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The social philosophy of The Federalist.

Weaver, Irvin Woodward

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THE SOCIAL PHILOSOPHY OF THE FEDERALIST

by

Irvin Woodward Weaver
(B.A., Emory University, 1937; B.D., Emory University, 1939)

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Approved
by

First Reader John H. Lavelly
ASSOCIATE PROFESSOR OF PHILOSOPHY

Second Reader Richard M. McIlvaire
ASSISTANT PROFESSOR OF PHILOSOPHY
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CHAPTER I

THE PROBLEM

The essays which comprise The Federalist began appearing seriatim in The Independent Journal of New York October 27, 1787. Most\(^1\) of them were published in New York's Independent Journal and The New York Packet before they were issued in a collected edition. They were planned originally to convince voters in the special\(^2\) New York State Convention which was called to consider ratification of the proposed constitution agreed upon by the Philadelphia Convention September 17, 1787, that the proposed constitution should be ratified. It is doubtful that these essays exercised much influence upon the voters they were designed to persuade. Hamilton's debates in the New York Convention were a weighty influence. The influence of The Federalist would have been

\(^1\) See Dawson, Art.(1863), xxiii, for a good account of the interruption of the publication of the essays serially in order that they might be published in book form. Essay Number 77 appeared April 2, 1788. After the publication of Essay Number 77 no more essays were published in newspapers until June. Essays 78-85 appeared serially in The Independent Journal of New York beginning on June 14 and ending on August 16. The first edition of the essays in book form was the M'Lean edition. Volume I was published March 22, 1788 and Volume II was published May 28 of the same year. Essays 78-85, therefore, appeared in the first collected edition before their appearance in The Independent Journal.

\(^2\) See Article VII of the Constitution of the United States.
more largely felt in the process of ratification of the constitution in New York had it not been that adoption of the new constitution was made certain by its ratification by ten states prior to a vote being taken in New York. It was necessary that nine states ratify the constitution to assure its adoption. After the necessary number of states had ratified the constitution to make its adoption sure the pamphlets which had been written for and against the constitution to persuade opinions were not widely read in the states where a vote on ratification had not yet been taken. However, Hamilton in New York and Madison in Virginia made great use of The Federalist in their arguments in their respective State Conventions.4

But the influence or lack of influence of The Federalist in the New York State Convention during the summer of 1788 is not a token either of its intrinsic value or of its nationwide influence. Almost simultaneously with its publication, The Federalist was recognized as a work of rare quality on republican and federal government. In a letter to Madison, November 18, 1788, Jefferson pronounced The Fed-

The Constitution is reprinted in Bloom, SC, 66-76. This reprint is a photograph of the original. Any references in this study to the Constitution of the United States will be to this reprint.

1. Bloom, SC, 87. Here is given the order in which the states ratified the constitution.
5. Ford, Art.(1898), xxviii-xxix.
eralist "the best commentary on the principles of govern-
ment which has ever been written." Bourne has said that
it is universally regarded as the best American work in the
field of political science. These views are not uncommon.
There is hardly a writing, if any, dealing extensively with
our American system of government which does not have some-
thing laudatory to say about The Federalist. The Supreme
Court of the United States has often used The Federalist
as an authoritative interpretation of the constitution when
matters of dispute have come before it. Nor has interest
in The Federalist been limited to the United States. It has
been widely received abroad as a work of great merit in
political science.

One of the best estimates of The Federalist by a re-
cent American comes from the pen of Beard. Referring to The
Federalist Beard writes:

I first read the work more than fifty years
ago and I have reread parts of it or all of
it nearly every year since that original ex-
perience, finding myself astonished each time
by the discovery of ideas and suggestions
which I had previously overlooked or had fail-

1. Quoted in Ford, Art.(1898), xxix.
2. Bourne, EHC, 113.
3. Lodge, Art.(1886), xliii. See Beloff, Art.(1948),
viii; xi, and references there cited. Also note Earle,
Art.(1937), xi.
4. Bourne, EHC, 159-162. Although EHC was published in 1901
Bourne's treatment of "The Federalist Abroad" is the most
satisfactory one available. Since he has made this study,
further examination of the influence of The Federalist
outside the United States will form no part of the present
ed to grasp in their full meaning.¹

These words of Beard might well come from the pen of anyone who has given comparable study to The Federalist.

It is interesting, then, to observe that a book which did not fulfill the purpose for which it was written, and, indeed, was not written as a book, should become a classic in its field and that it should endure as a classic over a century and a half without receiving thorough exposition or critical treatment. The problem, therefore, of this dissertation arises obviously from these facts.

1. The Statement of the Problem

What is it that The Federalist says that has brought forth such wide acclaim? Acquaintance with the social philosophy of The Federalist cannot be assumed. And in order clearly to present it a certain amount of exposition will be necessary but any exposition will be examined critically. The purpose of this study will be (1) to give a background, where possible, of some of the ideas contained in The Federalist, and (2) to examine critically what is found to be its social philosophy.

The Federalist may be understood to be two things:

- a broad and comprehensive discussion of the principles of government with reference to the situation of the American states and an able

¹ Beard, Art. (1948), vi-vii.
exposition of the constitution under which the United States have existed from 1789 to this day.  

The primary interest in this study will be in the principles of social community found in The Federalist rather than in The Federalist as an interpretation or defense of the constitution. This is not to be understood as an historical study.

2. Text of The Federalist

All editions of The Federalist do not contain the same text. Although the variations in text do not amount to a considerable change of meaning an explanation of a choice of a text is pertinent.

The publishers of the first edition of The Federalist, J. & A. M'Lean, issued a statement January 1, 1788 announcing that The Federalist would soon be published and would contain corrections, additions and alterations by the author.  

The only noticeable change in the text of the M'Lean edition of The Federalist from the essays as they appeared in the newspapers has to do with the numbering of the essays instead of the body of the text. Dawson writes of the first Volume of the M'Lean edition that the promised additions did not appear. The corrections and alterations were too trivial to

2. Dawson, Art. (1863), lvi. Dawson states that the "Prospectus" which he quotes was copied from the New York Daily Advertiser of Jan. 1, 1788.
3. See below, 37.
receive notice.¹ With regard to the second Volume Dawson writes, "the 'additions' thereto, which had been promised in the Proposals, are very few in number, and possess no importance whatever."²

Ford, on the other hand, places more emphasis on the changes which were made in the M'Lean edition. He states "there is not an essay in the collected edition of 1788" in which Hamilton "did not make from ten to twenty verbal corrections."³ And he refers to the M'Lean edition as being "revised by Hamilton."⁴ He claims that Hamilton is the author of Essay Number 56 on the basis that Hamilton inserted in this Essay in the first collected edition a paragraph "relating to military affairs."⁵ Since Hamilton would make no alterations or additions in any essay not his own, Ford assumes Hamilton to be the author. It is, however, difficult to reconcile the view that Hamilton would make no changes in any essay he did not know himself to have written with the view that Hamilton made a complete revision in the first collected edition of the essays as they had appeared in the newspapers.⁶

³. Ford, Art. (1898), xxxi.
⁶. In writing about the text of The Federalist Ford was less cautious than he was in his endeavors which gained him acclaim as a reputable historian. He produces no evidence to support his claim that the M'Lean edition of The Federalist underwent complete revision at the hands of Hamilton. As Dawson points out, Art. (1863), lvi-lx, the changes promised by the publisher were not made. There were only a few minor verbal corrections.
According to Lodge, the M'Lean edition of The Federalist contained no "substantial textual change." Lodge also wrote that the insertion of a paragraph into Essay Number 56 was made in the Hopkins edition of The Federalist which was printed in 1802. And it is only probable that Hamilton made the insertion. Bourne observes in this connection that when he wrote his article on "The Authorship of The Federalist" he had accepted Lodge's view as correct. He is unconvinced that Ford makes a sure case for himself and even if an insertion was made into Essay Number 56 for the M'Lean edition of The Federalist it is by no means certain that Hamilton made the insertion without the approval of Madison.

The preceding remarks give a picture of the beginning of the textual problems of The Federalist. The next stage of this development came with the publication of the Hopkins

1. Lodge, Art. (1886), xlii.
2. Lodge, Art. (1886), xxxviii.
edition in 1802. There is no dispute that changes were made in this edition. There is, however, unclarity as to who made the changes. Lodge writes:

When the edition of 1802 was in preparation, Hamilton was asked to revise it, but declared, in the strongest terms, that the 'Federalist' must be printed as it was written, and he also insisted that full credit should be given to Mr. Jay and Mr. Madison in the preface for the excellence of their work. The edition was revised, unquestionably, I think, as Mr. Dawson has shown, by William Coleman, the editor of the New York Evening Post.¹

In a letter to John Hamilton, son of Alexander Hamilton, Hopkins stated:

In reply to your inquiries concerning the edition of the Federalist, /sic/ that I published in 1802 (being the first octavo edition of the work), your father's attention was called to the subject through the urgent solicitude of two respectable professional gentlemen, both of whom have long since departed this life. Your father, it appeared, did not regard the work with much partiality; but, nevertheless, consented to its republication on condition that it should undergo a careful revision by one of the gentlemen above alluded to.²

John Hamilton credited John Wells, "an eminent barrister of New York," with having made revisions and corrections for the Hopkins edition which also was, in his opinion, revised by Hamilton.³

¹ Lodge, Art. (1886), xxxiv.
² Hamilton, Art. (1864), xcii-xcii.
³ Hamilton, Art. (1864), xci. John Wells edited the Williams and Whiting edition of The Federalist published in 1810. It is likely that Hamilton is confusing the Hopkins edition with the Williams and Whiting edition. The view that Hamilton's father made revisions and corrections
Dawson adds a footnote in his treatment of the text of The Federalist which is interesting in the present discussion.

Hopkins, printer, said to me, 'I called upon Mr. Hamilton for permission to reprint the Nos. of The Federalist. He intimated that they hardly deserved to be printed again; he said he would think of it, but that they must not be reproduced without his assent.' Hopkins said 'I will present the proofs to you for correction.' Hamilton said 'No, if reprinted, it must be exactly as they were written.'

Dawson contends that none of the authors of The Federalist would have made revisions of the original text nor authorized others to do so, and concludes that corrections in the Hopkins edition are untrustworthy. Although there is no way of knowing, he produces good reasons for suspecting that Coleman edited the Hopkins edition and made the alterations. It seems precarious to hold that Hamilton made revisions in the Hopkins edition.

The 1810 edition of The Federalist by Williams and Whiting was in large measure a reprint of the Hopkins edition of 1802. There were few additional textual changes in this 1810 edition although "the text was said to have had the benefit of the marginal notes made by Hamilton in his own

in the Hopkins edition is without substantial proof.

1. Dawson, Art. (1863), lxxii. Dawson adds the following to the above quotation: "Memorandum in Hon. James A. Hamilton's copy of the work, communicated to the Editor of this edition, by that gentleman, Feb. 10, 1862."
The new feature of this edition is the use the editor makes of his knowledge concerning the authorship of the essays. An author's name for the first time is ascribed to each essay. This account of authorship corresponds with the list Hamilton deposited in Judge Benson's office a day or two before his fatal duel with Burr with the exception that Essay Number 54, as well as Essay Number 64 is given to Hamilton.

The first edition of The Federalist in which Madison had an editorial part was the Gideon edition which was pub-

1. Lodge, Art.(1886), xxxviii.
2. Hamilton, Art.(1864), xcvi-xcvii, and Adair, Art.(1944)1, 102, state that Hamilton visited Judge Benson's office two days before his duel with Burr and left his account of the authorship of the individual essays of The Federalist. Dawson, Art.(1863), xxvi, and Lodge, Art.(1886), xxiv, claim Hamilton's visit was the day before he met his death. Judge Benson was out of town when Hamilton made his call to see him. After nervously walking around the office Hamilton stopped in front of a bookcase and took out a volume of Pliny and hid an account of the authorship of the individual essays of The Federalist. Upon his return to his office Benson's attention was called to this episode by his nephew, Robert Benson, who was present when Hamilton's visit was made. Benson made a copy of Hamilton's list and deposited the original in the New York Public Library. Coleman examined it in the New York Public Library in 1813 but sometime afterward it was purloined. For clear accounts of Hamilton's visit to Benson's office see Dawson, Art.(1863), xxvi; Lodge, Art.(1886), xxv-xxvi; Hamilton, Art.(1864), xcvi-xcvii. The Benson list follows and may be found in the sources given immediately above. "Nos. 2, 3, 4, 5, 54, by J. Nos. 10, 14, 37, to 46 inclusive, M. Nos. 18, 19, 20, M. & H. jointly. All the others by H." Although there has been much dispute about the accuracy of Hamilton's list there has never been any dispute that this is an account of the authorship of the individual essays of The Federalist which he gave.
lished in 1818. The publishers made the claim\(^1\) that the essays written by Madison had been corrected by himself. It did have as Lodge points out "the notes made by him on his own essays."\(^2\) This edition was the first one in which Madison's account of the authorship of the essays appeared. The Gideon copyright was purchased by Glazier & Co., Hallowell, Maine, and beginning with an edition in 1826 this company issued a number of editions. But all these editions followed closely the text of the Gideon edition of 1818.

Dawson made a thorough study of *The Federalist* and found the text of existing editions to be corrupted.\(^3\) He chose for himself the task of producing an edition which would agree with the original text. This edition was published in 1863 by Charles Scribner. Since the publication of Dawson's edition others\(^4\) have seen the wisdom of following the original text. As Lodge so aptly writes, "What we desire now is not Madison's arguments in the phrases which he preferred in 1818, but in the words which he actually used.

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1. Dawson, Art.(1863), lxxviii.
2. Lodge, Art.(1886), xxix.
3. Dawson, Art.(1863), vi.
4. Lodge's first edition of *The Federalist* was published in 1886 and, following Dawson's edition, it reverted to the original text. Subsequent publications of the Lodge edition have not varied from this procedure. The Sesquicentennial Edition of *The Federalist* published by the National Home Library Foundation follows the original text. The Modern Library edition is copied from the plates used in printing this Sesquicentennial Edition. There are more editions of *The Federalist* which follow.
in 1787 and 1788. Lodge well might have added the names of Hamilton and Jay.

Only a text which follows that of the original essays is suitable for a study of the thought contained in The Federalist. It is unlikely that any of the authors of the essays would have written The Federalist had they undertaken to write a book on the principles of government at a time before or after the particular time in which the essays were written. The Federalist was written under pressing circumstances and for a particular purpose. The circumstances were the abolishment of an inadequate form of national government and the adoption of one that was adequate. And the purpose was to persuade voters to adopt the new constitution. This situation necessitated compromise and the best possible exercise of human reason. The Federalist possesses the quality that it does largely because it is a crisis document. Men often say the noblest things during crucial moments. The Federalist can be properly understood only as it was originally written. The text, therefore, which has been chosen for this study is the Sesquicentennial Edition as published by The Modern Library.

3. Authorship of The Federalist

This is a continuation of the discussion of the text the original text but these enumerated will indicate a preference for the original.

1. Lodge, Art.(1886), xliiv.
of *The Federalist*. But due to the considerable controversy which has raged over the authorship of individual essays it seems more satisfactory to treat the authorship separately. In the present discussion the aim will be not to enter the controversy beyond giving a reason for adopting a point of view.

The essays which comprise *The Federalist* were first written under the name "Publius." That Hamilton, Madison, and Jay were the authors was a well guarded secret. Just how soon the real authorship was known no one can say. The authors confided to friends that they had participated jointly in writing the essays. It is likely that before the final essay had been written Hamilton, Madison, and Jay were known by a few close acquaintances to be the authors. Yet this was not generally known until after ratification of the constitution was complete. As Adair points out, Madison was a foreigner to New Yorkers, and Jay and Hamilton were outsiders to the Virginians. Had it been generally known who the authors of *The Federalist* were during the time of ratification of the constitution it would have exerted less influence in the ratifying conventions than it actually did.

Can the authorship of the individual essays be accurately assigned to one or another of the three authors?


2. Adair, Art. (1944), 236.
Which did Hamilton write? Which did Jay write? Which did Madison write?

That Jay wrote Essays Numbers 2, 3, 4, 5, and 64 the following will indicate there is no longer any doubt. There was a question for a while with regard to whether Jay wrote Essay Number 54 or 64. In the famous Benson list Hamilton credited Jay with writing Number 54 and himself Number 64. But the discovery in Jay's possession in his own handwriting of the manuscript of Essay Number 64 along with the other essays which he wrote dispelled any doubt regarding his identity as its author. This external evidence is corroborated by Madison's affirmation that Jay wrote Essay Number 64. Hamilton's staunchest supporters did not long try to defend the part of the Benson list which credited Jay with writing Essay Number 54 and Hamilton with writing Number 64. Since Jay wrote only Essays Numbers 2, 3, 4, 5, and 64, he is out of the controversy concerning authorship.

The major part of the controversy over the authorship of the individual essays has been centered on Essays Numbers 18, 19, and 20; 49-58 inclusive; and Numbers 62 and 63. Did Hamilton, or Madison write them? Friends of Hamilton made a case that Hamilton was the author, which was, for the most part, uncontested until the publication of Delaplaine's Repository of the Lives and Portraits of Distinguished Americans in 1816. In this work extragavant claims were made

for Hamilton with which friends of Madison took issue. The controversy which ensued has been dealt with by Lodge, Hamilton, Ford, Dawson, Bourne, and Adair. ¹

Hamilton’s account of the authorship of the individual essays which comprise The Federalist is the Benson list. Madison’s account is contained in the attribution of authorship in the Gideon edition of The Federalist. It might be noted that the authorship of the individual essays of The Federalist as given in the Gideon edition coincides exactly with the listing of authorship which Madison made as early as 1816² in the copy of The Federalist owned by Richard Rush. Rush was Attorney General from 1814 to 1817 and was a close friend of Madison, then president. Our present concern is to decide on the accuracy of the claims to authorship by Hamilton and Madison of the individual essays of The Federalist about which there is dispute. It should be borne in mind that these essays are Numbers 18, 19, and 20; 49-58 inclusive; and Numbers 62 and 63. In the Benson list Hamilton claimed joint authorship with Madison with regard to Essays 18, 19, and 20. Essays 49-58 inclusive, and Essays 62 and 63 he claimed for himself. Madison, on the other hand, in the Gid-

¹ Lodge, Art.(1886), xxiii-xlili; Hamilton, Art.(1864), lxxxv-cxxxviii; Ford, Art.(1897), 675-682; Dawson, Art.(1863), xxvi-lvi; Bourne, Art.(1897)¹, 443-460; Adair, Art.(1944)¹, 97-121; Adair, Art.(1944)¹, 235-264.
² Dawson, Art.(1863), xli. Dawson reproduces a letter received from Rush’s son in which this information is verified.
eon edition, claimed all these essays as his own.

Quite aside from what should lend any credibility to either of these two claims is the cycle of popularity of Hamilton and Madison. Yet, though on the surface irrelevant, an adequate appraisal of the claims by Hamilton and Madison to authorship of individual essays of The Federalist cannot be made without some attention being given to their respective popularity in different periods of American history. It is hard to believe that scholarship with regard to a literary problem, or any problem, could have been persuaded by historical popularity. But this was for a long time the case in dealing with the respective claims of Hamilton and Madison.

From the time Madison made his claim to his part in the authorship of The Federalist in the Gideon edition of 1818 until the Civil War his account of the authorship was uncontested. Many editions of The Federalist appeared between 1818 and the outbreak of the Civil War and none of them offered any rebuttal to Madison's account of authorship. During this period no mention was made of the Benson list and it was apparently discredited. After the Civil War the name of Hamilton rose to great popularity and the Benson list took on a revived persuasiveness among writers and historians. While either Hamilton or Madison was popular the

1. This idea is introduced to me by Adair. See Adair, Art. (1944), 106-112.
2. Lodge, Art. (1886), xxiii-xlii; Ford, Art. (1897),
other was unpopular.

