

If Shays had not been a desperate debtor, it is much to be doubted whether Massachusetts would have been plunged into a civil war. The problem of causality this raises is straightforward; Publius wonders whether the civil war was caused by the fact that a desperate person was carried away or, rather, by the fact that a person of enormous capacity for leadership was desperate. The earlier reference to “leading individuals” looms largely. Surely, Shays’s Rebellion was more than just Captain Daniel Shays; thousands of debtors and farmers were involved. But the argument suggests that one requires the kind of catalyst a Shays could be in order to mature such events as Shays’s Rebellion. Accordingly, private passions must be taken into account no less than rational opportunities. Many of Publius’s historical examples reflect that perspective, and he was particularly hard on poor Pericles.

The fundamental question may go even deeper than the Shays’s example suggests, however. In the following two paragraphs Publius sets up a measure of distance between what he calls the “visionary or designing men,” on the one hand, and the hard-headed realists of political life on the other hand. The latter expect no material improvements in human political practices, while the former preach a new age:
The genius of republics, say they, is pacific, the spirit of commerce has a tendency to soften the manners of men and to extinguish those inflammable humors which are so often enkindled into wars. Commercial republics like ours will never be disposed to waste themselves in ruinous contentions with each other. They will be governed by mutual interests, will cultivate a spirit of amity and concord.

Publius actually answers both, when he wonders whether it is not "the true interest of all nations to cultivate the same benevolent and philosophic spirit." More importantly, republics are not unlike other nations, when it comes to the causes of war. Commerce may well soften manners, but it equally well provides new occasions for conflict and competition. In short, Publius rejected the new and modern principles—the principles of the Enlightenment, of the greater human understanding, that were supposed to eliminate causes for war.

Commerce may soften manners because it does create greater communication among peoples. To that extent it harmonizes or assimilates them. Different peoples may actually adapt certain practices from one another, socially and politically. There results a blending effect, but it imports to know whether the blending affects the true interests of nations. Publius answers no. Thus men cannot rely on commerce, the modern principle, to protect them. The earlier statement that prosperity could avoid war did not mean that prosperity changes human nature. It meant rather that prosperity operates to provide further tools of influence than men could otherwise rely upon. Publius is rather coldly realistic in his sober optimism.

Recall: the foregoing perspective arose in the context of a discussion of how to solve the problem of domestic violence. Take commerce as an example, but forget about transatlantic commerce. If there is no union, commerce among and between the states can be an occasion for war. Rather than softening manners, it would raise the stakes, and the higher the stakes, the likelier the conflict. But union will not eliminate commerce. Moreover, it is not intuitive that a union, as opposed to a confederation, will be more likely to render commerce peaceful, however certain it be that either would be superior to thirteen separate sovereignties. There is no change that can be presumed to affect individuals who engage in commerce merely because that commerce is regulated by a national government rather than a confederation.

There is a difference of practice or habitude, however. The various states—New Jersey, Connecticut, and New York, for example—would experience the same necessities under any arrangement. Under the union, however, they would all turn to the same source for help. In that sense they would call the same thing near and dear. By turning to a single Solomon, the argument runs, they will be less likely to resort to
war to resolve differences which are no less stark than they ever are among human beings. Indeed, the mere act of identifying, agreeing upon a single Solomon makes them more peaceful with one another, more likely brothers than enemies. That’s the thrust of the argument, but it is further bottomed on experience. Publius insists that it must depend on experience, the least fallible guide of human opinions. We must emphasize human opinions. Publius makes a distinction here which designedly reminds us of the discussion that cites and quotes David Hume in the eighty-fifth Federalist Paper.

In the course of developing the argument, and the foreign policy, new wrinkles are added in essays six through eight. Most significantly, the new wrinkles imply that the republican or democratic spirit is not pursued on merely theoretical grounds. Publius is often referred to as a pessimist about human nature and human politics. That reflects, perhaps, his distinctive realism, such as that which appears toward the end of the sixth essay:

Is it not time to awake from the deceitful dream of a golden age and to adopt as a practical maxim for the direction of our political conduct that we, as well as the other inhabitants of the globe, are yet remote from the happy empire of perfect wisdom and perfect virtue?

The new politics will not produce perfect wisdom and virtue, but that is the very difficulty. For how can one defend creating a government with power to harmonize and assimilate diverse peoples and interests, while denying at the same time that it can render people virtuous and wise? Is there a guarantee of a government’s goodness apart from this prospect? The answers to all these questions are conditioned on a single premise, that one refer to the consequences of the government and not its operations. And the chief of those consequences is peace where war would otherwise prevail.

It is true that governments that are energetic affect the characters of the people they govern. That is a necessary condition of energetic government, a fact of which the Federalists are not unaware and which Publius makes clear in the sixth essay. When we admit two facts, however, namely, the people will not be made virtuous and wise and, further, the government will be propelled by public opinion, we create an urgent difficulty. If the people should rule, but the people are neither virtuous and wise nor make themselves so, will it not follow that the people will rule foolishly and viciously? It may well be an idle theory or utopian speculation to contemplate removing human weaknesses. But our question is not whether theories that transform human beings into angels are correct; it is rather why should one confide all authority in society to im-
perfect human beings, rejecting every other title to rule?