This alternating sequence of belief and disbelief that marks the controversy is directly correlated with the see-saw of prestige between these two interpreters of the Constitution, depending upon whether agrarian or capitalistic interests were politically dominant in the country.1

Madison teamed with Jefferson to lead the Republicans who were the spokesmen for agrarian democracy. Hamilton was the leader of the Federalist party which represented the financial interests of the country. Under the leadership and popularity of Jefferson and Madison it became increasingly difficult to assimilate the figure of Hamilton in the formation and operation of the new government. Hamilton's uncompromising stand in favor of a moneyed aristocracy and a hierarchial society, was anathema to a generation of democratic enthusiasts that was creating its heroes in the image of Old Hickory and Tippecanoe.2

De Tocqueville described the American political scene during the time of Madison's extreme popularity in the following way:

When the democratic party got the upper hand, it took exclusive possession of the conduct of affairs, and from that time the laws and the customs of society have been adapted to its caprices. At the present day the more affluent classes of society are so entirely removed from the direction of political affairs in the United States, that wealth, far from conferring

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1. 675-682; Hamilton, Art. (1864), lxxxv-xxxviii.
a right to the exercise of power, is rather an obstacle than a means of obtaining it... They submit to this state of things as an irremediable evil, but they are careful not to show that they are galled by its continuance; it is even not uncommon to hear them laud the delights of a republican government, and the advantages of democratic institutions when they are in public.¹

Madison lived until 1836. For many years he was the lone survivor of the Philadelphia Convention. By the end of his life he had assumed the character of a "holy national relic."² He represented the classic republicanism of the birth of the nation. In a letter to Edward Everett in October, 1830, Madison had to deny that he had written the greater part of The Federalist. "You have erred in stating that I wrote the greatest parts of the Federalist [sic].³ A greater number of the papers were written by Col. Hamilton, as will be seen by...Gideon."³ In the face of such popular approval of Madison, no one ventured to question Madison's account of the authorship of The Federalist and grant approval to the Benson list.

The attitude of reverence for Madison ended with the Civil War. After the war the following was the case.

The United States had a new pattern of economic life and a new political party with a novel scheme of historical values. Almost at once publicists and historians began the development of a new cult of the Constitution which necessitated a reinterpretation and deflation

¹. De Tocqueville, DIA, 175.
². Adair, Art. (1944)¹, 108.
of Madison's contribution to the writing and ratification of that document.¹

Even before the Civil War was over, Hamilton's son made the claim² that his father was author of the disputed essays of The Federalist. John Hamilton's admiration for his father and his careless handling of evidence militated against his arguments in behalf of his father. And, too, his edition of The Federalist, published in 1864, did not allow enough time for the popularity of Madison to be eclipsed by that of his father.

But by 1886 the time was ripe for a new prophet of the Benson list to emerge, and this prophet emerged in the person of Lodge. Lodge's case for Hamilton met with approval far out of proportion to its merit. It was uncontested until the appearance of Bourne's article³ in the American Historical Review in 1897 on "The Authorship of The Federalist." As Adair points out concerning Lodge's discussion⁴ of the authorship of The Federalist:

Examined by scholarly standards, or indeed by the light of common sense, he is found guilty of self-contradiction, distortion of his data, and sins of documentary omission, all of which further illustrate the curious way in which even a scholar's integrity may be swept into strong currents of popular sentiment. Only the burgeoning strength of the pro-Hamilton intellectual current can explain why the weakness of Lodge's case for the New Yorker was

4. Lodge, Art.(1886), xxiii-xlili.
When Lodge's edition of *The Federalist* was republished in 1902 he ignored completely the findings of Bourne and allowed his introductory essay in which he discussed the authorship of *The Federalist* to be reprinted as it was written in 1886.

Lodge presented three reasons for leaning toward Hamilton in the controversy concerning the disputed authorship of *The Federalist*. First he thought that Madison should have disagreed with the Benson list when it appeared. Failure of Madison to do this cast doubt, in the opinion of Lodge, on Madison's counter-claims made at a later time. But use was not made of the Benson list until the publication of the Williams and Whiting edition of *The Federalist* in 1810. At this time Madison was president and deeply involved in politics. It would have been politically unwise for him to take issue with the deceased Hamilton at this time. Had Madison entered this controversy during his tenure of office as president, his action would have been exploited for partisan purposes.

There is not the slightest bit of evidence to indicate that either Hamilton or Madison cared to get involved in a dispute over the authorship of individual essays of *The Federalist*. In explaining to Hamilton's son in 1847 the cir-

1. Adair, Art. (1944), 112.
2. Lodge, Art. (1866), xxx-xxxiii.
cumstances surrounding the publication of the Hopkins edi-
tion of The Federalist, Hopkins stated that he had adver-
tised that "the name of the writer should be prefixed to each
number; but this, as I was told, met with your father's de-
cided disapprobation." Lodge ignores this fact completely.

With regard to the notes he kept on the secret debates of the
Philadelphia Convention Madison wrote:

Posthumous publication as to others as well
as myself may be most delicate, and most
useful also... As no personal or party views
can then be imputed, they will be read with
less of personal or party feeling.

The conditions concerning the notes which Madison kept of the
Philadelphia Convention which made anonymity preferable were
comparable to those concerning The Federalist.

It was roughly fifteen years after it was learned who
the authors of The Federalist were before the Benson list was
produced. And then five years more passed before use was made
of it in the Williams and Whiting edition of The Federalist.
No one can say how many times both Hamilton and Madison were
asked by their respective followers to indicate which of the
essays they had written. Neither can it be accurately stated
how many times they gave their claims in secrecy to friends.
There was no public knowledge as to which of the essays had
been written by Hamilton and which by Madison until the contro-
versy was precipitated by the appearance of the Benson list.

The truth of the matter is that both Hamilton and Madison regretted being identified with certain of the essays.

Hamilton, for example, stated:

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.¹

In another instance Hamilton wrote the following.

Independent of parties in the national legislature itself, as often as the period of discussion arrived, 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 any thing improper appears, to sound the alarm to the people, and not only to be the VOICE, but, if necessary, the ARM of their discontent.²

This view was against Hamilton's position in this matter in his entire public record. It can only be understood here as a special plea for a constitution yet unratified and not as a commentary on an established constitution. Adair directs our attention to the fact that,

When the legislature of Virginia in 1790 remonstrated against the assumption of State debts, Hamilton wrote to Chief Justice Jay: 'This is the first symptom of a spirit which

1. FED(28), 174. All quotations from The Federalist will be indicated in footnotes with the form here used. The number within parentheses is the number of the essay from which the quotation is made. Unless otherwise noted the page number is the page on which the quotation can be located in The Modern Library edition of The Federalist.

2. FED(26), 163-164.
must either be killed or will kill the Constitution.  

So Hamilton had good reason to tell Hopkins in 1802 that he wanted no names of authors prefixed to the individual essays of The Federalist.

Hamilton was aware that Madison was in the same position as was he. Madison had written in his explanation of the "necessary and proper clause:"

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.

When Hamilton made use of this argument in the creation of the National Bank, "and then used the bank both to break down the separation of powers between Congress and the Executive, and to weaken the division of authority between the states and the national government," Madison wished that he had omitted writing his explanation of the "necessary and proper clause." Madison developed a strict construction theory of the constitution as an argument against his "axiom," but when Marshall used this "axiom" in McCulloch vs. Maryland to shatter Madison's strict construction theory, Madison was further embarrassed. With the foregoing said it is possible to understand why Madison did not care to enter the

1. Adair, Art.(1944), 101n.
2. FED(44), 294.
controversy over the authorship of The Federalist. Especially was this true during his tenure of office as president. Lodge did not consider these facts. He simply accused Madison of serious error\(^1\) in not taking issue with the Benson list immediately upon its appearance and reasoned that Madison's counter-claims made at a later time were thereby weakened.

As his second point against Madison's account of the authorship of The Federalist, Lodge accused Madison of making an appeal to internal evidence\(^2\) and concluded this would not have been done by a man who had anything other than memory to rely upon. He cites\(^3\) as his source of information a letter which Madison wrote to J. K. Paulding in April, 1831. It is strange that Lodge could draw the conclusion he did from reading this letter. Madison stated that his account of authorship as given to Gideon "if erroneous, could not be ascribed to a lapse of memory." If there were errors, they were due to a "lack of veracity." The claims he made for himself, he said, were "communicated by me at an early date to a particular friend, and finally to Mr. Gideon."\(^4\) Lodge ignored this information.

In reply to a letter from Walsh in 1819 Madison asserted:

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1. Lodge, Art.(1886), xxxi.
2. Lodge, Art.(1886), xxxi-xxxii.
3. Lodge, Art.(1886), xxxi.
I take the liberty of remarking, independent of any internal evidence that may be discernible, the inaccuracy of Mr. Hamilton's memory... If I have any interest in proving the fallibility of Mr. Hamilton's memory, it is not that the authorship is of itself a point deserving the solicitude of either of the parties; but because I had, at the request of a confidential friend or two, communicated a list of the numbers in that publication, with the names of the writers annexed, at a time and under the circumstances depriving me of a plea for so great a mistake in a slip of the memory or attention.¹

Lodge did not consider this information in stating his contention that Madison's account of the authorship of the essays was produced from memory.

In making his third point against Madison, Lodge admitted² that Hamilton's account was also from memory. He then proceeded to show that Hamilton's memory was superior to Madison's.³ In order to do this Lodge merely disqualified everything as relevant except the Benson list.⁴ Two anonymous accounts of the authorship of the individual essays appeared in 1817 in reply to Delaplaine and were signed by "Corrector."⁵ The information given in these accounts purported to have come from Madison. Since they contained slight variations, Lodge used them to demonstrate that the Madison lists contained more errors than the Benson list and concluded that by a mathematical examination Hamilton's mem-

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². Lodge, Art. (1886), xxxii.
³. Lodge, Art. (1886), xxix-xxxiii.
⁴. Lodge, Art. (1886), xxx.
⁵. Dawson, Art. (1863), xxx-xxxiii.
ory was proven superior to Madison's. Lodge did not place importance in the facts that Madison carefully went through Rush's copy of *The Federalist* and marked the initials of the author to each essay; that Madison publicly affirmed the accuracy of the Gideon account; and that the Rush and Gideon accounts of the authorship are identical. Bourne and Adair refute Lodge's mathematical argument by showing that he ignores relevant facts and descends to a curious level of scholarship. One can only say that Lodge's acceptance of the popularity of Hamilton in the 1880's coupled with his admiration for Hamilton exceeded his regard for facts in his discussion of the authorship of *The Federalist*.

Dawson, in 1863, gave a brilliant reproduction of the claims and counter-claims of Hamilton and Madison and the friends of these two. His was a thorough analysis of the literature which had been written on this subject. But Dawson did not take sides. He assembled what were apparently all available facts and left it to the reader of his work to decide for himself the truth of the dispute. Yet it is difficult to understand how Dawson's work could be read and the material which he produces ignored. Lodge did just this.  

Almost accidentally in 1897 Bourne entered the controversy over the disputed authorship of *The Federalist*. There is no available information to indicate that Bourne was

ever interested in this controversy before his preparation of a paper in 1896 on "The Use of History Made by the Framers of the Constitution" to be read before a meeting of the American Historical Association.\(^1\) Bourne examined\(^2\) Madison's research memorandum entitled, "Notes of Ancient and Modern Confederacies," and discovered that Essays Numbers 18, 19, and 20 were Madison's research in literary form. Madison claimed these Essays as his own in Rush's copy of *The Federalist*. But Lodge stated\(^3\) that Madison had held in the Gideon edition that they were joint products of Madison and Hamilton. Madison made no such claim as Lodge contends. Madison claimed himself as author in the Gideon account and added the following note to Essay Number 18 in the Gideon edition.

The subject of this and the following Numbers happened to be taken up by both Mr. H/\(\text{Hamilton}\)/ and Mr. M/\(\text{adison}\)/. What had been prepared by Mr. H/\(\text{Hamilton}\)/, who had entered more briefly into the subject, was left to Mr. M/\(\text{adison}\)/, on its appearing that the latter was engaged upon it, with larger materials, and with a view to a more precise delineation, and from the pen of the latter the several papers went to press.\(^4\)

The interest Bourne developed in writing his paper on "The Use of History Made by the Framers of the Constitution" led him to write in 1897 his classic article on "The Authorship of the Federalist."\(^5\) Bourne discussed further in the

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3. Lodge, Art.(1886), xxx.
5. Bourne, Art.(1897)\(^1\), 443-460.
latter article Essays Numbers 18, 19, and 20. He found what will become clear to anyone who reads these Essays and then reads Madison's research memorandum, that there is very little Hamilton material, if any, in Essays Numbers 18, 19, and 20. Bourne asserts with reference to Essay Number 20:

Fully nine-tenths of it is drawn from Madison's own abstract of Sir William Temple's Observations upon the United Provinces and of Felice's Code de l'Humanité. This can be verified by any one in a few minutes by comparing No. 20 with pp. 302-309 of Madison's Writings, Vol. 1.

With Essays Numbers 18 and 19 the case is similar although, as Bourne points out, they were not drawn from as few sources as Number 20.

After a comparison of these numbers with Madison's 'Notes on Confederacies' no editor can have any excuse for assigning these numbers to 'Hamilton and Madison,' as has been uniformly done by Hamiltonian editors since 1810. It should at least read, 'Madison and Hamilton,' although there seems to be no good reason why the exact and truthful course of the Gideon editions should not be followed in the future.

Bourne's discovery with regard to Essays Numbers 18, 19, and 20 encouraged him to a consideration of the remainder of the disputed Essays: Numbers 49-58 inclusive, and Numbers 62 and 63. What Bourne does is to select passages from these Essays and then to indicate in parallel columns

similar reasoning from writings of Madison before The Federalist was written.\(^1\) He concludes on the basis of this comparison that Madison's account of the authorship of The Federalist as published by Gideon is accurate.\(^2\) This study of Bourne has never been refuted, and it seems to me that his findings are unanswerable.

To date the only attempted answer to Bourne was made by Ford in 1897.\(^3\) This reply by Ford was made within three months after the appearance of Bourne's article. Ford's conclusion was that the Benson list gave the most accurate version of the authorship of The Federalist. To reach this opinion he appealed to some of Lodge's untenable arguments.\(^4\) He discounted the internal evidence unearthed by Bourne by stating\(^5\) that men in the same age would naturally have similar ideas and what Hamilton and Madison thought was irrelevant as a clue to authorship. The peak of Ford's argument can be seen in the following remark on internal evidence.

Professor Bourne, by parallel columns, cites extracts to prove that Madison wrote the disputed number. But would it not be as good evidence if he quoted the paraphrasing of Montesquieu in The Federalist to prove that 'Publius' wrote the Esprit des Lois?\(^6\)

Bourne replied\(^7\) immediately to Ford's article and accurately called attention to the fact that internal evi-

\(^1\) Bourne, Art.(1897)\(^1\), 448-460.
\(^2\) Bourne, Art.(1897)\(^1\), 459-460.
\(^3\) Ford, Art.(1897), 675-682.
\(^4\) Ford, Art.(1897), 676-679.
\(^5\) Bourne, Art.(1897), 682-687.


dence "may be applied in a rash or an ignorant fashion, but it must be met point by point."¹ Ford did not meet any of Bourne's findings. Evidently Ford still was unconvinced after Bourne's reply, for in 1898 he reproduced his article as part of his "Introduction"² to the edition of The Federalist which he edited.

The controversy over the disputed authorship of The Federalist was not entered into again until the publication of Adair's two articles on this subject in 1944.³ In the meantime various editions of The Federalist appeared which ascribed joint authorship to all of the disputed essays. There has been no reason for assigning joint authorship to the disputed essays other than a refusal to produce reasons for taking sides. The Heritage Press of New York published an edition of The Federalist in 1945 in which the correct attribution of authorship was given.

Adair enters more thoroughly into the controversy than any of his predecessors. His treatment of the subject is careful and scholarly. Similar to Bourne's, Adair's study is unbiased and unswayed by either the popularity of Hamilton or Madison. Of Bourne's account of the authorship Adair writes:

An examination of Bourne's monograph shows that he did not exaggerate when he claimed that a substantial portion of the disputed essays ac-

¹ Bourne, Art. (1897)², 683.
² Ford, Art. (1898), xxix-xxxix.
³ Adair, Art. (1944)¹, 97-121; Adair, Art. (1944)², 235-264.
tually duplicated Madison’s pre-convention writing. If Bourne had carefully checked the Debates in the Convention he could have discovered even more confirmatory material.¹

Adair presents much of this additional and confirmatory material.² Like Bourne he indicates how it coincides with the content of the disputed essays. He further shows that none of the essays could have been written jointly in view of the fact that time was so pressing that the individual authors seldom had time to re-read what they had written.³ Neither could Hamilton nor Madison have written the amount that they did if it had not been for the fact that they were able to draw upon what they had written before their undertaking to write The Federalist.⁴ Adair makes use⁵ of the pre-Federalist writings of Hamilton and Madison to present his case.

Another point Adair makes which seems to be a highly important bit of external evidence is Madison’s stay in New York through February of 1897. This was the time when the disputed Essays Numbers 49-58 inclusive, and Numbers 62 and 63 were being written and published. The election of delegates to the ratifying convention in Virginia was scheduled for early March, and Madison’s friends⁶ feared that a speedy return home was necessary to assure his election. Neverthe-

¹ Adair, Art. (1944)¹, 117n.
² Adair, Art. (1944)², 235-264.
³ Adair, Art. (1944)², 240-241.
⁴ Adair, Art. (1944)², 240-262.
⁵ Adair, Art. (1944)², 240-262.
⁶ Adair, Art. (1944)², 252.
less Madison stayed in New York. Madison's friend William Moore wrote:

You know the disadvantage of being absent at elections...I must therefore entreat and conjure you--nay command you if it were in my power--to be here in February, or the first of March next. Pray don't disappoint the wishes of your friends, and many others, who are wavering on the Constitution, and anxiously awaiting for an explanation from you.1

Madison remained in New York until March 4 and arrived home just one day prior to the election in Virginia. Fortunately, he was elected to the ratifying convention.

But as Adair points out:

If one accepts the hypothesis that Madison stopped writing as 'Publius' after No. 48, which was published February 1, there is no explanation of his risky policy of staying in New York until March 4. For it was a risk to allow himself only one day to spare before the election. It should be remembered that a 300 mile winter trip in 18th century America was an enterprise fraught with the possibility of delaying accidents.2

Adair is convinced "that James Madison undoubtedly wrote every number he claimed in the Gideon list,"3 and that Lodge and Ford in their undertaking to establish Hamilton as the author of the disputed essays,

passionately proceeded to build their elaborate structure of specious scholarship as a monument to a man who did not in the least care to be remembered as 'Publius.'4

3. Adair, Art.(1944)1, 122.
It seems to me unnecessary to ignore the dispute over the authorship of *The Federalist* by assigning joint authorship to the disputed essays. There appears to me to be ample evidence to enable one to conclude that Madison wrote the disputed essays. And it would be unfair to Madison in the face of the evidence not to assign him the authorship. In this study, then, it will be held that Madison wrote Essays Numbers 18, 19, and 20; 49-58 inclusive; and 62 and 63.

As a reflection on the foregoing discussion of the authorship of *The Federalist* it will be well to consider further two pointed questions. Which of the two, Hamilton or Madison, had the superior memory? And, was there collaboration among the authors in writing *The Federalist*?

The answer to the question of the reliability of the memory of Hamilton and Madison with regard to the authorship of *The Federalist* seems clear. Hamilton made no claims for the accuracy of the Benson list. He produced it in a disturbed state of mind. He, no doubt, thought it was accurate. It contained one glaring error in attributing Essay Number 54 to Jay instead of Number 64. This mistake on the part of Hamilton has led others who did not agree with the Benson list to make the following conjecture:

He might also have made another mistake, and since he allotted 37 to 48 to Madison, who claimed 37 to 58, they urge that in his agi-

1. Dawson, Art. (1863), xxvi.
2. See above, 14.
tation he may well have written 48 instead of 58.

It appears, however, to be unnecessary to guess as to the accuracy of the different accounts of the authorship of The Federalist. Adair is so convinced by available evidence that Madison's account is correct that he writes:

Fortunately it is not necessary to depend on any list in distributing the majority of The Federalist essays among the three authors. Even if Hamilton, Madison, and Jay had never given a written or spoken hint as to which numbers each had written, there would still be enough evidence available to make it possible to assign most of the eighty-five numbers of 'Publius' to the different individuals who wrote them. And when Hamilton's and Madison's several statements of authorship are used in conjunction with this evidence, strangely ignored for three quarters of a century, it becomes entirely unnecessary to mark the writer of a single number as uncertain.

While this statement by Adair may seem too strong the evidence is on his side. If establishing the authorship of The Federalist were a question of memory between Hamilton and Madison one would have to conclude that Madison's memory had supporting facts whereas Hamilton's did not. Although it cannot be proved, one can easily surmise that Madison possessed some written notations dealing with the authorship of The Federalist. It is unlikely that a person's memory after a lapse of years is reliable enough to deter-

2. See above, 14-32.
3. Adair, Art. (1944), 2, 238.
4. See above, 24-25. Madison may have been intimating that he had kept a record of the authorship of The Federalist,
mine the authorship of a collected edition of essays.

To what extent was there collaboration among the authors of The Federalist in the writing of the essays? There has been, as we have seen,¹ considerable controversy over whether Essays Numbers 18, 19, and 20 were the joint product of Hamilton and Madison or the work of Madison alone. No one has found any evidence to indicate that Hamilton participated in writing them. Madison's note to Essay Number 18,² in the Gideon edition, is our most reliable source of information. This note together with the fact that much of the material in these particular Essays can be found in some of Madison's previous writings³ leads to the conclusion that Madison wrote them. It appears that such a small amount of collaboration existed between Madison and Hamilton that neither of them knew the other had begun this series of Essays. Upon making the discovery that each of them was working on the same Essays, Hamilton gave to Madison a small amount of material and allowed him to continue the work.

This circumstance with regard to Essays Number 18, 19, and 20 answers in part the question of collaboration so far as Hamilton and Madison are concerned. It is the closest they ever came to any collaboration. There is no dispute about this by anyone. Madison wrote to Jefferson, August 10, 1788:

but this possibility is only a guess.

1. See above; 27-31.
2. See above; 27.
3. Adair, Art.(1944)², 249-250. See above, 28-29.
Though carried on in concert, the writers are not mutually answerable for all the ideas of each other, there being seldom time for even a perusal of the pieces by any but the writer before they were wanted at the press, and sometimes hardly by the writer himself.

Adair calls attention to an apology by Hamilton for the way in which *The Federalist* was written.

The particular circumstances under which these papers have been written, have rendered it impracticable to avoid violations of method and repetitions of ideas which cannot but displease a critical reader.

Hamilton and Madison wrote independently and alone while writing *The Federalist*. There was no time for collaboration. They both had other duties. Madison was one of the representatives from Virginia in the Continental Congress, while Hamilton had an extensive law practice. They had a large political correspondence to which it was necessary to give attention. *The Federalist* was written in spare time and it was possible for it to be written only because Madison and Hamilton had in their possession notes which had been previously gathered. Hamilton and Madison were familiar with the work of the Philadelphia Convention which drafted the Constitution they were undertaking to get ratified. Although they did not agree in their political thinking the Constitution

2. Adair, Art.(1944)², 241. This quotation is from Hamilton's "Preface" to the first collected edition of *The Federalist*.
3. Adair, Art.(1944)², 240.
5. Adair, Art.(1944)², 239.
7. See above, 17-23.
was the best they could get from the Convention and if they expressed some ideas which were similar in defense of it, it was no mere coincidence.

4. The Numbering of the Essays

The standard numbering of the essays which constitute The Federalist is the numbering adopted by the editor of the M'Lean edition of 1788. An adequate account of the changes in the numbering of the essays made in the first collected edition of The Federalist is given by Dawson.

In this new edition, the editor divided the original Number XXXI. into two distinct parts, (XXXII. and XXXIII.), and the greater part of the original Number XXXV. he transferred, and with it formed a new Number XXIX.

Of course the original Numbers XXIX. and XXX. became new Numbers XXX. and XXXI.; the original Numbers XXXI. to XXXIV., inclusive, became new Numbers XXXII. to XXXVI., inclusive; and the original Numbers XXXVI. to LXXVI. became new Numbers XXXVII. to LXXVII. From the same cause when the Numbers LXXVII. to LXXXV. of this edition, in which, as has been stated, they originally appeared, were reproduced in The Independent Journal; or, The General Advertiser, they were designated, in continuation of the series which had been commenced in that paper, Numbers LXXVII. to LXXXIV., inclusive; and there was no Number LXXXV. whatever in the latter.

Since the numbering adopted in the M'Lean edition of The Federalist has been followed by other editions, it would lead to chaos not to follow this accepted method. The controversy over the authorship of individual essays follows this

1. Dawson, Art.(1863), lx-lx1.
standard numbering. So this numbering adopted by the collected editions of The Federalist will be followed in this study.

5. Treatment of the Subject

Unfortunately no systematic and thorough study of The Federalist has ever been printed. Even brief treatments of the subject in related studies are almost non-existent. This is amazing in view of the fact that The Federalist has been so often referred to. There is no clear explanation for this lack of treatment.

The preceding discussion of the text and authorship of The Federalist\(^1\) constitutes, in large measure, a survey of the literature which deals with it. And this literature, as has been seen, deals with the textual problem.

Of the many editions of The Federalist, a number of them have contained able introductions. Listed chronologically, they are as follows: Dawson, 1863;\(^2\) Hamilton, 1864;\(^3\) Lodge, 1886;\(^4\) Scott, 1894;\(^5\) Ford, 1896;\(^6\) Bourne, 1901;\(^7\) Smith, 1901;\(^8\) Ashley, 1911;\(^9\) Bassett, 1921;\(^10\) Pierson,

\(^{1,2,3,4,5,6,7,8,9,10}\) See above, 5-37.
Several of these articles deal extensively with the literary problem, which has already been dealt with. These include the articles by Dawson, Hamilton, Lodge, and Ford. The article by Bourne mentioned here is briefer than his articles which appeared in the American Historical Review, and adds nothing noteworthy. Van Doren, Bassett, and Beard give brief statements of this literary problem and adopt the point of view taken in this study. Scott does not enter this controversy but cannot help assigning Essay Number 54 to Hamilton, and Number 64 to Jay. He gives no reason for assigning Number 54 to Hamilton instead of to Madison. Smith takes the position, without giving any ground for it, that Hamilton wrote the disputed Essays. Ashley, Earle, and Beloff do not treat this subject of authorship but assign joint authorship where there is a case of doubt.

2. Earle, Art. (1937), v-xxv.
3. Van Doren, Art. (1945), v-xii.
7. See above, 5-37.
8. See above, 19; 27-30.
12. See above, 37.
15. Ashley, Art. (1911), ix.
Pierson does not give consideration to the question of authorship. His article, however, appears in a reprint of Lodge's edition of *The Federalist*. Commager does not discuss this problem but holds a view similar to the one held in this study.¹

Not much can be said about these introductions to various editions of *The Federalist* as treatments of the social philosophy of *The Federalist*. There is considerable variance in length of discussion but on the whole they include matter of fact statements about events leading up to the Philadelphia Convention of 1787, as well as matter of fact statements about *The Federalist*. The nearest approach to a consideration of the subject of this study is the article by Beloff.² His article, however, suffers from too strong reliance on secondary sources³ and too few specific references to *The Federalist*.

Commager makes the observation that *The Federalist* is more than an authoritative commentary on the Constitution.

It is a great and profound treatise on political science. If, by some unimaginable turn of history, the United States Constitution should disappear, or the United States abandon it and adopt a new one, the Federalist would not lose its significance. It would remain one of the great documents of history; great in its method, its style, its substance, and its philosophy.⁴

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3. See below, 46.
4. Commager, Art. (1949), x. See above, 4-5.
This is a commendable statement, and a failure to realize its truth may account for the lack of treatment of the content of The Federalist. It may be, in other words, that The Federalist has too often been solely associated with the American Constitution and practically identical with it. This would lead to the view that the Constitution and The Federalist do not need separate treatment.

The Encyclopedia Americana contains a brief historical statement about The Federalist the author of which is not given. It errs in holding that Madison's contribution to The Federalist is valuable as an exposition of the American Constitution. Madison discussed the House of Representatives in Essays 52-58 but the remainder of the exposition of the Constitution was done by Hamilton. The Encyclopaedia Britannica, Chamber's Encyclopaedia, and Collier's Encyclopedia do not treat The Federalist at all.

In his famous and influential book, An Economic Interpretation of The Constitution of the United States, Beard makes frequent references to The Federalist. By means of this book Beard established the view that the forces which shaped the Constitution were economic forces. Although this view has been widely held, it is subject to criticism.

Beard's significant question in his "Introduction" to The Enduring Federalist, "Why Study The Federalist Now?", seems to lean upon something more ideological than mere eco-

1. Enc. Amer., 11, 85.  2. See below, 113-118.
Dawson promised\(^2\) a critical edition of *The Federalist* which would be published as Volume II of the edition which he edited in 1863. This promised edition was never published. Adair promised\(^3\) in 1944 a "critical annotated edition of *The Federalist*" but to date it has not been printed. Adair's competence in this field causes us to look enthusiastically toward the publication of his edition of *The Federalist*.

6. Plan of the Study

The purpose has been in this introductory chapter to present the problem of this study and to deal in addition with the literary problem concerning the authorship of the individual essays of *The Federalist*. The literary problem concerning the authorship of *The Federalist* is a "well-established historical controversy"\(^4\) which has received little careful treatment. It has been deemed necessary to ascertain by whom each of the essays was written in order to determine the thought of each of the contributors. The sources of the social philosophy of *The Federalist* cannot be established unless the authors of the individual essays be

3. Adair, *Art.* (1944)\(^1\), 97.
4. Adair, *Art.* (1944)\(^1\), 97. This phrase is quoted from Lodge by Adair without any reference being given.
known. An examination of the sources of *The Federalist* in the ensuing chapter will also throw additional light on the question of authorship.

The second chapter will deal with the sources of *The Federalist*. An effort will be made to ascertain the influence which helped form the social philosophy of Hamilton and Madison.

The purpose of chapter three will be to discover what reasons the writers of *The Federalist* gave for favoring union as against disunion. It will be an attempt to answer the question, "Why union?"

The aim of chapter four will be to discover what kind of union the writers of *The Federalist* were in favor of. What did they understand to be the true principles of republicanism? Throughout this study it will be the aim to establish connections with sources of ideas.

A final chapter will constitute a summary of this study and a listing of the conclusions reached.
CHAPTER II

SOME SOURCES OF THE FEDERALIST

1. Some General Remarks

A chapter on "Some Sources of The Federalist" is undertaken with a great deal of uneasiness. Although a large number of historical analogies are drawn in The Federalist between the proposed constitution and other governments, not a great number of direct references are made to social philosophies. As Beloff adequately attests:

The fact that the Federalist was primarily a contribution to an actual political controversy...makes more than usually hazardous the search for the philosophical and literary sources of its authors' inspiration. Even where specific authors are referred to in the text, the borrowings are made to give additional authority to the Federalist's prescriptions on particular points. Such references cannot in themselves be taken as evidence of the main intellectual influences at work.

Where a writer fails to admit sources which influenced him, they are difficult to establish. It is possible for different individuals to arrive at similar conclusions independently of each other. Neither does it mean that because a person owns a large library he has read all of the books which he owns. But in the case of The Federalist there are some clues as to sources. It will be the purpose of this chapter to reveal these clues.

The plan is to deal with the sources of Madison; then Hamilton; and then to present a comparison of the social philosophies of Plato's *Republic*, and Locke's *Essay Concerning The True Original, Extent and End of Civil Government* with the social philosophy of *The Federalist*. Jay was an experienced diplomat and a good choice to write essays arguing the need of a stronger union to combat foreign influence and danger. Since his contribution to *The Federalist* was limited to five essays which draw on no new sources, he will not be given separate treatment.

Why discuss Plato and Locke? *The Federalist* leans heavily on Greek history to show the defects and merits of different types of government. Is there not also ground for believing that the writers of *The Federalist* were familiar with Greek political thought and possibly influenced by it? In a supposedly definitive¹ work on Madison's philosophy, Burns contends that "Madison mentioned Aristotle only once, and Plato, Cicero, Machiavelli, and Rousseau not at all."² Burns makes the following statement with regard to the reference by Madison to Aristotle:

> In a half-finished essay on *The Influence of Domestic Slavery on Government*, he referred to Aristotle's doctrine that the citizen should

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1. Beloff, Art. (1948)¹, lvii.
2. Burns, JMPC, 186. This book deals with Madison's philosophy as a whole. It is of little value so far as the social philosophy of *The Federalist* is concerned. No book has been written with any one of the three authors of *The Federalist* as subject which can be considered a treatment of their thought as expressed in *The Federalist*. 
be free from private cares so as to devote himself exclusively to public service.

Although he doesn't say where, Bourne rightly states, "Madison, like several of his contemporaries, had studied Aristotle's Politics." Evidently Bourne was referring to Madison's research on the senates of Sparta, of Carthage, and of Rome. And had Burns consulted this research he would have discovered that Madison made use of both Aristotle and Cicero. Again, Burns is wrong in his position that Madison does not mention Plato. Madison writes in Essay Number 49, "A nation of philosophers is as little to be expected as the philosophical race of kings wished for by Plato." Maybe Burns was of the opinion that Madison did not write Essay Number 49. To be clear on the authorship of The Federalist is extremely important. Others have the same point of view as Burns in denying that the authors of The Federalist were familiar with Greek social thought. Beloff, for example, contends that Madison never mentioned Plato or Cicero, and Aristotle only once. No doubt he was paraphrasing Burns.

Becker writes with regard to Locke that "Most Americans had absorbed Locke's works as a kind of political gospel." This was especially true with reference to Locke's second treatise on government. No one disputes this fact. The dif-

1. Burns, JMPC, 186.
4. FED(49), 329.
5. Beloff, Art. (1948) 1, lviii; see Freeman, HFG, 249.
ficulty in establishing Locke as a source lies in the fact that Locke was so widely read that he was seldom quoted. Writers\(^1\) were so familiar with Locke that they reproduced his ideas without being always aware of it. Consider the Declaration of Independence. Jefferson was forced to deny that he copied it from Locke.\(^2\) Locke is not quoted in *The Federalist*; neither do any of the authors of *The Federalist* discuss Locke's thought anywhere with direct reference. Yet, not to discuss Locke's *Essay Concerning Civil Government* as a possible source in the present context would be to adopt the position that some of the most astute social philosophers of the day were unfamiliar with the book which was the "political gospel" of the day.

Madison received his college training at the College of New Jersey (now Princeton). He was a student at the time Witherspoon was president of the College of New Jersey and enjoyed studying with Witherspoon to such an extent that he remained a year after graduation for additional study. He has been referred to as America's first graduate student.\(^3\) Witherspoon was one of the most important early popularizers of the Scottish common sense philosophy in the United States.\(^4\) In addition Witherspoon's lectures contained discussions of Hume, Locke, Montesquieu, Adam Smith, Grotius, Pufendorf, Hobbes, Harrington, and works dealing with the history of

\(^1\) Becker, DOI, 24-28.  
\(^2\) Becker, DOI, 25.  
\(^3\) Smith, JMB, 9.  
\(^4\) Riley, AP, 18.
politics.\(^1\)

Ashbel Green, who was a professor at the College of New Jersey part of the time Witherspoon was president, and who was himself later president, wrote a brief history of that institution in which he listed the curriculum. This book was published in 1822. Courses for the freshman class were Arithmetic, Geography, English Grammar, Latin Grammar, Ovid, Virgil, Xenophon, and Composition. Courses for the sophomore class were Arithmetic, Geography, English Grammar, History, Horace, Collectanea Graeca Majora, Homer's Iliad, Composition, Algebra, and Roman Antiquities. Courses for the junior class were Geometry, Trigonometry, Surveying, Greek and Latin Classics, Composition, History, Mechanics, Astronomy, Navigation, Conic Sections and Curve Lines, Natural Theology, and Locke on Human Understanding. Courses for the senior class were Rhetoric, Composition, Moral Philosophy, Logic, Metaphysics, Political Economy, Philosophy of Mind, Mechanics, Chemistry, Natural History, Experimental Philosophy, Greek and Latin Classics, Astronomy, and Evidence of the Christian Religion.\(^2\) It is obvious from this outline of courses that the classics constituted a large part of the college curriculum. Holst directs attention to the fact that the Greeks and Romans were not driven from the colleges of America until state systems of education were substituted for the traditional classical discip-

\(^1\) Witherspoon, WJW, VII, 152.  \(^2\) Green, DIS, 403-404.
Madison was either directly or indirectly familiar with Plato. Jefferson read some of Plato's writings and was very critical of them. Jonathan Edwards, a president of the College of New Jersey, studied Greek Philosophy at Yale. Townsend says of Edwards:

All in all, the student of Edwards who knows the writings of the Cambridge Platonists can hardly avoid the conclusion that he was more directly indebted to them than to any other source of philosophy whatever.

It does not seem possible to state conclusively that Plato and Locke had a direct influence on the writers of The Federalist. It is entirely possible that they did. But without sufficient proof the best one can do is to compare their writings without placing any claim of direct influence.

In a brilliant treatment of The Intellectual Origins of Jeffersonian Democracy Adair defends the point of view that these "intellectual origins" are traceable to the Fourth Century B.C. His study is convincing. Yet, the influence may be from secondary sources. Convenient places to discover some of the sources of the thought of Madison and Hamilton are their writings. It is good to turn to them now.

2. Some Sources of Madison's Contribution

The claim is made for Madison that "No man in all the

1. Holst, CPH, I, 31. 2. See above, 46. 3. Muelder and Sears, DAP, 66-81. 4. Townsend, PI, 44. 5. Adair, IOJD, ii. This is an unpublished dissertation and is deposited in the Yale University Library.
world had studied so thoroughly the general problems of federalism. " Whether this statement is true or not, one can be sure that Madison made an extensive study of federal government.

By 1784, when the Confederation was already showing its inadequacies, he had commenced building up a library on the subject that became the most comprehensive private collection on the topic in 18th century America, if not in the world.2

This echoes the point of view taken by Bourne in the paper he read before the American Historical Association in New York in 1896.3 Bourne's paper was, it seems, the first clear and precise account of Madison's scholarship. The popularity of Hamilton forbade an objective study of Madison for the next several decades. Bourne states:

It is a fact of no little interest that Madison, whose ideas pervaded the 'Virginia Plan,' who shaped the growth of the Constitution in the Federal Convention, who was its indefatigable champion in the Virginia convention, and who, in The Federalist, was the ingenious and sympathetic advocate of its fitness for American conditions, was our first thorough and systematic student of the history of federal government... We may feel sure that Madison, in 1787, had more thoroughly studied and knew more of the history of federal government than any other American or Englishman.4

These are excellent comments as secondary sources, but where does the information come from? In a letter to Jefferson in March, 1784, Madison mentions his search for books.

I must leave to your discretion the occasional purchase of rare books, disregarding the risk of duplicates. You know tolerably well the objects of my curiosity. I will only particularize my wish of whatever may throw light on the general constitution and droit public of the several confederacies which have existed. I observe in Boinaud's catalogue several pieces on the Dutch, the German, and the Helvetic. The operations of our own must render all such lights of consequence. Books on the Law of N. & N. fall within a similar remark. The tracts of Bynkershoek, which you mention I must trouble you to get for me... Is not Wolfius also worth having?

Madison writes Jefferson in this same letter that he recently got home the trunk which contained his Buffon; that he would like a copy of Hawkin's abridgement of "Co: Litt." and that he wanted a copy of Deane's letters.

In a letter to Randolph, March 10, 1784, Madison says:

On my arrival here early in Dec. I entered as soon as the necessary attentions to my friends admitted on the course of reading which I have long meditated. Co: Litt: in consequence and a few others from the same shelf have been my chief society during the winter.

Both Beloff and Burns assert that Madison drew copiously from Vattel, Pufendorf, and Bynkershoek, for his views on international relations. Madison wrote a long letter to Jefferson on January 9, 1785 in keeping with a promise that he would inform Jefferson of the proceedings of the Virginia Assembly. Madison mentions, in this letter, consulting

Vattel, Grotius, and Pufendorf in connection with an act authorizing the surrender of a citizen to a foreign sovereign within whose jurisdiction the citizen should commit a crime. Burns thinks "it is quite possible that their emphasis upon a higher law of justice and right reason may have affected" Madison's thinking.