From this perspective even the principle of descent in monarchical Britain can seem more intelligent. True, an occasional stupid bastard is born to the king, but still more often relatively decent successors who will have had all the advantages of life will be bred. There is then hope for stability and good government. The alternative seems to be to submit to people whom one admits are not going to be improved by the government that is constructed. Will they not then govern ill? Publius does not answer this question, which is in fact reserved for the later essays which discuss the operations of government. But he reminds us of the first step in his argument: there will not be war. After that, it is argued that there must be prosperity in government, political happiness, without specifying how it results apart from the invocation of the best men.

It is not beyond imagination that stupid and vicious people can enjoy prosperity, nor that they can use their prosperity in stupid and vicious ways. For that reason we must not be satisfied with merely avoiding war, unless we wish so badly to avoid it that we are willing to commit our lives and fortunes into the hands of the stupid and vicious. Publius may not be asking for such a move, but he is at least forcing attention to it. This is above all reflected in the tone and character of the arguments of the essays toward the end of the first eight essays, anticipating the discussions in essays nine and ten that follow.

The new character of the argument is reflected in a new listing of the causes of war (now frequently and more gently rephrased as the causes of "competition and conflict"). War has been fully domesticated by this point. Essay number seven elaborates the "causes of our differences" in terms which make it particular to the experience of the states. No longer is the portrait drawn from human nature, but from facts under Publius's hands. Then, in the eighth essay, one reads the hypothetical case history of a disunited United States contending with these facts. In the middle of that discussion the influence of modern principles erupts once again, just after Publius concludes that the problems he has described derive, not from placing power in the hands of the people but, from the "natural and necessary progress of human affairs."

The industrious habits of the people of the present day, absorbed in the pursuits of gain and devoted to the improvements of agriculture and commerce, are incompatible with the condition of a nation of soldiers, which was the true condition of the people of those [ancient] republics. The means of revenue, which have been so greatly multiplied by the increase of gold and silver, and of the arts of industry, and the science of finance, which is the offspring of modern times, concurring with the habits of nations, have produced an entire revolution in the
system of war and have rendered disciplined armies, distinct from the body of the citizens, inseparable companions of frequent hostility.

The argument has been intensified: the modern revolution has already occurred and is not the objective Publius aims at. Further, commerce—the central term in that revolution—not only does not really make people softer but it introduces for the first time the profession and technology of war. One of the reasons the new state will lack virtue is the fact that it cannot resort to the citizen-body under arms, which guarantees a certain kind of virtue. Ultimately, the new wars will be far worse than the old.

Publius’s fear is connected with the question we raised as to the distinction between a confederacy and a union with respect to the causes of war. The point of the question was to determine what became of the causes of war in the one case and the other. We concluded that, in the union—the nation—the people are brought to appeal to the same Solomon, with salutary effect. They call the same thing near and dear. That, however, is only part of the answer, for with modern commerce, the modern science of finance, and the modern technology of war, there is a tremendous impetus to develop people’s exact interests and a concomitant insistence on right or priority to a far higher pitch. In this context, the harmonizing and assimilating of the diverse interests must serve as well to blunt the force of exact interests; the domesticated causes of war must actually be modified, softened, even as the people themselves are not.

Exaggerating, the problem ceased to be merely the question of the wisdom of turning power over to the stupid and vicious and became the problem of turning power over to the stupid, vicious, and technologically proficient. Thus, the defense of the union opened at the outset must go beyond the necessary conditions for peace and safety. In going beyond Publius undertakes to demonstrate that a free people, even if imperfect, can indeed make a free government. When this promise is delivered in theoretical terms, it becomes patent that the argument is indeed counter-intuitive but also the only defense for republicanism under the terms set forth in the earlier essays. This is the manner in which Publius, beyond the necessary conditions of society, supplies the sufficient conditions of political happiness by means of a constitutionalism of union, prosperity, and republicanism particular to the United States. These sufficient conditions are not less important in this justification, and they will constitute the arguments by which Publius demonstrates that the operations of the institutions will in fact produce political happiness. That work unfolds naturally enough in the essays nine through eighty-three, beginning with the "improved science of
politics” and closing, significantly, with resolute defense of the “trial by jury.”

The first eight essays of The Federalist Papers introduce us to the problem of constitutionalism from a human perspective but closes by specifying the manner in which it had become an American problem. They accomplish, accordingly, the important purpose of particularizing not only the theoretical underpinnings of the founding but more importantly the elements of human character which count for most in the American landscape. The fact that, in order to do so, they had to resort to counter-intuitive principles and practices does not diminish the dignity of their accomplishment. That is the point of the boasts in essays eighty-four and eighty-five, above all the boast that Publius is confident in referring the decision as to the fate of this government to an intelligent, noble people.

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