Jefferson, evidently, was a good errand runner for Madison, for Madison thanks him in a letter dated April 27, 1785 for his "attention to my literary wants." Additional requests were made by Madison in this same letter. He asked for "the Dictionary in 13 vol. by Félicie and others, also de Thou in French." Madison also wanted "the utility of Moreri" if it was not superseded by some better work. He reiterated his desire for any treatises on the ancient or modern federal republics--on the law of nations--and the history natural and political of the New World; to which I will add such of the Greek and Roman authors...as are worth having and are not on the common lists of school classics.

Further, Madison expressed a desire for books on the Roman empire during its decline.

Pascal's Provincial letters--Don Ulloa in the original--Linnaeus best edition Ordinances Marines--Collection of Tracts in french on the Economics of different nations, I forget the full title. It is much referred to by Smith on the Wealth of Nations.

Madison confessed in this letter that he had 57 volumes by Buffon: "His original work of 31 vol. 10 vol. of Supplem, and 16 vol. on birds."¹

Two trunk loads of books were received by Madison from Jefferson in January, 1786. In a letter of March 3, 1786, Madison thanks Jefferson for this cargo and asks that two mistakes be rectified.² The first mistake was the omission of a part of "the Encyclopedie." The second mistake was the omission "of the 4th vol. of D'Albon sur l'intéret de plusieurs nations, &c."

Madison writes to Jefferson on August 12, 1786, stating:

The Catalogues sent by Mr. Skipwith I do not expect to receive till I get back to Virg.²
If you meet with 'Graecorum Respublicae ab Ubbone Emmio descriptae,' Sugd. Batavorum, 1632, pray get it for me.³

Now what have these references to books to do with the sources of The Federalist? Madison used his learning gained from his busy research in the history of federal government to promote the cause of federal government throughout his political career. The research memorandum he compiled on ancient and modern confederacies⁴ he used in the Philadelphia Convention and in writing The Federalist.⁵ Madison made an

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5. See Bourne, EHC, 165-169. It is necessary only to look at Essays Numbers 18, 19 and 20 and see where Madison put into literary form much of this research. The exact references are given in his research memorandum. A reading of Madison's speeches in Farrand, RFC, will reveal how
appeal in Essays Numbers 18, 19, and 20 to the history of the Amphictyonic Council, the Achaean League, the Holy Roman Empire, the Swiss Confederation, and the United Netherlands. Madison in writing these Essays merely had to turn to his research.

Under the topic, Notes\textsuperscript{1} of Ancient and Modern Confederacies, Preparatory to the Federal Convention of 1787, Madison prepared notes\textsuperscript{2} on the Lycian Confederacy, the Amphictyonic Confederacy, the Achaean Confederacy, the Helvetic Confederacy, and the Belgic Confederacy. Unfortunately, Madison usually referred to a source by using only a writer's name. He seldom mentioned a specific book. In his notes on the Lycian Confederacy Madison refers to Montesquieu's \textit{L'Esprit des Lois}, Félice's \textit{Le Code de l'Humanité}; and to Ubbo Emmius' \textit{Graecorum Republicae Descriptae}. Félice edited an encyclopedia of comparative politics in 1788 which Madison constantly cites under its secondary title, \textit{Le Code de l'Humanité}.

Madison's sources for his discussion of the Amphictyonic Confederacy are the following: Félice's \textit{Le Code de l'Humanité}; Diderot and d'Alembert's \textit{Encyclopédie}; Dictionnaire de Trevieux; Plutarch's \textit{Cimon}; Potter's \textit{Archeologia Graeca}; Plutarch's \textit{Themistocles}; Rawleigh's \textit{History of the World}; Gillie's \textit{History of Greece}; and an Encyclopedia of

\begin{itemize}
\item Madison used these sources there.
\item 1. In the body of this study this topic will be hereafter referred to as Notes.
\end{itemize}
Political Economy.

For his information concerning the Achaean Confederacy Madison consulted the General History by Polybius; Félice's Le Code de l'Humanité; an Encyclopedia of Political Economy; Comte d'Albon's discourses on the history and government of Europe; and Ubbo Emmius' Graecorum Respublicae Descriptae.

Madison's Notes on the Helvetian Confederacy contain references to the following sources: Félice's Le Code de l'Humanité; Stanyan's Switzerland; and a Dictionnaire de Suisse edited by Tscharner.

For his data concerning the Belgic Confederacy Madison drew from Félice's Le Code de l'Humanité; Temple's Observations upon the United Provinces of the Netherlands; Mably's Historical Studies; and Comte d'Albon's discourses on the history and government of Europe.

Madison in his Notes on the Germanic Confederacy refers to Félice's Le Code de l'Humanité; Savage's History of Germany; and Mably's Historical Studies.

Reference has been made above to the fact that Madison used this material in writing Essays Numbers 18, 19, and 20. This is true enough, but it would be misleading to leave the impression that Madison used this material only in these Essays. In varying degrees Madison relied on this material in all of the essays he wrote; in the Virginia ratifying convention; and in the Philadelphia Convention.¹

¹. See Bourne, EHC, 165-169.
Madison, in April, 1787, wrote Notes on the Confederacy which he subtitled Vices of the Political System of the United States. Essay Number 10 can be traced from its appearance as a part of Notes on the Confederacy, to Madison's convention speech of June 6, 1787, to a letter to Jefferson on October 24, 1787, and finally to its literary form in The Federalist. Madison's only other contribution to The Federalist prior to Essays Numbers 18, 19, and 20 was Essay Number 14, which is a continuation of Essay Number 10. But Essays Number 10 and 14 or, better still, Madison's Notes on the Confederacy, could not have been written without the background of his Notes on ancient and modern confederations. Madison was able through his study of the history of federal government to analyze existing evils and confidently assert that "permanent peace, prosperity, and development could not be obtained under any type of confederacy known to history." He was deeply concerned over the dissensions to which confederacies had fallen prey, and was aware that "something new must be devised in the form of a federal constitution." So Madison felt there were no real precedents to follow if an adequate federal government were to be established. The value of his research was in a sense negative.

5. Bourne, EHC, 169.
Madison drew copiously from his research in federal government in writing Essays Numbers 37-58 inclusive, and 62 and 63.

In this division of the work so peculiarly suited to his talents he had occasion not only to develop the federal principles of the Constitution, but also to discuss in his own characteristic vein the various questions which lie at the foundation of free government itself.

He began this group of Essays by explaining how the Convention had combined "energy in government, with the inviolable attention due to liberty and to the republican form." Essays Numbers 36 and 37 were given to a discussion of the problems faced by the Convention in guaranteeing both the security of the few and the liberty of the many. Madison in Essay Number 39 indicated how the government rests with the people, and then followed with a brilliant analysis, in Essay Number 40, of the "compound aspects of the proposed system with its mixed national and federal features."

Then in a section of six Essays, Numbers 41-46, Madison showed how the relationships between the states and the national government would be established under the proposed federal structure. He was cautious to make clear that the states would not be reduced to nothingness by national encroachments.

1. Adair, Art. (1944)\(^2\), 251.
2. FED (37), 227.
3. Adair, Art. (1944)\(^2\), 251.
Madison sought to analyze in Essays Numbers 47-51 "the particular structure of this government, and the distribution of this mass of power among its constituent parts."\footnote{1} Although, as commonly held, Montesquieu's *The Spirit of the Laws* was familiar to Madison,\footnote{2} it should not be maintained that Madison merely duplicated Montesquieu. Madison had a specific constitution to explain, and may not have been solely indebted to Montesquieu for the doctrine of checks and balances in government. He says:

> The oracle who is always consulted and cited on this subject is the celebrated Montesquieu. If he be not the author of this invaluable precept in the science of politics, he has the merit at least of displaying and recommending it most effectually to the attention of mankind.\footnote{3}

Essays Numbers 47-51 are a carefully wrought unit. They culminate in Essay Number 51 where Madison explains how in "the compound republic of America" the power surrendered by the people is first divided between the states and the nation, and then the portion allotted to the latter is "subdivided among distinct and separate departments."

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.\footnote{4}

\begin{itemize}
\item \footnote{1} FED(47), 312.
\item \footnote{2} Bourne, *EHC*, 167. FED(47), 313.
\item \footnote{3} FED(47), 313.
\item \footnote{4} FED(51), 339.
\end{itemize}

In Essay Number 10 Madison had held that a functional balance of many conflicting economic and social interests would favor liberty in a large republic; in Essay Number 46 he had shown how the mixture of powers vested in the states and nation would work to the same end; and now in Essay Number 51 Madison characteristically applied his theory of balance to the inter-departmental organization of the new state.\footnote{1}
In Essay Number 10 Madison had held that a functional balance of many conflicting economic and social interests would favor liberty in a large republic; in Essay Number 46 he had shown how the mixture of powers vested in the states and nation would work to the same end; and now in Essay Number 51 Madison characteristically applied his theory of balance to the inter-departmental organization of the new state.1

Hamilton was mainly interested in the executive and the judicial branches of the government, whereas Madison also had a deep interest in the legislative.2 Madison knew that he would soon have to depart for home to take part in the Virginia elections, so in the next seven Essays, Numbers 52-58, Madison discussed the legislative branch of the government. These Essays would not necessarily draw on additional source material. However, in Essay Number 56 Burgh's Political Disquisitions is mentioned. It is known that Madison was reading Burgh's Political Disquisitions at this time.3 Madison quotes from this work in his Additional Memorandum for the Convention of Virginia in 1788.4

It is not irrelevant to add here as an addendum to the literary problem discussed in Chapter I that Hamilton and his supporters had claimed Essay Number 56, Political Disquisitions, as Adair points out, was the most famous contemporary expose of the 'corruption' of the British Parliament—that

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1. See Adair, Art. (1944)2, 252 for a good summary.
same corruption which Hamilton had praised as a prime virtue of the English system. It is significant too that the passage in Number 56 which cites Burgh speaks of the 'monitory lessons' /Bourne showed that 'monitory' was a favorite word of Madison's/ to be learned from British history. The author who wrote this essay, and who speaks of 'the vicious ingredients in the parliamentary constitution' of Great Britain in Number 52 could hardly be called an ardent admirer of the British Constitution.2

To complete his part in writing The Federalist and to finish his analysis of Congress, Madison wrote Essays Numbers 62 and 63. These two Essays were much better written than Madison's analysis of the House of Representatives given in Essays Numbers 52-58. The reason is that Madison, in writing Essays Numbers 62 and 63, had the aid of a long research memorandum he had compiled on the senates of Sparta, of Carthage, and of Rome.3 Madison draws his material in this memorandum from Aristotle, Cicero, Polybius, Middleton's Life of Cicero, Gibbon's Decline and Fall, and Félicie's Le Code de l'Humanité.

Was Madison influenced by Harrington's Commonwealth of Oceana? Harrington combined a republican philosophy with an autocratic respect for landed property; and, as MacIver says, "ranks next to Locke among the English writers who had vogue in America."4 Harrington set forth an economic basis of politics5 which foreshadowed much of Essay Number 10. He

maintained that factions and parties in a state arise from the uneven distribution of wealth which sets classes in conflict. His solution to the disease of faction, however, was not the same as Madison's although both men did believe that a "design of government to prevent any interest or combination of interests from becoming too powerful should be the chief reliance." But Madison worked out a practical scheme. Madison nowhere says that he owes anything to Harrington and it is with great caution that anyone has sought to establish any direct influence.

3. Some Sources of Hamilton's Contribution

As students of Hamilton rightly attest, Hamilton was an omnivorous reader.

That Hamilton did not permit even the advent of war to interfere with his studies is evidenced by his pay book while in command of a company of artillery. Side by side with notations of the sums paid out to members of his company are comments and excerpts of books read in the interim of drills and war's alarums. Among others he read Cicero, Demosthenes, Plutarch, Bacon's Essays, Rousseau's Emile, Hobbes' Dialogues, Robinson's Charles V, Millot's History of France, Smith's History of New York, and Ralt's Dictionary of Trade and Commerce.

1. Harrington, COO, 18.
5. Schachner, AH, 33.
Even before Hamilton decided on law as a profession he had grounded himself in "Blackstone and the treatises of Grotius and Pufendorf."\(^1\)

Allen McLane Hamilton records\(^2\) a list of books found in the library left by Hamilton many of which are relevant to this study and some actually quoted in The Federalist. It will be worthwhile to reproduce this list here.


One notable absentee from this list is of course Montesquieu's \textit{The Spirit of the Laws}. Hamilton drew heavily upon Montesquieu's views in Essay Number 9 to argue that a republican government was suitable for a large territory.

The opponents of the plan proposed have, with great assiduity, cited and circulated the ob-

\begin{enumerate}
\item Schachner, AH, 145.
\item Hamilton, ILAH, 74-75.
\item Hamilton, ILAH, 74-75.
\end{enumerate}
servations of Montesquieu on the necessity of a contracted territory for a republican government. But they seem not to have been apprised of the sentiments of that great man expressed in another part of his work, nor to have adverted to the consequences of the principle to which they subscribe with such ready acquiescence.

Hamilton points out that "when Montesquieu recommends a small extent for republics, the standards he had in view were of dimensions" much smaller than the individual states. Hamilton adds that if this point be taken as a criterion of truth, the only alternative is either to form a monarchy or to split the nation into a number of little clashing commonwealths.

But Hamilton did not think this to be a true interpretation of Montesquieu and remarks:

So far are the suggestions of Montesquieu from standing in opposition to a general Union of the States, that he explicitly treats of a Confederate Republic as the expedient for extending the sphere of popular government, and reconciling the advantages of monarchy with those of republicanism.

Hamilton then quotes Montesquieu's The Spirit of The Laws at great length to prove his point.

With a further indication of an amazing versatility in his reading, Hamilton quotes from Recherches philosophiques sur les Américains in Essay Number 11. Hamilton

1. FED(9), 49.
2. FED(9), 49.
3. FED(9), 50.
4. FED(9), 50-53.
5. FED(11), 69. See Beloff, Art. (1948), 478. Hamilton fails to name the author of this work. Beloff supplies
here makes a plea that Americans not be so stupid as to yield themselves to European domination. Europe, he maintains, has long held a superiority which has enabled her "to plume herself as the Mistress of the world, and to consider the rest of mankind as created for her benefit."\(^1\) It is at this point that Hamilton paraphrases Raynal.

Men admired as profound philosophers have, in direct terms, attributed to her inhabitants a physical superiority and have gravely asserted that all animals, and with them the human species, degenerate in America—that even dogs cease to bark after having breathed awhile in our atmosphere.\(^2\)

Hamilton, in quite a different context from the above, while arguing for the unity of the executive in Essay Number 70, refers to Delolme and Junius.\(^3\)

The idea of a council to the Executive, which has so generally obtained in the State constitutions, has been derived from that maxim of republican jealousy which considers power as safer in the hands of a number of men than of a single man. If the maxim should be admitted to be applicable to the case, I should contend that the advantage on that side would not counterbalance the numerous disadvantages on the opposite side. But I do not think the

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the following information. "Recherches Philosophiques sur les Américains. The Abbé Guillaume Thomas François Raynal (1713-96) published this celebrated work at Amsterdam in 1770 under the title of L'Historie Philosophique et Politique des Establissemens et du Commerce des Européens dans les deux Indes. It went through many editions in French and other languages. In 1781 he published, at Dublin, his Révolution de l'Amérique. The original theory of 'the tendency of nature to belittle her productions on this side the Atlantic' as Jefferson styled it, was ascribed by him to the naturalist, the Comte de Buffon (1707-88)."

1. FED(11), 69.  2. FED(11), 69.  3. FED(70), 462.
rule at all applicable to the executive power. I clearly concur in opinion, in this particular, with a writer whom the celebrated Junius pronounces to be 'deep, solid, and ingenious,' that 'the executive power is more easily confined when it is one'; that it is far more safe there should be a single object for the jealousy and watchfulness of the people; and, in a word, that all multiplication of the Executive is rather dangerous than friendly to liberty.\(^1\)

And Hamilton adds that "the Decemvirs of Rome"\(^2\) were more to be dreaded than any one of them would have been.

There was such agitation\(^3\) during the process of ratification of the Constitution that it contained no bill of rights. Hamilton undertook to show in the first part of Essay Number 84 that the proposed constitution contained all that could be desirable in a bill of rights. As great bulwarks to liberty and republicanism Hamilton mentions "the writ of habeas corpus, the prohibition of ex-post-facto laws, and Titles of Nobility."\(^4\) He contends that punishment for crimes which when they were done were not against the law, and "the practice of arbitrary imprisonments"\(^5\)

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1. FED(70), 461-462. "The reference to Delolme is from Junius' preface to the collected edition of the Letters of Junius (1772). For the dispute as to the authorship of this work see e.g. Sir Charles Grant Robertson, England under the Hanoverians, 10th ed. App. VI.....Jean Louis Delolme (1740-1806), a native of Geneva, spent a protracted exile in England which ended in 1775. His Constitution de l'Angleterre appeared at Amsterdam in 1771 and an enlarged edition in English in 1772. The work was several times reprinted and was a major source of information for foreign students of English constitutionalism." Quoted from Beloff, Art. (1948), 482.

2. FED(70), 462.

3. FED(84), 555.

4. FED(84), 557.

5. FED(84), 557.
are the strongest devices of tyranny. And to add authority to his words Hamilton quotes from the "judicious Blackstone."

To bereave a man, 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.1

Hamilton's suggestion of a remedy enables him to quote Blackstone again. "He [Blackstone] is everywhere peculiarly emphatical in his encomiums on the habeas corpus act, which he calls 'the BULWARK of the British Constitution.'"2

Hamilton tried in the two last Essays, Numbers 84 and 85 of The Federalist, to touch upon some subjects which had not been previously dealt with. There was much popular discussion3 as to what would be the status of the debts owed the United States by the individual states. Hamilton's answer to those who objected that the proposed constitution did not deal with this issue specifically was a quotation from Rutherford's Institutes.

In addition to the remarks I have made upon the subject in another place, I shall only observe that as it is a plain dictate of common-sense, so it is also an established doctrine

1. FED(84), 557. This quotation by Hamilton is from Blackstone's Commentaries, I, 136. Hamilton gives this information in a footnote to FED(84), 557.
2. FED(84), 557. This quotation from Blackstone is from Commentaries, IV, 438.
3. FED(84), 563.
of political law, that 'states neither lose any of their rights, nor are discharged from any of their obligations, by a change in the form of their civil government.'

Hamilton's final argument in Essay Number 85 of The Federalist was to show that "it will be far more easy to obtain subsequent than previous amendments to the Constitution." He was exactly right in affirming that

the moment an alteration is made in the present plan, it becomes, to the purpose of adoption, a new one, and must undergo a new decision of each state. To its complete establishment throughout the Union, it will therefore require the concurrence of thirteen States. If, on the contrary, the Constitution proposed should once be ratified by all the States as it stands, alterations in it may at any time be effected by nine States.

Hamilton was well aware of the dangers of resubmitting the proposed constitution to the various conventions and he clinches his argument with an appeal to Hume.

The zeal for attempts to amend, prior to the establishment of the Constitution, must abate in every man who is ready to accede to the truth of the following observations of a writer equally solid and ingenious: 'To balance a large state or society, whether monarchical or republican, on general laws, is a work of great difficulty, that no human genius, however

1. FED(84), 563. At the bottom of this page Hamilton adds this note: "Vide Rutherford's 'Institutes' [sic], vol. II, book II, chapter X, sect. xiv and xv. Vide also Grotius, book II, chap. IX, sects. vii. and ix." Beloff gives a clear explanation of this source. He states, "The reference is to The Institutes of Natural Law, by T. Rutherford [sic], 2 vols., Cambridge, 1754-6; 2nd ed. 1779. The work consisted of lectures on Grotius. It was one of the works in the library left by Hamilton." Beloff, Art. (1948) 2, 484.
2. FED(85), 571.
3. FED(85), 571.
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.¹

The prospectus² which Hamilton outlined in Essay Number 1 was an extremely ambitious one.

I propose, in a series of papers to discuss the following interesting particulars:--The utility of the UNION to your political prosperity--The insufficiency of the present Confederation to preserve that Union--The necessity of a government at least equally energetic with the one proposed, to the attainment of this object--The conformity of the proposed Constitution to the true principles of Republican government--Its analogy to your own State Constitution--and lastly, The additional security which its adoption will afford to the preservation of that species of government, to liberty and to property.

Hamilton's promise could not have been fulfilled had he not had material in reserve to rely upon. In addition to this he secured assistance and it has been shown above⁴ how Madison drew upon previously prepared material.

What had Hamilton prepared upon which he could rely? According to the prospectus given in Essay Number 1 the first two topics to be discussed were "The utility of Union" and "The insufficiency of the present Confederation" to preserve

¹. FED(85), 574. Hamilton inserts the following footnote: "Hume's 'Essays,' vol. i., Page 128: 'The Rise of Arts and Sciences.'"  
². FED(1), 6.  
³. FED(1), 6.  
⁴. See above, 50.
it. Hamilton's Convention syllabus\(^1\) shows that he had covered these subjects in his famous speech of June 18, 1787. The main thrust of the argument in both the syllabus and The Federalist is toward the dangers of disunion.

The first series of essays which Hamilton wrote were Essays 6-9. He discussed "the dangers...which will in all probability flow from dissensions between the states themselves and from domestic factions and convulsions,"\(^2\) for, as he explained, if the states remained joined in mere "partial" confederacies they might be thrown into "frequent and violent contests with each other."\(^3\) To write Essays Numbers 6-9 Hamilton could rely on his Convention syllabus. The section from which this group of Essays were taken reads as follows:

League Offensive & Defensive &c.--particular
Gova. might exert themselves &c.--But liable
to usual Vicissi \textit{sic}/--Internal Peace affect-
ed--Proximity of Situation--natural enemies--
Partial confederacies from unequal extent--
Power inspires ambition--Weakness begets jeal-
ousy--Western Territory--Obj: Genius of re-
publics pacific--Answer--jealousy of commerce
as well as jealousy of power begets war--
Sparta Athens Thebes Rome Carthage Venice
Hanseatic League England as many Popular as
Royal Wars--Lewis the 14th Austria Bourbon
William & Anne--wars depend on trifling circum-
stances everywhere--Dutchess of Marlboroughs
Glove--Foreign Conquest--Dismemberment--Pol-
and--Foreign Influence--Distractions set afloat
Vicious humour--Standing armies by dissensions--
Domestic Factions--Montesquieu--\(^4\)

Essays Numbers 6-9 are written from this syllabus

with this division: Essay Number 6 carries through "Dutchess

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\(^1\) Farrand, RFC, I, 304-308.  \(^3\) \textit{FED}(6), 27.
\(^2\) \textit{FED}(6), 27.  \(^4\) Farrand, RFC, I, 307-308.
of Marlborough's Glove"; Essay Number 7 carries through "Vicious humours"; Essay Number 8 discusses the rise of "standing armies"; and Essay Number 9 discusses "Factions" ending with a long quotation from Montesquieu.

As Hamilton had outlined in Essay Number 1 the second major division of discussion in the papers would be "The insufficiency of the present Confederation to preserve that Union." Discussion of this topic begins with Essay Number 15. In Essays 15, 16, and 17 Hamilton developed the idea that no national government could endure unless it had jurisdiction over the individuals in states rather than over the states in their corporate capacities. To do this Hamilton could rely again upon his Convention syllabus. The subject of "The insufficiency of the present Confederation" is dealt with through Essay Number 22. Madison wrote Essays Numbers 18, 19, and 20. An examination of Hamilton's syllabus under "Objections to the Present Confederation" will show that it is paralleled to a notable degree by Essays Numbers 15, 16, 17, and 21, and 22.

Next came a discussion of "The necessity of a government at least equally energetic with the one proposed." At this stage Madison and Hamilton entered into a division of labor. Hamilton would write all of the essays on "The necessity of a government equally energetic with the one proposed," and Madison would write all of the essays dealing

with "The conformity of the proposed Constitution to the true principles of republican government." This division was a natural and logical one since Hamilton was keenly interested in a vigorous government whereas Madison was interested in the principles of federal government. Hamilton, in writing this section, used much of the material of the Convention syllabus.¹

He could not use all of the material of his speech to the Philadelphia Convention for he had made a plea for a government modelled after the British monarchy²; for a government which could be maintained independent of the people's will³; for electing senators for life⁴; for a "strong souled" government.⁵ Adair appropriately suggests that "Hamilton's remedy for this class war was the Hobbesian expedient of setting up a leviathan state to impose order upon the American people from above."⁶ When Hamilton learned that he could not secure the kind of government he had recommended to the Convention he departed and returned only for the closing session. So Hamilton was present at the Convention for the opening and closing sessions. He introduced a plan which was unacceptable to the Convention and left; he returned and accepted a plan he did not want. And in behalf of his country he labored heroically to get ratified a Constitution that was better than he realized. Aside from the quality of

¹ Farrand, RFC, I, 308-309. ⁴ Farrand, RFC, I, 309.
² Farrand, RFC, I, 288. ⁵ Farrand, RFC, I, 308.
³ Farrand, RFC, I, 308. ⁶ Adair, Art.(1944)², 255.
The Federalist the mere fact that Hamilton would engage in such a compromise with himself is a monument to his greatness. His willingness to accept compromise as a basis for moving forward is as much of a lesson for us as any contribution he made to social philosophy through his writings.

4. Some Similarities between the Republic and The Federalist

A. Distrust of Democracy. No attempt will be made to establish a definition of democracy by which the views of Plato and the writers of The Federalist may be criticized. Both Harold Laski and James Bryce attest the conclusion that an adequate definition cannot be given. "There are governments which are 'on the line,' too popular to be called oligarchies, and scarcely enough to be called democracies." Also, "Free Government cannot but be, and has in reality always been, an Oligarchy within a Democracy." Here, the interpretation of democracy presented by the Republic and The Federalist will be compared on the basis of their own content.

Let us begin with Plato. His briefest description of democracy is that it results "when the poor win." What ensues under this label? People lead mosaic lives, and no restrictions govern them. "They are free. Liberty and free speech are rife everywhere; anyone is allowed to do what he likes." There is "plenty of variety and an equality of a

1. Laski, Art. (1930), 76; Bryce, MD, I, 22.
5. Plato, Rep., 557. will be to Cornford, RP. The Greek paging is used.
peculiar kind for equals and unequals alike."¹ One's life is "subject to no order or restraint, and he has no wish to change an existence which he calls pleasant, free, and happy."² This is a description of the way those people live "whose motto is liberty and equality."²

Plato does not seem to have reached this appraisal of democracy through means of deductions from premises relevant to what a popular government could be thought to be like, but records a description of the people's governments of small city-states with which he was familiar.³ Commitments as to what actually occurs in the civic life of a democracy substantiate this opinion. "You are not obliged to be in authority, however competent you may be, or to submit to authority, if you do not like it; you need not fight when your fellow citizens are at war."⁴

Such a democracy engenders intolerance of all tolerance. "A magnificent indifference" is exercised in regard "to the sort of life a man has led before he enters politics."⁵ Men sit on juries and hold public office who have no legal right to do so.⁶ And Socrates tells Adeimantus:

In a democracy you must have seen how men condemned to death or exile stay on and go about in public, and no one takes any more notice, than he would of a spirit that walked invisible.⁷

This picture of popular rule struck hard at the struc-

ture of Plato's view of the just state which could only be brought about by the rule of "genuine philosophers" who despise "all existing honours as mean and worthless, caring only for the right and the honours to be gained from that." The even order of a just society made up of tradesmen, auxiliaries and guardians doing their own work is disrupted by opposing factions which strive to banish each other.

A similar criticism of a completely popular government is offered by the writers of The Federalist. There, Madison defines "a pure democracy" as "a society consisting of a small number of citizens, who assemble and administer the government in person" and who "can admit of no cure for the mischiefs of faction." Both Plato and the writers of The Federalist are directly concerned with factions as a social malady.

Hamilton echoes Plato's description of the way those people live "whose motto is liberty and equality" when he states:

From the disorders that disfigure the annals of those republics the advocates of despotism have drawn arguments, not only against the forms of republican government, but against the very principles of civil liberty.

The democratic city-state of ancient Greece which ran counter to Plato's concept of good government is, too, an object of criticism for The Federalist.

B. Attack on Factions. Distrust of democracy received its expression in the *Republic* and *The Federalist* as a consequence of intolerance of the results of factions, the cause of which, said Madison, are "sown in the nature of man." They are brought about "into different degrees of activity, according to the different circumstances of civil society." Factors which have driven mankind into parties have been religion, government, attachment to leaders, property "and many other points, as well of speculation as of practice." Popular governments have failed to reconcile factional differences for the good of the community, the regulation of which "forms the principal task of modern legislation."

Plato's chief purpose in the *Republic* was to determine whether or not it pays to be a just individual. His work can best be described as a psychological analysis of man's soul with analogies drawn from the state. It is necessary to survey this analysis briefly in order to decipher Plato's complete mistrust of factions. Fundamental to what he has to say in this connection is to bear in mind the assertion "that more things will be produced and the work be more easily and better done, when every man is set free from all other occupations to do, at the right time, the one thing for which he is naturally fitted."  

1. *FED(10)*, 55.  
2. *FED(10)*, 55.  
4. *FED(10)*, 58.  
5. *FED(10)*, 56.  
Virtues to be found in an ideal state are wisdom, which is that peculiar form of knowledge possessed by some among the citizens of our new-founded commonwealth, which will enable it to take thought, not for some particular interest, but for the best possible conduct of the state as a whole in its internal and external relations; courage, which is that quality possessed by those in the state who take the field and fight in its defense; and temperance, which is that virtue brought about when self-mastery exists and "the better part rules the worse." Justice, or the fourth virtue, is expressed in "the observance by everyone, child or woman, slave or freeman or artisan, ruler or ruled, of this principle that each one should do his own proper work without interfering with others." Now what has this to do with factions?

Intemperance means that the different parts of the state are in disharmony among themselves and there is no protection of the rights of the minority. Factions result when violations are made of the "universal principle" formerly laid down "that everyone ought to perform the one function in the community for which his nature best suited him."

Likewise, the soul of men has three distinct parts, the rational, irrational appetite, and spirited. These

parts are analogous to the state which has "three orders to hold it together, traders, Auxiliaries, and Counsellors."¹

The corresponding virtues of these parts of the soul are bravery, which characterizes the spirited part of one's nature²; wisdom, which is expressed by the part that rules and issues injunctions³; and temperance, which occurs "by reason of the unanimity and concord of all three."⁴

Factions result when there is internal conflict between these parts of the soul just as when disharmony exists in a state. Plato could well assent to Madison's definition of a faction as 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.⁵

Hamilton states that if no more perfect models of government than that found in the petty republics of Greece and Italy can be devised, then "the enlightened friends to liberty" must abandon "the cause of that species of government as indefensible."⁶ But in affirming that improvements have been made, Hamilton submits as evidence measures which were designed to eliminate factions.⁷

C. Popular Governments Lead to Anarchy. Democracy, according to Plato, tramples under foot "all those fine prin-
ciples we laid down in founding our commonwealth."¹ Waste is laid to the program of studies set forth to determine what an individual has ability to do.² Disharmony is promoted through intemperance, for temperance is not like courage and wisdom, which make the state wise and brave by residing each in one particular part....it extends throughout the whole gamut of the state, producing a consonance of all its elements.³

This intemperance is brought to pass by free men who enjoy "liberty and free speech" and are allowed to do with them what they like.⁴ As a result justice is banished, which is that quality which makes it possible for the three we have already considered, wisdom, courage, and temperance, to take their place in the commonwealth, and so long as it remains present secures their continuance.⁵

Justice, however, cannot reign unless temperance, or the "unanimity or harmonious agreement between the naturally superior and inferior elements on the question which of the two should govern,"⁶ exists.

Liberty, free speech, lack of restraints and contempt for "fine principles"⁷ are features of a democracy. Plato correctly called this "an agreeable form of anarchy."⁸ When self-control, "dishonoured and insulted as the weakness of an unmanly fool," is placed in exile, there remains only "to

marshal the great procession bringing home Insolence, Anarchy, Waste and impudence, those resplendent divinities crowned with garlands.\textsuperscript{1}

Hamilton voiced an opinion somewhat similar to Plato's view of a society in discord when he said:

I shall now proceed to delineate dangers of a different and, perhaps, still more alarming kind---those which will in all probability flow from dissensions between the States themselves, and from domestic factions and convulsions.\textsuperscript{2}

These words were set together to convince opponents of the new constitution that it should be adopted, but Hamilton was fully aware of the anarchic leanings of popular governments. He asserts that ancient popular rules "were kept in a state of perpetual vibration between the extremes of tyranny and anarchy."\textsuperscript{3}

Madison refers to the "turbulent democracies of ancient Greece" which fell fatally wounded because they had no "proper antidote for the diseases of faction."\textsuperscript{4} The removal of restraints from those who discount Plato's concept of symmetrical living clears the way for anarchy.

D. Emphasis on Ability. Writing of the efficiency of a well-planned national government, Jay contends that the "best men in the country will not only consent to serve, but also will generally be appointed to manage it."\textsuperscript{5} Local and state governments may allow some incompetent individuals to hold office, but even if they are elected to the national leg-

\textsuperscript{1} Plato, Rep., 560. \textsuperscript{2} FED(6), 27. \textsuperscript{3} FED(9), 47. \textsuperscript{4} FED(14), 79-80. \textsuperscript{5} FED(3), 14.
islative body, competent men will receive appointments to offices under the national government rather than they, since in the national legislative there will always be an abundance of talent. ¹

Return of elected individuals to the people after termination of a certain period of time² for reapproval or rejection by the people offers a check to incompetence in office. The higher an office is in the national government, the more advanced are qualifications for holding it. For example, "the qualifications proposed for senators, as distinguished from those of representatives, consist in a more advanced age and a longer period of citizenship."³

Election of the Executive ought to be done "by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation."⁴ And the Executive should be one who is able "to dare to act his own opinion with vigor and decision."⁵

Plato bases his plan for an ideal state on the view that an individual can do one job best,⁶ and he outlines a program of training⁷ to determine whether individuals will best be suited for artisans, warriors or rulers. Individuals capable of most advanced study and understanding make up the ruling class, "who lift up the eye of the soul to gaze on

¹ FED(3), 14-15. ⁵ FED(71), 465.
² FED(52), 343. ⁶ Plato, Rep., 370.
³ FED(62), 400. ⁷ Plato, Rep., 535-541.
⁴ FED(68), 441.
that which sheds light on all things, and when they have seen the Good itself, take it as a pattern for the right ordering of the state."¹

Philosopher rulers are men who "despise all existing honours as mean and worthless, caring only for the right and the honours to be gained from that, and above all for justice."² Somewhat comparable to them are the members of the judicial review, who "are to hold their offices during good behavior"³ and who "guard the Constitution and the rights of individuals from the effects of those ill humors...of designing men."⁴ Yet this is a slightly strained similarity, so attention will now be directed to some differences.

5. Some Differences between the Republic and The Federalist

A. Instead of Democracy. Plato's solution to the miscarriages of the rampant freedom found in popular governments is not a remedy within the limits of democracy. He presents an ideal picture of a state based on a division of labor. It is made up of "traders, Auxiliaries, and Counsellors"⁵ who, when the state is just, work in harmony with one another. Assignment is made to one of these orders of the state on the basis of "the mixture of metals in the souls of children."⁶

A child with an alloy of brass or iron must be stationed among "the craftsmen or the farmers," whereas one "with gold or silver in his composition will be promoted, "according to his value, to be a Guardian or an Auxiliary."¹ Excellence is achieved in the affairs of public life when farmers, Auxiliaries and Guardians "perform the one function in the community" which their respective natures best suit.²

No admission is made in the Republic of the impossibility of Plato's plan of government being realized. He states that such a realization, "though hard, is not impossible."³ Whatever one may say of it, however, the contention could hardly be supported that it has any leanings toward being a representative government. Elsewhere Plato does acknowledge the Laws as "second best."⁴ The Platonic philosopher state is not a republic. It is designed to alleviate the condition of factions by means of a categorizing of talents. A rational, harmonious, justice will be brought about when reason takes "the many-headed beast" under its care to "tame its wildness, like the gardener who trains his cherished plants while he checks the growth of weeds."⁵

In answer to this Madison cries out:

It is vain to say that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. Enlightened statesmen will not always be at the helm.

Madison states in another connection that in a "nation of philosophers" much of the present legislation would be useless, since men would be obedient to laws because of an "enlightened reason," but it is added, "A nation of philosophers is as little to be expected as the philosophical race of Kings wished for by Plato."¹ What, then, does The Federalist present as a solution to the maladjustments of a completely popular rule?

It presents a republican form of government² offering a republican remedy for the diseases most incident to it.³ Much as the writers of The Federalist distrusted rule by a majority of the people in a given civil life, they argued that the evils ensuing could best be remedied through an amelioration of popular government by means of what Hamilton called great improvements in the science of politics.⁴

Under the influence of Montesquieu's Spirit of Laws these improvements include:

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.⁵

Then, there is the difficulty of the amending process,⁶ which was held to be another factor which prevented selfish interests from ameliorating representative government. Anoth-

¹. FED(49), 329.  ². FED(39), 243.  ³. FED(10), 62.  ⁴. FED(9), 48.  ⁵. FED(9), 48.  ⁶. FED(49 and 50), 327-335. See particularly 328.
er important factor in this regard is "the qualified negative of the president upon the acts or resolutions of the two houses of the legislature; or, in other words, his power of returning all bills with objections."\(^1\)

Other arguments which the writers of *The Federalist* felt to be safeguards to the disruption of republican government were "the appointment of senators by the State legislatures"\(^2\) for long terms, "the equality of representation in the Senate"\(^3\) by the different states, the election of the president by "men chosen by the people for the special purpose"\(^4\) and a judicial review of executive and legislative acts.\(^5\)

Hamilton was extremely vigorous in his attack on those who argued that "the power of construing the laws according to the spirit of the Constitution, will enable that court to mould them into whatever shape it may think proper"\(^6\) and saw in the judicial review the most powerful stronghold against the errors of the democratic Greek city-state. That is to say, in the case of Hamilton, against the innovation of popular government. In answer to the above quotation against the power of judicial review he stated that "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."\(^7\)

1. FED(73), 476.  
2. FED(62), 401.  
3. FED(62), 401.  
4. FED(68), 441.  
5. FED(78), 504.  
6. FED(81), 523.  
7. FED(81), 524.
This correction of the errors of popular government enumerated above makes *The Federalist* dissimilar to the Republic. Though similar to the Republic in its "distrust of democracy," in its recognition of the inability of popular rules to treat of factions and in its realization of the anarchic nature of ancient city-states, *The Federalist*, nevertheless, sought solutions of all these difficulties within the confines of representative government. As a result the Constitution which it expounded has proven adaptable, through the amending process, to democratic ways of life.

Madison rightly contended that a reconciliation of conflicting economic interests could best be effected by a republican government based on the representative principle. Public views, he held, would be refined and enlarged 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.¹

This refining process of the views of the people is well adapted, in the case of *The Federalist*, to favoring the best policies for a state as a whole. The larger the society the more capable it is of self-government² and the less of "town-meeting" democracy, such as Plato disliked.

1. FED(10), 59.  
2. FED(51), 341.
But, in the case of the Republic, philosopher-rulers are selected on the basis of achievement while undergoing a period or periods of study.¹ They may all come from one section, since territorial and population interests are not factors in determining rulers in Plato’s ideal state. If they are rational and just, an understanding of the problems confronting a society can be had by all rulers. Here, it seems that The Federalist presents the best system and the one most likely to succeed due to its variegated representation.

B. Result of Different Solutions. Important to consider in a comparison of the Republic with The Federalist is the status of the individual. We have seen that in Plato’s Republic the state has three orders to hold it together. This state is made up of “traders, Auxiliaries, and Counsellors.”² That group of people who produce goods are members of the artisan class. The Auxiliaries attend to the defense and protection of the others. Counsellors care for the “best possible conduct of the state as a whole in its internal and external relations.”³ Justice is brought about in the state when everyone performs “the one function in the community for which his nature best”⁴ suits him.

It is deducible from this summary that individuals are assigned their lot in the state on the basis of what they can do best. If a person is a better carpenter than a warrior or

anything else, he spends his life as a carpenter. One becomes a soldier by manifesting the qualities which characterize a good soldier. Rulers are chosen from among that group who manifest superb understanding and intellectual excellence.

There is no place in such a society for politics, for politics would create discord, and the result would be injustice. Any type of republican government would create loopholes through which individuals might advance to positions in the state for which they were not best fitted. Hence, election of individuals to office could not be tolerated in Plato's ideal civil society.

The writers of The Federalist were pessimistic as to the possibility of Plato's ideal being realized,¹ and they argued that through a process of balancing a faction against a faction, if need be inefficient officials would not be allowed to corrupt the government.² The counterpart of Plato's concept of the just state in The Federalist is discovered in the view

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.³

It may be asked regarding the status of the individual in the social philosophy of The Federalist, who are to be representatives of the people? Answer to this question brings to

1. FED(49), 329; (10), 57.
2. FED(49), 327; (9), 48; (62), 401. 3. FED(51), 336.
view a complete break with Plato's view of the ideal state. Instead of a state constructed on a division of labor, one finds a republican government founded on the representative principle. And the electors of federal representatives are the people.

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 obscurity and unpropitious fortune. The electors are to be the great body of the people of the United States.¹

These federal representatives can be any of the citizens who meet specified requirements² and who are duly elected or appointed.

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.³

This lack of qualification for public office due to "wealth, birth, religious faith, or civil profession" means that a federal official may be a rich man, poor man, doctor, lawyer, or philosopher (not Indian chief). Guardians in the Republic must have property limitations⁴ and serve "without getting a mercenary's pay."⁵ There is nothing in The Federalist analogous to this.⁶

1. FED(57), 371.
2. FED(52), 341-342; (62), 400.
3. FED(57), 371.
5. Plato, Rep., 419.
War is waged in Plato's ideal state by the Auxiliaries, "who will enforce the decisions of the Rulers."¹ The Auxiliaries are members of a society who best manifest courage or the spirited element of the soul. In The Federalist regulation of the militia is assigned "to the direction of the national authority,"² and there is no particular class of individuals who alone can be members of it.

Plato is as much interested in the Republic in determining what a just individual is like as he is in constructing a concept of a just state. This work is as much a psychological treatise as it is a book on social philosophy. The Federalist, on the other hand, is a vigorous plea for the adoption of a Constitution based on the republican principle of government and framed to work.

In spite of their distrust of democracy as they defined democracy, both Plato and the writers of The Federalist sought to avoid tyranny. Plato's wise individual ruled his own spirit, and Plato's ideal society was put together with symmetry. There was no place for tyranny. Through a system of checks and balances and a republican form of government based on the representative principle the writers of The Federalist sought to avoid either anarchy or tyranny. It was unnecessary for them to assume that a republican form of government is not democratic.

¹ Plato, Rep., 414.
² FED(29), 176.
6. Some Comparisons of Locke's Essay Concerning the True Original, Extent and End of Civil Government with The Federalist

A. A Government of the People. Both Locke's Essay\(^1\) and The Federalist contain the view that civil society rests on the consent of the governed. Locke's views in this regard are mostly theoretical deductions from a view that man is a rational being when he adheres to a "law of nature,"\(^2\) whereas the authors of The Federalist assumed the task of arguing in behalf of a proposed constitution which was to become a great living and growing reality. This difference does not alter acceptance by Locke and the writers of The Federalist that governments are best based on the consent of the governed.

Men are in civil society for Locke when they are "unit-ed into one body, and have a common established law and judi-cative to appeal to, with authority to decide controversies between them and punish offenders."\(^3\) But this statement alone is not a clear example of how men enter into a social contract.

We are born into a state of freedom\(^4\) where anarchy would exist if we did not give up this freedom to a central-

1. Locke's Essay Concerning the True Original, Extent and End of Civil Government will be referred to in the body of this study as Essay. It is the second division of Locke's Two Treatises on Government and is frequently referred to as the Second Treatise on Government.
2. Locke, ECCG, ch. ii, sec. 6. All references to ECCG are to Burtt (ed.), EPBM.
3. Locke, ECCG, ch. vii, sec. 87.
4. Locke, ECCG, ch. vii, sec. 87; ch. viii, sec. 95; ch. viii, sec. 104.
ized social agency. Absolute monarchy is discounted by Locke as being any form of civil government at all. It is inconsistent with civil society. This is true because civil society is

to avoid and remedy those inconveniences of the state of nature which necessarily follow from every man's being judge in his own case, by setting up a known authority to which everyone of that society may appeal upon an injury received or controversy that may arise, and which everyone of the society ought to obey.

The argument, however, that one does not enjoy civil society when under a monarch is itself inconsistent with the view that wherever any number of men unite into one society, "as to acquit everyone his executive power of the law of nature, and to resign it to the public, there, and there only, is a political, or civil society." Locke speaks at times as though releasing "uncontrolled enjoyment of all the rights and privileges of the law of nature" to a governmental authority is equivalent to, in fact is, civil society. When he tells us that civil society does not exist under an absolute monarchy we are led to wonder just where such a society does begin.

Often statements are made to the effect that civil society exists when agreement is made to enter into a social compact between the persons concerned. For example,

1. Locke, ECG, ch. vii, sec. 90.
2. Locke, ECG, ch. vii, sec. 90.
3. Locke, ECG, ch. vii, sec. 89.
4. Locke, ECG, ch. vii, sec. 87.
this is done by barely agreeing to unite into
one political society, which is all the com-
pact that is, or needs be, between the indi-
viduals, that enter into or make up a common-
wealth.¹

Even Locke admits that if we go far enough into the past
"towards the original of commonwealths, we shall generally
find them under the government of one man."² This type of
commonwealth had its counterpart in the patriarchal families,
and the reference to such a society as a commonwealth indi-
cates that it might be conceived as a civil society.

Yet this position is discounted by Locke when he says
moving back into history and finding original commonwealths
under one man
destroys not that which I affirm, viz.: that
the beginning of politic society depends up-
on the consent of the individuals to join in-
to, and make one society; who when they are
thus incorporated, might set up what form of
government they thought fit.³

Men originally placed their confidence in and submitted to
the rule of a monarch by common consent for expedient reasons.⁴
This leader was the director of battles,⁵ and no one "dreamt
of monarchy being jure divino."⁶

Locke, too, was not unmindful of a society in which
the officials were elected representatives who formed laws
to which the people gave adherence. It would be unfair to
leave him in the above light. In fact, he even states once

¹. Locke, ECGG, ch. viii, sec. 99.  ⁵. Locke, ECGG,
². Locke, ECGG, ch. viii, sec. 105.  ⁶. Locke, ECGG,
³. Locke, ECGG, ch. viii, sec. 106.  ⁷. Locke, ECGG,
⁴. Locke, ECGG, ch. viii, sec. 112.  ⁸. Locke, ECGG,
of monarchies:

that the reason that continued the form of
government in a single person was not any
regard or respect to paternal authority, since
all petty monarchies, that is, almost all
monarchies, near their original, have been
commonly—at least upon occasion—elective.¹

Men, also, can change governments if they so desire. Alle-
giance to a compact does not bind one's posterity. "What-
ever engagements or promises anyone made for himself, he is
under the obligation of them, but cannot by any compact
whatev’rever bind his children or posterity."²

The principle, then, to which Locke gives emphasis
is that no matter what form of government³ to which one
gives approval, it is done by one's own consent. The trans-
ition in Locke's argument is from conformity to a law of
nature to obedience to civil law.

In what way does the political philosophy that social
compacts should rest on the consent of those who are govern-
ed find expression in The Federalist? It is inherent to the
nature of The Federalist in that it is a series of essays de-
signed to persuade a people that they should give their ap-
proval to a proposed constitution.

This is nowhere more clearly expressed than by Hamilton
when he states:

After an unequivocal experience of the inefficiency
of the subsisting federal government, you are

¹. Locke, ECGG, ch. viii, sec. 106.
². Locke, ECGG, ch. viii, sec. 116.
³. Locke, ECGG, ch. x, sec. 132.
called upon to deliberate on a new constitution for the United States of America.¹

He goes so far as to remind his readers that it may be left to those giving their consent to the constitution being presented for their approval to determine 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.²

Madison, in admitting that no claims for flawlessness are made for the proposed constitution, calls attention to the fact:

> It is not a little remarkable that in every case reported by ancient history, in which government has been established with deliberation and consent, the task of framing it has not been committed to an assembly of men.³

Again, in his candid survey of the plan of government reported by the Philadelphia Convention of 1787, Madison reminds us that none but a republican form of government "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,"⁴ which is belief in man's capacity for self-government.

The writers of The Federalist never sought to argue that the new government should be taken completely out of the hands of the people once it was established by their consent.

¹ FED(1), 3.
² FED(1), 3.
³ FED(38), 233.
⁴ FED(39), 243.
There was quite an argument among critics of the proposed constitution and among the designers of it as well as to when the people should be appealed to for their consent in regard to new legislation. In answering an argument as to when there should be an appeal to the people, Madison states:

There is certainly great force in this reasoning, and it must be allowed to prove that a constitutional road to the decision of the people ought to be marked out and kept open, for certain great and extraordinary occasions.¹

These citations will suffice to show that both Locke and the writers of The Federalist were of the opinion that civil society functions most properly when it rests on the consent of the governed. Closely related to this principle of political philosophy is the view that representatives of the people who make up a given society may be elected by the people of that society.

B. Elected Representatives. Attention was called² to Locke's statement that even monarchies near their beginning have commonly been elective. That Locke believed in the election of the legislative branch of government by the people composing a particular civil society is defensible from the development of his thought in his Essay. The legislative division of a social compact has as its task the preservation of a particular society and

¹. FED(49), 328. ². See above, 93.
is not only the supreme power of the commonwealth, but sacred and unalterable in the hands where the community have once placed it; nor can any edict of anybody else, in what form soever conceived, or by what power soever backed, have the force and obligation of a law, which has not its sanction from that legislative which the public has chosen and appointed.

The phrase "which the public has chosen" does not indicate any distinct kind of elective system, but it does present us with the idea that some scheme whereby the voice of the people is crystallized in the selection of an official or officials is meant. That idea is fundamental to Locke's political philosophy, and no constitution is a valid one which is not formed by representatives chosen for that purpose by the people who are to be bound by it. A constitution must be

made by persons authorized thereunto by the consent and appointment of the people, without which no one man or number of men amongst them can have authority of making laws that shall be binding to the rest.

It was also clearly understood by Locke that individuals elected by the people to be their representatives held an official capacity only during the length of time for which they were chosen. At the termination of a period of time for which one had been elected, the people had the power of expressing themselves again for a choice.

1. Locke, ECCG, ch. xi, sec. 134.
2. Locke, ECCG, ch. xix, sec. 212.
This power of the people to elect some of their representatives is expressed by Madison when he states, "If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible."¹

Yet to understand The Federalist adequately, recognition must be given to a manifest distrust of complete democracy among its writers. What they favored was a type of representative government which tended to dilute popular government. It may be that in their arguments for a remedy of a completely popular government they gave expression to a more perfect democracy.

After a discussion of the miscarriages of ancient republican governments, Hamilton states:

The science of politics, however, like most other sciences, has received great improvement... 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,² are modern improvements. In Essay Number 35 Hamilton remarks that "the idea of an actual representation of all classes of the people, by persons of each class, is altogether visionary."³

Madison was of the opinion:

1. FED(39), 243.
2. FED(9), 48.
3. FED(35), 213.
The instability, injustice, and confusion introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished.\(^1\)

But he was aware that great improvements had been made in removing certain ills from popular government and calls our attention to the fact that "our most considerate and virtuous citizens" were aware of the necessity that some obvious defects be remedied. Madison contended that the enlightened citizenry were familiar with the abuse of the public good in the interest of rival parties and that measures were 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."\(^2\)

The difficulty of the amending process\(^3\) was another factor which prevented representative government from being weakened by selfish interests. Another important factor in this regard is "the qualified negative of the President upon the acts or resolutions of the two houses of the legislature; or, in other words, his power of returning all bills with objections."\(^4\)

Other arguments which the writers of *The Federalist* felt to be safeguards to the disruption of republican government were "the appointment of senators by the State legislatures"\(^5\) for long terms, "the equality of representation in the Senate"\(^6\) by the different states, the election of the

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1. *FED*(10), 53.
2. *FED*(10); 54.
4. *FED*(73), 476.
president by "men chosen by the people for the special pur-
pose"\(^1\) and a judicial review of executive and legislative
acts.\(^2\)

Hamilton was extremely vigorous in his attack on those
who argued that "the power of construing the laws according
to the spirit of the Constitution, will enable that court to
mould them into whatever shape it may think proper"\(^3\) and saw
in the judicial review the most powerful stronghold against
democratic innovation. That is to say, in the case of Hamil-
ton, against the innovation of popular government. In answer
to the above quotation against the power of judicial review,
he stated:

> In the first place, 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 Con-
stitution.\(^4\)

Locke's view of a "perfect democracy" and the defi-
nition presented by The Federalist of a "pure democracy" are
similar. Locke states:

> The Majority having, as has been shown, upon
men's uniting into society, the whole power of
the community, naturally in them, may employ
all that power in making laws for the commu-
ity from time to time, and executing those laws
by officers of their own appointing; and then
the form of the government is a perfect democ-

\(^1\) FED(68), 441.
\(^2\) FED(78), 504.
\(^3\) FED(81), 523.
\(^4\) FED(81), 524.
\(^5\) Locke, EGGG, ch. x, sec. 132.
Madison means by a "pure democracy," "a society consisting of a small number of citizens, who assemble and administer the government in person."¹

Both Locke and the writers of The Federalist were cognizant of the difficulties involved where a majority of the people ruled or where factions worked for their own interest rather than the public good. Locke stated in regard to the legislative:

They are to govern by promulgated established laws, not to be varied in particular cases, but to have one rule for rich and poor, for the favorite at court and the countryman at plough.²

Madison presents a clear argument in the following citation of how the writers of The Federalist meant to reconcile conflicting economic interests in a republican government founded upon the representative principle. The public views would be refined and enlarged 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.³

But the constitution which The Federalist recommended has grown more democratic through the means of the amending

1. FED(10), 58. See above, 72-74.
2. Locke, ECCG, ch. xi, sec. 142.
3. FED(10), 59.
process. For example, the direct election of senators, the enfranchisement of Negroes, and nation-wide woman suffrage required constitutional amendments. This, however, enhances the genius of The Federalist in its promotion of the amending process as well as discounting some of the arguments made in favor of the remedies of popular government.

Locke is very clear in his presentation of the idea that governments must at times revert to the people. "When it is so reverted, the community may dispose of it again anew into what hands they please, and so constitute a new form of government." Yet Locke failed to clarify any means by which the people might alter their government except at the termination of a period of time for which a representative or representatives had been elected.

The power of judicial review advocated by The Federalist is a marked advance over Locke's political philosophy. Locke states that "whatsoever shall be done manifestly for the good of the people, and the establishing the government upon its true foundations is, and always will be, just prerogative." He further adds that

the executor of the laws, having the power in his hands, has by the common law of nature a right to make use of it for the good of society, in many cases where the municipal law has given no direction.

1. FED(49), 328. 2. FED(62), 401. 3. ECCG, ch. x, sec. 132. 4. FED(81), 524. See Essays Numbers 78-79 in their entirety. 5. Locke, ECCG, ch. xiii, sec. 158. 6. Locke, ECCG, ch. xiv, sec. 159.
The executive may "act according to discretion for the public good, without the prescription of the law and sometimes even against it."¹ This is at wide variance with Hamilton's plea that "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."²

Also, a bit of vagueness or inconsistency is noticed in the development of Locke's thought in regard to the legislative and executive branches of government when compared to his view of prerogative. He states that

the legislative, or supreme authority, cannot assume to itself a power to rule by extemporary arbitrary decrees, but is bound to dispense justice, and decide the rights of the subject by promulgated standing laws, and known authorized judges.³

And the executive power is only to "see to the execution of the laws that are made and remain in force."⁴

There is much that is similar between the general framework of a kind of government discussed in Locke's Essay and that advocated by the writers of The Federalist. Locke recognizes a legislature⁵ based on an equal representation of the people⁶ and chosen by the people for a certain period of time⁷ to make laws. The legislative branch of government is

¹. Locke, ECCG, ch. xiv, sec. 160; see also ch. xiv, sec. 164.
². FED(81), 524.
³. Locke, ECCG, ch. xi, sec. 136.
⁴. Locke, ECCG, ch. xii, sec. 144.
⁵. Locke, ECCG, ch. xii, sec. 143.
⁶. Locke, ECCG, ch. xiii, sec. 158.
⁷. Locke, ECCG, ch. xiii, sec. 154; ch. xiii, sec. 157.
inconstantly in session\(^1\) and during their absence from assembly the executive administers the laws\(^2\) and may even call an extra session of the legislative assembly.\(^3\)

The following counterpart of this Lockian general framework of government is found in The Federalist. The legislature is that branch of government which has "an immediate dependence on, and an intimate sympathy with, the people."\(^4\) Apportionment of representatives to the several states is recommended to be made on the same basis "with that of direct taxes." But,

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.\(^5\)

Members of the House of Representatives are chosen for a certain period of time, at the termination of which they must re-submit themselves to the people for approval if they desire re-election. "Biennial elections will be as useful to the affairs of the public, as we have seen that they will be safe to the liberty of the people."\(^6\) This House is inconstantly in session and is adjourned by the Executive when they cannot agree among themselves upon a time of adjournment.\(^7\)

In the absence of chosen representatives, a good executive insists on a "steady administration of the laws."\(^8\)

1. Locke, EGGG, ch. xii, sec. 143.
2. Locke, EGGG, ch. xii, sec. 144.
4. FED(52), 343.
5. FED(54), 353.
6. FED(53), 353.
7. FED(77), 501.
8. FED(70), 454.
And if extraordinary occasions warrant such action, he may
convene one or both houses of the legislature. ¹

Any republican form of government raises the diffi­
cult problem of the rule of the majority versus the rights
of the minority. Much of the preceding discussion can be
directed to a discussion of this difficulty. The Federalist
itself is as much a document designed to remedy this problem
as to remedy any other. Both Locke and the writers of The
Federalist realized how in a "pure democracy" the majority
insisted on the accomplishment of their interests at the ex­
pense of the minority.² But as we shall see, Locke offered
no solution comparable to that of The Federalist.

Most of Locke's discussion of majority rule is con­
cerned with an explanation of how an original social compact
is brought about. There the voice of a majority in the
forming of a government includes all of those within its
area of influence who have consented to form a civil soci­
ety.

When any number of men have so consented to
make one community or government, they are
thereby presently incorporated, and make one
body politic, wherein the majority have a
right to act and conclude the rest.³

At the very time anyone consents to membership in a
civil society he submits himself "to the determination of
the majority" and is "to be concluded by it."⁴ This con­

¹. FED(69), 447. ⁴. Locke, ECCG, ch. viii, sec. 97.
². Locke, ECCG, ch. x, sec. 132; FED(10), 58.
³. Locke, ECCG, ch. viii, sec. 95.
clusion of Locke is essentially sound as a general statement in regard to the beginning of a civil community.

For if the consent of the majority shall not in reason be received as the act of the whole and conclude every individual, nothing but the consent of every individual can make anything to be the act of the whole.¹

This would result in so many imperfections that the result would be anarchy.

The difficult problem which this position regarding the rule of the majority at the beginning of a society raises is to what extent the interests of the minority are going to be protected and respected once a government is formed. It is in the treatment of this problem that The Federalist surpasses Locke's Essay in an excellence of analysis and solution. But it would be incorrect to say that Locke did not recognize that the rights of the minority should be cared for.

In a discussion of legislative power, Locke even strikes at the center of the problem of factions with which the writers of The Federalist excelled in their treatment.

There is no need that the legislative should be always in being, not having always business to do; and because it may be too great a temptation to human frailty, apt to grasp at power for the same persons...both in its making and execution to their own private advantage, and thereby come to have a distinct interest from the rest of the community, contrary to the end of society and government.²

He also states that laws are "not to be varied in particular

1. Locke, ECGG, ch. viii, sec. 98.
2. Locke, ECGG, ch. xii, sec. 143.
cases" and that there is to be "one rule for rich and poor, for the favorite at court and the countryman at plough."¹ These, however, are general statements which verge on the nature of being platitudes. The only effort at solution of the problem of the majority versus the minority given by Locke is that of the inconstancy in session of the legislative along with the republican nature of government.

Madison, too, believed that a reconciliation of conflicting economic interests could be effected through a republican government based on the representative principle. He held that the public views should be passed through 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.²

But The Federalist goes much farther than this in the analysis of factions.

The Federalist defines a faction as 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.³

This is a proper putting of the problem, since it is no less bad for a majority to control a minority than for a minority to control a majority. The enlightened public was familiar with this difficulty and complained

1. Locke, ECCC, ch. xi, sec. 142.
2. FED(10), 59. 3. FED(10), 54.
that 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.¹

As a remedy to the problem of factions, Hamilton calls our attention to

- 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.²

And of the judicial review he states that it is requisite to guard the minor party from serious oppressions.³

These remarks are in a large measure a reproduction of the argument for those measures which diluted popular government. This means, then, that in a republican form of government popular government may not only be ameliorated but that all internal factions can best be corrected.

C. A Law of Reason. To find a counterpart of Locke's view of a law of reason in The Federalist may, in a sense, be a forced argument. If the notable absentees (Tom Paine, Thomas Jefferson and Samuel Adams) from the Philadelphia Convention of 1787 had been present, the adopted constitution would probably have given a clearer and more emphatic expression to belief in man's rational self-determination.

Locke gave assent to belief in a law of nature "which obliges everyone; and reason, which is that law, teaches all

1. FED(10), 54.  2. FED(9), 48.  3. FED(78), 508.
mankind who will but consult it.”¹ Each man in a state of nature is judge in his own case of that which affects him through his appeal to this law of reason² and may rightly punish those who disobey this law in relation to him. Because men have evil passions, it becomes necessary or expedient to form a social compact³ to which the members of a civil society can appeal for protection against violators of individual rights.

It would be a mistake to interpret Locke as meaning that a social compact is a substitute for the law of reason. Municipal laws are right only in so far as they are based on this law of reason, and by entering into a civil society for a kind of community protection mankind does not escape them.⁴ In a civil society, if the laws are good ones, man is still governed by laws of nature but has written them into a civil code and given a community assent to them, whereby they become binding to all members and effective against all trespassers, even in the case of war. It is, then, on the basis of a concept of reason that Locke justifies slavery,⁵ war,⁶ and the right to property.⁷ This does not mean that war and slavery are rational, but that they may be entered into on rational grounds.

2. Locke, ECCC, ch. ii, sec. 7.
Becker tells us that in the eighteenth century, "Most Americans had absorbed Locke's works."¹ In fact, French political writers were little read in America before the forming of the United States Constitution, and Becker doubts if even Jefferson ever read Rousseau's Social Contract.² It seems safe to assume that the writers of The Federalist were familiar with Locke, particularly Madison. Much of the language of The Federalist might almost be quotations from Locke's Essay. Such phrases as the following recur often in both writings: "good of society"; "life, liberty, property"; and "preservation of property."

The writers of The Federalist, however, gave no explicit analysis of the concept of man as rational. Yet the concept of man as a rational being capable of self-government is a proposition on which the arguments of The Federalist are based. Hamilton states in the first Essay that it seems to have been reserved to the people of this country "to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice."³

In another connection we find Madison stating, "It is the reason, alone, of the public, that ought to control and regulate the government."⁴ After discussing at length the powers of the Executive, Hamilton asks, "What more could be

2. Becker, DOI, 28. 4. FED(49), 331.
desired by an enlightened and reasonable people?"¹ Again, Madison asks of an argument directed against the House of Representatives, "Is it supported by reason?"² The phrase "capacity for self-government"³ occurs several times in The Federalist. There are, however, frequent references to the fallibility of man's reason,⁴ which Locke could not countenance.

D. The Protection of Property as an End of Government. Transition from the former topic to the present one involves a striking paradox in the development of political philosophy. One faces on one hand, in the two works being discussed, expressions of man's capacity for rational self-determination, and on the other the clearest statements of the economic basis of politics and of the economic interpretation of political history.

"Political power," states Locke, "I take to be a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property."⁵ He mentions no other chief end of civil society, for this end is the "preservation of property."⁶ The powers of making war and peace operate for the aim of protecting property.

¹. FED(77), 502.  ². FED(57), 374.  ³. FED(51), 341.  ⁴. FED(10), 55.  ⁵. Locke, ECGG, ch. i, sec. 3.  ⁶. Locke, ECGG, ch. ix, sec. 124; ch. vii, sec. 85; ch. vii, sec. 87; ch. vii, sec. 88; ch. vii, sec. 94; ch. viii, sec. 120; ch. ix, sec. 127; ch. xix, sec. 239.
And thus the commonwealth comes by a power to set down what punishment shall belong to the several transgressions which they think worthy of it committed amongst the members of that society, which is the power of making laws, as well as it has the power to punish any injury done unto any of its members by anyone that is not of it, which is the power of war and peace; and all this for the preservation of the property of all the members of that society.  

All powers are defined by Locke in terms of property. Paternal power is only where minority makes the child incapable to manage his property; political where men have property in their own disposal; and despotic over such as have no property at all.  

And the legislative is forbade not to trample on the people by "invading their property." It should be stated in fairness to Locke that he often speaks of "the preservation of life, liberty and estate," but his emphasis is on property interpreted in terms of estate. There is in his political philosophy a notable lack of expression of regard for the human freedoms other than the right to have an estate. 

According to The Federalist what is the basis of all government? In Essay Number 10 Madison claims that "those who hold and those who are without property have ever formed distinct interests in society." And he insists that "the diversity in the faculties of men, from which the rights of

1. Locke, ECCG, ch. vii, sec. 88.  
4. Locke, ECCG, ch. vii, sec. 87.  
5. FED(10), 56.
property originate" must be protected as "the first object of government."¹ Varied property interests form "the principal task of modern legislation."² Madison's famous Essay Number 10 is really a classic statement of the economic interpretation of political history. The interests men hold and the parties to which they attach themselves are mostly emotional reactions to their property interests.³

The critical danger which ensues from these interests is that some will fuse together into a majority, which Madison prophesied would be the landless proletariat.⁴ The fear that this majority would protect its interests at the expense of the minority was an urgent concern of the writers of The Federalist and created a difficulty toward which they directed many of their arguments.

One may ask, "Why, if the protection of property rights lay at the foundation of the new system of government, are there no property qualifications for voters and representatives?" The answer is that it is only a case of where an event might have taken place but did not. There were no strong arguments against a property qualification for voters and representatives. The chief concern was how the qualification was to be arranged. The reasons then, strange as it may seem, why there were no economic qualifications for voters and representatives were economic ones.⁵

¹. FED(10), 55. ². FED(10), 56. ³. FED(10), 55. ⁴. Farrand, RFC, II, 203. ⁵. Beard, EIC, 165.
Madison stated these economic reasons in a debate over landed qualifications.\(^1\) Farrand also shows that most of the states provided for property qualifications for voters anyway, and radical democratic changes did not seem close at hand.\(^2\)

The authors of *The Federalist* assumed the army and navy to be safeguards to economic interests. They regarded trade and commerce to be the chief causes of wars between nations, and class conflicts due to economic interests the chief cause of internal disruptions.\(^3\) Jay states that, "Nations in general will make war whenever they have a prospect of getting anything out of it."\(^4\) And in Essay Number 11 Hamilton points out the advantage of the new constitution to interstate traffic and commerce. Madison argued that reform was wanting "which will banish speculations on public measures, inspire a general prudence and industry, and give a regular course to the business of society."\(^5\)

The foregoing analysis of *The Federalist* as a treatise on economic determinism is submitted for the purpose of indicating a similarity to Locke's *Essay*, and for the purpose of being fair to Beard and his school.\(^6\) The truth is that a purely economic interpretation of *The Federalist* can

\(^3\) *FED*(21), 126-127.
\(^4\) *FED*(4), 18.
\(^5\) *FED*(44), 291.
\(^6\) Beard in EIC presented an economic interpretation of the Constitution which has been widely influential. See above, 41-42.
be widely misleading. Selections can be chosen from *The Federalist* which will indicate the exact opposite of economic determinism. Hamilton in Essay Number 15 stated that, "We must extend the authority of the Union to the persons of the citizens, --the only proper objects of government." Here it is "persons" and not property which is the chief object of government.

It is possible to give *The Federalist*, or any other work, different meanings by taking particular passages out of their context. Essay Number 10, written by Madison, is the portion of *The Federalist* most frequently referred to when *The Federalist* is appealed to as a classic expression of the doctrine of economic determinism. Madison was perfectly right in holding that those who have and do not have property form distinct interests in society. But Madison also had in mind things other than property.

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.

In disregard of Madison's influence from the time *The Federalist* was written to the Civil War, and the popularity of the democratic elements of the Constitution, it is held

1. FED(15), 91.
2. FED(10), 55-56.
by some\(^1\) that Madison's social philosophy was a philosophy of conservatism which received its best expression in the "reactionary movement that developed in the 1780's against the radicalism of the Revolutionary Period."\(^2\)

By an interesting contrast, Daniel DeLeon viewed Madison's discussion upon class conflict as a basic force underlying all political action to constitute a forerunner of Marx's *Communist Manifesto*.\(^3\)

Neither of the two latter views is correct. Madison was somewhere in between the extremes of radicalism and reaction. Much as he believed in economic determinism in the sphere of politics, Madison was no "John the Baptist to Karl Marx. For the Father of the American Constitution was almost everything that Marx was not."\(^4\) Madison was an individualist who believed in the rights of private property and free enterprise. It would be as easy to argue that Madison's views were best expressed in the reaction of the 1780's as it would be to make him a Marxist. Madison merely tried to understand class war and factions. Rather than being an advocate of class war, he saw it as destructive of society. He believed that a principal object of government was to devise means of preventing one group from dominating another. The very Number of *The Federalist* to which appeal is made to make Madison an agitator of class struggle is the Number in

2. Burns, JMPC, 190.
4. Burns, JMPC, 190.
which he recommended means of preventing it.\(^1\)

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.\(^2\)

It is not easy to give a thorough explanation of human happenings. History, no doubt, escapes complete analysis and understanding. Human life cannot be interpreted by means of formulas. Too much is unaccountable and unpredictable. The many factors which enter into the molding of human events make it impossible fully to comprehend them all. Any interpretation of history is partial and incomplete. The view that history is economically determined is inadequate as a clarification of historical movements. To be sure, a person may hold such a view. Although Madison saw clearly the role of economics in man's social community it is the view of this study that he did not view history as economically determined.

Madison's view that a man can have "property in his opinions"\(^3\) must not be overlooked. There is an economic factor in man's political life as well as in most phases of his life. It is wise to recognize this factor. But it seems unwise to recognize it as the necessarily determining factor.

Just as it may be argued that Madison believed in an economic basis for politics—which he did—it may be argued that he believed in an ideological basis for politics—which he did. Ideas and opinions can own men. They may not bring about any great social movement by themselves but they can be dynamic factors in history.

Strange as it may seem the person most often associated with an economic interpretation of the development of political theory in the United States has given us the most forceful rejection of all determinism in history. In his presidential address to the American Historical Association in 1933 Beard viewed "Written History as an Act of Faith."¹ He outlawed any determinism or formula as an adequate interpretation of history. This does not mean that Beard no longer saw the part played by economics in man's political life. He did reject it as a formula for interpretation and understanding. Commager writes of Beard: "If he did not, like Henry Adams, repudiate his own handiwork, he did repudiate its controlling formula and, indeed, the propriety of all formulas."²

With specific reference to Ranke and his followers who emphasized the scientific method as the indispensable tool of written history, Beard writes the following:

Slowly it dawned upon them that the human mind and the method employed were not com-

¹. Beard, Art.(1934), 219-229. This is a reprint in the American Historical Review of Beard's presidential address.  
². Commager, AM, 308.
petent to the appointed task, that omni-
sence was not vouchsafed to mortals. 
Moreover it was finally realized that if 
all human affairs were reduced to law, 
to a kind of terrestrial mechanics, a 
chief end of the quest, that is, human 
control over human occurrences and ac-
tions, would itself become meaningless. 
Should mankind discover the law of its 
total historical unfolding, then it would 
be imprisoned in its own fate, and power-
less to change; the past, present, and 
future would be revealed as fixed beyond 
the reach of human choice and will. Men 
and women would be chained to their des-
tiny as the stars and tides are to their 
routine. The difference between human 
beings and purely physical objects would 
lie in their poignant knowledge of their 
doom and of their helplessness in its 
presence.

This quotation is given because no one could give a 
better argument against a purely economic interpretation of 
history, and because it says something with which it seems 
Madison would have agreed. Although the exact point of con-
tact between Madison and political philosophers who preced-
ed him cannot always be located, it does seem clear that his 
thinking was marked and assisted by many who went before. 
As Plato and Aristotle, by whom Madison may have been in-
fluenced, and as many others have done, he sought to de-
lineate man as a political being. If this meant seeing eco-
nomic forces at work in the formation of human opinions it 
did not mean seeing only economic forces at work. Madison's 
research in the history of federal government was not for 
naught. He wrestled with ideas.

7. Summary

Hamilton drew upon his wide reading, being primarily influenced by the British Constitution, to reach the conclusion that a strong centralized government was necessary. Madison drew upon his research in the history of federal governments to arrive at the conclusion that a republican form of government which controls factions by means of divisions of power was the most satisfactory one. It is not possible to trace direct influence to specific individuals as having been greatly influential in the social thought of either Hamilton or Madison. Yet, it is at least reasonable to assume that their familiarity with political philosophy did bear weight on their thinking.

Both Hamilton and Madison desired a fabric that was new. They argued for the same one in The Federalist, but they wanted different ones. Hamilton went to the Philadelphia Convention to try and get a government with an overpowering will. He favored life tenure in office for the president and the senate. He could not get this. Madison went to the Philadelphia Convention with the Virginia Plan in mind. This plan would have made the federal government stronger at the expense of the state governments. Both Madison and Hamilton wanted a strong central government with weakened state governments. But in the genius of cooperation they built better than either knew or wished.
Did they owe much to particular men or to precedents?

MacIver presents an interesting answer to this question.

The balanced state which Madison did so much to construct and Hamilton so much to defend had a character entirely different from that of the exemplars and models to which they pointed. The functional division of powers does not imply the constituent division of sovereignty itself. The latter had no real precedents. It flouted an agelong tradition. It owed nothing to Locke or Harrington or even Montesquieu. Greatly influenced by European political philosophies as were the builders of the Republic, the fabric they constructed was in essentials, almost without their knowing it, profoundly new. That part of the ancient tradition of government that might have stood in the way they rejected almost without discussion. One of the ablest of the representatives at the Federal Convention, Rufus King of Massachusetts, expressed on one occasion his amazement that men were ready to sacrifice their substantial good to the 'phantom of sovereignty.' But it was only a phantom, vanishing before the face of necessity. They did not reason with it, they merely ignored it. Therefore the political philosophy of the Constitution is a different thing from the political philosophies that moved its creators. In this respect they builded better than they knew, indeed better than the world yet knows.1

These claims made by MacIver are extravagant but are not without some grain of truth. Certainly The Federalist was not a model of any precedent. But it is a strong statement which says that Hamilton and Madison owed nothing "to Locke or Harrington or even Montesquieu." Merely to read them and disagree with them is, perhaps, to owe something to them. If MacIver means that Hamilton and Madison did not

duplicate Locke or Harrington or Montesquieu in their thinking, then he is right. It is regrettable that MacIver fails to make clear specifically what he means when he asserts that "the builders of the Republic" were "greatly influenced by European political philosophies."

Although Madison analyzed the economic basis of man's political life, his construction of the principles of republicanism cannot be wholly understood in economic terms.

In the ensuing chapter consideration will be given to a basic idea of The Federalist. It is the idea of "union."
CHAPTER III

UNION

The most far-reaching contribution to social philosophy made by the writers of *The Federalist* is found in the arguments they present in support of a union of states and against a dissolution of the same. The social philosophy of *The Federalist* is a philosophy of union. Reasoning to the effect that union is better than disunion was necessitated due to the very nature of the social compact about to be entered into. But the proposed constitution received the form that it did because some of its framers believed in the kind of union it would make possible. This was especially true of Madison, who more than anyone else shaped the form of the constitution. Madison was the only one of the writers of *The Federalist* who had a part in the construction of the constitution. Jay was not a member of the Philadelphia Convention. Hamilton was a member but attended only the opening and closing meetings. Madison was in constant attendance and made repeated use of his knowledge of the history and nature of federal governments to point out errors which had caused the decay of other systems of federal government. If in this chapter it is possible accurately to present the philosophy of union contained in *The Federalist*, the purpose in writing it will have been achieved.

There is no indication that the writers of *The Feder-
alist had the remotest idea that they were writing for mankind; that they were painting an ideal toward which all men ought to look. Although they did just this, they were thinking in terms of the immediate present. They were thinking specifically of the American situation, of the plight of the American government, and the need of a better form of government. So this chapter will be begun with a brief account of the conditions which led to a desire for a more perfect government. Then it will be the aim to answer the question, why union?

1. Apology for Articles of Confederation

Among the divergent opinions held by political thinkers in the United States in 1787 concerning the existing constitution, there seemed to be one point of extensive agreement, namely, that a change was necessary. Major differences of opinion were occasioned by the problem of what amendments to add to, or what kind of substitute to adopt in place of, the Articles of Confederation. Before producing a list of the insufficiencies of the "subsisting federal government," Hamilton writes:

It may perhaps be asked what need there is of reasoning or proof to illustrate a position which is not either controverted or doubted, to which the understandings and feelings of all classes of men assent, and which in substance is admitted by the opponents as well as by the friends of the new Constitution.

1. FED(15), 89.
2. FED(1), 3.
It must in truth be acknowledged that, however these may differ in other respects, they in general appear to harmonize in this sentiment, at least, that there are material imperfections in our national system, and that something is necessary to be done to secure us from impending anarchy.¹

It should be noted, however, that the point of view adopted in The Federalist which attributed so many national ailments to the existing government was not uncontested.² Even Madison was willing to grant "that some of the distresses under which we labor have been erroneously charged on the operations of our governments."³

Although there were causes contributing to the chaos current in 1787 other than the form of the federal government, the writers of The Federalist concentrated on severe

1. FED(15), 86-87.
2. See Lee, Art.(1787), 275-325. Lee was one of the foremost opponents of the proposed plan of government of the Philadelphia Convention in 1787 and may be considered representative of its critics. For the views of other leading critics, see: Mason, Art.(1787), 329-332; Gerry, Art.(1788), 3-23; Cato (pseudonym of George Clinton), Art.(1787-1788), 241-278. These men could not deny the internal as well as the external plight of the nation, but they would not go so far as the writers of The Federalist and say an overthrow was needed in the structure of government (see FED(37), 226). The critics of the proposed constitution wanted any change in the national system of government to perpetuate non-interference with the states. Although they could agree on no plan of revision, they were largely agreed that any revision should take place within the framework of the Articles of Confederation. The causes of the existing chaos they attributed as much to post-war conditions, which would soon subside, and to the maladministration of the state governments, as to the national government. As eminent an historian as Ford adopted this point of view. See Ford, Art.(1898), xi.
3. FED(10), 54.
criticism of the existing national system. Hamilton goes so far as to characterize the total framework of the national government as an "imbecility." Since some of the framers of the Articles of Confederation were also members of the Philadelphia Convention, it would have been unwise that too adverse reflection be cast on those men; neither would it have been wise to indicate a pessimistic point of view with regard to the possibility of establishing a popular form of government which would work. It must be remembered that the Articles of Confederation were adopted as a popular form of government to establish "perpetual union" among the then existing states.

In order that harsh criticism might be directed toward the Articles of Confederation without offending the men who took part in their framing, or without dimming the faith in the possible erection of a popular government "adequate to the exigencies of government," Jay offered the following apology for the Articles of Confederation.

A strong sense of the value and blessings of union induced the people, at a very early period, to institute a federal government to preserve and perpetuate it. They formed it almost as soon as they had a political existence; nay, at a time when their habitations were in flames, when many of their citizens were bleeding, and when the progress of hostility and desolation left little room for those calm and mature inquiries and re-

1. FED(15), 88.
2. Bloom, SC, 163. FED(2), 11-12.
flections which must ever precede the formation of a wise and well-balanced government for a free people. It is not to be wondered at, that a government instituted in times so inauspicious, should on experiment be found greatly deficient and inadequate to the purpose it was intended to answer.

2. Factors Conducive to a Change of Government

A. An "Unequivocal Experience of the Inefficiency of the Subsisting Federal Government." Hamilton clearly stated in Essay Number 15 that,

The evils we experience do not proceed from minute or partial imperfections, but from fundamental errors in the structure of the building, which cannot be amended otherwise than by an alteration in the first principles and main pillars of the fabric.

Since the Articles of Confederation were adopted to guarantee "perpetual union," on what grounds was the proposed constitution constructed at the Philadelphia Convention to be justified? Two arguments to justify the adoption of a new constitution were presented by the writers of The Federalist. The first one was that the existing government had never been ratified by the people. The second argument was an appeal to the law of nature.

This latter argument to justify the adoption of a new constitution as a relief from an "unequivocal experience of the inefficiency of the subsisting federal government" deserves some attention. A good place to begin is with the Dec-

1. FED(2), 9-10.
2. FED(1), 1.
3. FED(15), 89.
4. FED(22), 140-141.
laration of Independence. In it Jefferson had written what the writers of *The Federalist* were eager to affirm.

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. --We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. --That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.

Here Jefferson had proclaimed the right to abandon a form of government when it became destructive of certain ends. This is just the situation which was faced with regard to the Articles of Confederation. What did Hamilton and Madison say about the right to form a new government?

Hamilton in Essay Number 78 wrote that he hoped that the friends of the proposed constitution would never agree 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.¹

Madison raised the following question in Essay Number 43. "On what principle the Confederation, which stands in the solemn form of a compact among the States, can be superseded without the unanimous consent of the parties to it?"²

His answer is as follows:

By recurring to the absolute necessity of the case; to the great principle of self-preservation; to the transcendent law of nature and of nature's God, which declares that the safety and happiness of society are the objects at which all political institutions aim, and to which all such institutions must be sacrificed.³

Madison in Essay Number 37 says that the principles on which the Articles of Confederation are based are fallacious, and that this has been shown by comparing them with other confederacies.⁴ This comparison, he adds, has revealed the errors on which they were all based, but it has not revealed the path to be pursued. The most that the Philadelphia Convention could do, he then says, was to try and avoid past errors and "provide a convenient mode" of rectifying them.⁵ In endeavoring to do this he felt that the Convention was justified.

Instead of going back to Aristotle, or the Stoics, or Aquinas, it seems that the writers of The Federalist were more directly related to the natural law theorists after the middle ages. Beloff is apparently right when he states:

1. FED(78), 508.  2. FED(43), 287.  3. FED(43), 287.
4. FED(37), 226.  5. FED(37), 226.
The most powerful intellectual support for the natural rights arguments of the politicians came from the school of natural law which played so important a part in European intellectual development from the sixteenth to the eighteenth centuries.¹

Chief Justice Marshall stated in Ogden vs. Saunders:

When we advert to the course of reading generally pursued by American statesmen in early life, we must suppose that the framers of our Constitution were intimately acquainted with the writings of those wise and learned men, whose treatises on the laws of nature and nations have guided public opinion on the subjects of obligation and contract.²

As has been shown,³ Madison, and probably Hamilton as well, read Grotius, Pufendorf, Vattel, Burlamaqui, Locke and Hobbes.

Hobbes had written in the Leviathan:

Reason suggesteth convenient articles of peace, upon which men may be drawn to agreement. These articles are they which otherwise are called the Laws of Nature.⁴

The right of Nature, which writers commonly call jus naturale, is the liberty each man hath to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life... A law of nature, lex naturalis, is a precept or general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same.⁵

Whatever may be their differences, Locke is no less emphatic

¹. Beloff, Art.(1948)¹, lx.
². Quoted by Beloff, Art.(1948)¹, lx. Also quoted by A. de Lapredelle in his introduction to E. de Vattel, Le Droit des Gens en Principes de la Loi Naturelle.
³. See above, 47.
⁴. Hobbes, LEV, 147. All references to the Leviathan are to Burtt, EPBM.
⁵. Hobbes, LEV, 163.
than Hobbes in his belief in a law of nature. Locke was in-
fluential on the political thought in America during the time
immediately preceding the American Revolution. ¹ Some of
Locke's writing is closely similar to that contained in the
Declaration of Independence, and in The Federalist.

The state of Nature has a law of Nature to
govern it, which obliges everyone, and rea-
son, which is that law, teaches all mankind
who will but consult it, that, being all
equal and independent, no one ought to harm
another in his life, health, liberty, or
possessions.²

As a corollary to this adherence to belief in a law
of nature there follow "all the rights and privileges of the
law of Nature,"³ the chief ones of which are the rights to
preserve one's property and to punish offenders of one's
property.⁴ Being originally free and equal⁵ in a state of
nature, the rights of preservation can best be served through
entering into a social compact.⁶ Locke recognized a return
of a government to a people as necessary when either a time
limit was placed on its existence, or "when by the miscar-
riages of those in authority it is forfeited."⁷

The preceding seems to be the general background of
the views on natural law and natural rights as held by the
writers of The Federalist. There is some evidence⁸ that the

¹. See MacIver, Art. (1938), 51-61.
². Locke, EGGG, ch. ii, sec. 6.
³. Locke, EGGG, ch. vii, sec. 87.
⁴. Locke, EGGG, ch. viii, sec. 94; 87.
⁵. Locke, EGGG, ch. viii, sec. 95.
⁶. Locke, EGGG, ch. ix, sec. 123.
⁸. See above, 45-47; 51.
writers on natural law mentioned above were read. There is no clear basis for assuming that they went beyond these men for their views on natural law.

To the charges that the Philadelphia Convention had gone beyond its powers, Madison replied:

If they had exceeded their powers, they were not only warranted, but required as the confidential servants of their country, by the circumstances in which they were placed, to exercise the liberty which they assumed; and that finally, if they had violated both their powers and their obligations, in proposing a constitution, this ought nevertheless to be embraced, if it be calculated to accomplish the views and happiness of the people of America.

Madison, in order to establish a firmer justification for the right to make a complete revision, amounting to a new constitution of the existing Articles of Confederation, quotes from the Declaration of Independence in the following context.

In all great changes of established governments, forms ought to give way to substance... 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.'

The writers of The Federalist "after an unequivocal experience of the inefficiency of the subsisting federal government" appealed to a law of nature to justify a change from a constitution that was binding but inadequate. This

1. FED(40), 259.
2. FED(40), 257.
was a dangerous precedent but, no doubt, a necessary one. What they actually contended for was the right to revolution. But in building a new structure of government they built so well that the amending process has so far proven adequate to accommodate necessary or desirable alterations.

B. National Humiliation. Hamilton remarked in Essay Number 15 that the last stage of national humiliation had been reached. All things which could wound the pride of a nation he claimed Americans had experienced. Engagements made in good faith were broken as though they had never been made. Debts to foreigners as well as to citizens of the United States which were contracted during a time of critical peril remained with no satisfactory arrangements for their discharge.

Have we valuable territories and important posts in the possession of a foreign power which by express stipulations, ought long since to have been surrendered? These are still retained, to the prejudice of our interests, not less than our rights. Are we in a condition to resent or to repel aggression? We have neither troops, nor treasury, nor government.

Hamilton further contended that the citizens of the United States were "entitled by nature" to navigation on the Mississippi but were denied this right because they were unable to claim it. Public credit, commerce, even respectability had declined beyond embarrassment. "The imbecility of our government even forbids" anyone "to treat with us."

1. FED(15), 87. 2. FED(15), 87. 3. FED(15), 88.
Madison lamented the fact that under the existing form of government the nation could not defend itself militarily. 1 It might well be contended that this is not a fact which should induce a person to desire a change in a form of government. War is an evil and is never a solution to national or international problems. The writers of The Federalist assumed, however, that the best way to peace, to foreign recognition, and respectability among the nations of the world is physical might. The system of raising armies and budgets by quotas and requisitions was a complete failure. The national government did not demand the respect of its own citizens as the state governments acted in a role superior to the national government. Repeated more in The Federalist than any other opinion is the view that the state governments must not be superior to the national government; that no federal government can long exist where individual corporate states stand between the federal government and the individual citizens. 2

One of the major reasons for the national humiliation which existed was the necessity for the concurrence of thirteen sovereign wills for important legislation to be passed. Each state was what amounted to an independent government. Madison's studies in the history of federal government had convinced him that every instance of a group of sovereign

1. FED(41), 263-267.
2. FED(15), 89. See also: (23), 143; (16), 95; (18), 107; (23), 155; (17), 101; (15), 91-92; (16), 97-98.
states making up a confederacy where they gave up little to the national government, and the national government did not reach the people directly in legislation, had failed. The necessity for the concurrence of thirteen sovereign wills to get tax legislation passed made it just about impossible for the national government to raise money. The national government was bound by the Articles of Confederation to deal with the states in their corporate capacities. It has never been easy to get thirteen out of thirteen to agree to be taxed. Hamilton held:

To depend upon a government that must itself depend upon thirteen other governments for the means of fulfilling its contracts, when once its situation is clearly understood, would require a degree of credulity not often to be met with in the pecuniary transactions of mankind, and little reconcilable with the usual sharp-sightedness of avarice.

C. The National Government under the Articles of Confederation Could neither Operate Legally nor with a Sanction to its Laws. Madison in Essay Number 38 enumerated some of the things which Congress had to do which were illegal. He approved of their efforts but regretted that Congress had to function illegally.

They [Congress] have proceeded to form new States, to erect temporary governments, to appoint officers for them, and to prescribe the conditions on which such States shall be admitted into the Confederacy. All this has been done; and done without the least color of constitutional authority. Yet no

1. FED(37), 226. 2. FED(30), 187. See also (17), 105; (42), 270; (20), 122.
3. FED(38), 240-242.
blame has been whispered; no alarm has been sounded.\footnote{1}

What Madison feared in this connection was the danger involved in the existence of a government which did not have power commensurate with its objects.

Even after laws had been passed, the national government had no authority to enforce them under the provisions of the Articles of Confederation. Hamilton called attention to this fact in Essay Number 21.

The United States, as now composed, have no powers to exact obedience, or punish disobedience to their resolutions, either by pecuniary mulcts, by a suspension or divestiture of privileges, or by any other constitutional mode. There is no express delegation of authority to them to use force against delinquent members; and if such a right should be ascribed to the federal head, as resulting from the nature of the social compact between the States, it must be by inference and construction, in the face of that part of the second article, by which it is declared, 'that each State shall retain every power, jurisdiction, and right, not expressly delegated to the United States in Congress assembled.'\footnote{2}

Madison used "The United Netherlands" in Essay Number 20 as an example of how coequal and sovereign states always form a weak confederacy. He quotes Grotius to the effect that "Nothing but the hatred of his countrymen to the house of Austria kept them from being ruined by the vices of their constitution."\footnote{3} He quotes Temple to give examples of ir-

\footnotesize
1. FED(38), 241.
2. FED(21), 125. See also (38), 242; (40), 257; (44), 293; (41), 262; (42), 271; (25), 158.
3. FED(20), 121.
responsibility. Great as it seemed on parchment, says Madison, the confederacy of "The United Netherlands" contained "imbecility in the government; discord among the provinces; foreign influence and indignities; a precarious existence in peace, and peculiar calamities from war." ¹

The national government was weak under the Articles of Confederation. The word "weakness" sums up the characteristics of it. The factors which have been enumerated as conducive to a change of government have been names for elements of weakness. Madison compares ² the Articles of Confederation, or the national government under the Articles of Confederation, with other confederacies and pictures their common weaknesses. The chief factor conducive to a change of government was weakness in the present structure. Of a weak constitution Madison said that it

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. ³

Another factor which added to the weakness of the national government under the Articles of Confederation was "the want of a judiciary power." Hamilton referred to this

1. FED(20), 121.
2. See especially FED(18, 19 and 20), 106-124.
3. FED(20), 122.
as a "circumstance which crowns the defects." There were no courts to expound the true meaning of the laws. Treaties had no force at all, since they were not "ascertained by judicial determinations."¹ Instead of encountering the confusion of a court of final jurisdiction in each state, Hamilton recommended "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."²

The writers of The Federalist feared conditions which might lead to anarchy.³ They had seen enough of national embarrassment and failure; they understood the factors which were conducive to a change of government; and they were aware of the necessity of a systematic government. Jay expressed it this way:

> Although the absolute necessity of system, in the conduct of any business, is universally known and acknowledged, yet the high importance of it in national affairs has not yet become sufficiently impressed on the public mind.⁴

The question now is, why did the writers of The Federalist argue for union? To be sure, the proposed constitution could not be defended except on a basis of some philosophy of union. But they did not have to support it because of any external compulsion.

¹ FED(22), 138.
² FED(22), 139.
³ FED(26), 160.
⁴ FED(64), 418. See also (80), 522; (80), 518; (84), 566; (85), 571-572.
3. Why Union?

A. Geography and the People. Jay in Essay Number 2 praises Providence for having blessed the area which is the United States with a variety of streams, fertile lands and navigable waters. He must have been talking about the present area of the United States and not the area of the thirteen original states. His description seems to be of the present area of the country. Jay was equally impressed by the fact that Providence had seen fit to place a people here who were united by ties of blood and religion, and interests, and background and language. He reasoned that a country connected by fine geographical linkages such as waterways and good soils, and a people united by common ties should form an inseparable harmony. Such a union as this "should never be split into a number of unsocial, jealous, and alien sovereignties."¹

Common political backgrounds, similarities in religious views, family ties, common loyalties and language are some things which have at times held people in bonds of unity. And geography no doubt is sometimes a factor in keeping a people unified. But Jay's argument on this particular subject sounds more like a Chamber of Commerce speech than a careful piece of reasoning. He doesn't say what Providence had against the Indians.

¹. FED(2), 9.
This isn't a valid criticism of Jay, but at least it opens the way for something to be said not previously mentioned. The Federalist was submitted originally as a piece of campaign literature and does contain some special pleading. It was necessary that a popular and emotional appeal be made when possible. As well as excelling in the legal profession, in politics and political theory, the writers of The Federalist were also gifted pamphleteers.

Madison in Essay Number 14 repeats the argument for sacred ties which bind individuals together in common pursuits. And Hamilton uses this argument in Essay Number 15.

B. Advice and Judgment of Experienced Men in the Philadelphia Convention should be Respected and Relied upon. Experienced men in this Convention proposed a constitution which will greatly facilitate union. The proposed constitution, therefore, ought to be adopted. Jay pointed out that some of the members of the Philadelphia Convention were members also of the Congress of 1774. They had had wide experience in the affairs of the national government and would recommend measures which were prudent and wise. Jay made the contention that the proposed constitution should be adopted on the basis of the wisdom of its framers. The final draft of the constitution as adopted by the Philadelphia Convention affirmed the belief that in a union of the states lay the best

1. FED(14), 84.
2. FED(15), 86.
3. FED(2), 11-12.
4. FED(2), 11.
possible form of government. The people, then, ought also to adopt this belief.

Such an argument as Jay here offers as a reason for union is good or bad irrespective of any syllogistic reasoning involved. A people could never wisely plot a course for a government through agreeing blindly to follow a leader or group of leaders. With particular reference to the adoption of the new constitution it can be said that Jay was right in urging that the wisdom of the framers could be relied upon. He might have added, however, with tongue in cheek, that the wisdom of some of the framers could be relied upon, and particularly that of Madison. Any argument dealing with a specific situation must be particularized to carry any authority of reason. It can never safely be universalized and stated that in all instances where men have experience they should be followed. Jay made this mistake in this argument for union, although in this particular instance he was right. In addition to this argument of Jay there is affirmation in The Federalist of a belief in the rational self-determination of men.¹ A republican form of government based on a representative principle is really postulated on the principle of rational self-determination.

C. In Union Lies Greatness. Jay called attention to the fact that the first Congress of the United States, as well as each succeeding Congress and the Philadelphia Convention,

¹. FED(70), 457. See also (77), 502.
alone."¹ He used his knowledge of the history of federal government to make the point that liberties had never been secure where union did not exist. He observed that the "veteran legions" of ancient Rome were an overmatch for any opposition, and she was rendered "the mistress of the world."

But Madison was quick to add the following observation.

Not the less true is it, that the liberties of Rome proved the final victim to her military triumphs; and that the liberties of Europe, as far as they ever existed, have, with few exceptions, been the price of her military establishments. 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.²

This quotation is given at length because the argument is simply majestic. Madison here in a brief paragraph writes what could well form a volume. He uses his knowledge of the history of governments to show what has been the fate of liberties when the military prevailed. He directs attention to the truth that this is a danger to be avoided. Madison is pointing directly at a situation facing his fellow countrymen. There was a clamor among the opponents of the proposed constitution that the sovereignty of the states be

¹. FED(41), 263. ². FED(41), 262-263.
perpetuated; that the national authority would extend to the states in their collective capacities; that it would not extend to the individual citizens; and that the union be no more than a confederacy of sovereign states which was the case under the Articles of Confederation. Madison, as well as anyone, was aware of this situation. In the above quoted paragraph Madison is making a hint which he elucidates in the succeeding paragraphs which he writes. It is that,

America united, with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition than America disunited, with a hundred thousand veterans ready for combat.¹

Madison rightly explained² that if the nation were divided into a confederacy of separate sovereignties, and each state were allowed to provide its own military establishment as a substitute for a national military establishment, the end would be anarchy and chaos. The independent sovereignties would clash with each other, and, in spite of splendid natural protections from foreign invasion, would duplicate the military history of Europe.

The security of liberty depends upon union. That was Madison's conclusion. "The moment of the dissolution" of the Union "will be the date of a new order of things...It will present liberty everywhere crushed between standing armies and perpetual taxes."³

1. FED(41), 263.  
2. FED(41), 263. See also (8), 42-43; (85), 568; (61), 398; (26), 161; (28), 174.  
3. FED(41), 263.
Hamilton develops a similar argument in Essay Number 11 in a discussion of commerce. He reasoned that if the union be adhered to, America would "become the arbiter of Europe in America," and "be able to incline the balance of European competitions in this part of the world as our interest may dictate." But if the union be not adhered to, America will be the spectacle of competing parts serving as checks on each other and frustrating every tempting advantage which Americans enjoy. America would be a prey to imperial powers. She could not even be neutral, for "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."

Madison and Hamilton were calling attention to immediate possible dangers. They were writing with the current situation in mind. It is not a fair adverse criticism to say that they should have extended the idea that "Union is essential to the security of liberty" to include the arts and sciences. When anarchy and discord reign, learning suffers. Madison and Hamilton must have had many civil liberties in mind. Hamilton speaks of the security of our "common liberty" in Essay Number 28.

E. Union as Security against Hostilities from Abroad. It was necessary for the writers of The Federalist to overlap their arguments in treating the scope of union. They under-

1. FED(11), 65. 2. FED(11), 65. 3. FED(28), 174.
took to explain how almost every area of national life would be affected by union as against disunion. It was not possible for them to discuss union as essential to the security of liberty without having something to say, among other topics, about union as security against hostilities from abroad. But in each discussion there was something specific to emphasize. If nothing more, their repeated reiteration of the idea of union as it affected the different areas of the lives of the people helped to emphasize the significance of union as it was understood by them and to reveal their ideas concerning union.

Jay spoke in Essay Number 3 of the importance of observing "the laws of nations." The number of wars which will be fought he held to be proportionate to the causes which will incite them. He then raised the question as to whether a united America would incite fewer wars than a disunited America.

If it should turn out that United America will probably give the fewest, then it will follow that in this respect the Union tends most to preserve the people in a state of peace with other nations.

The just causes of war Jay then enumerated to be direct violence or the violation of treaties. "America has already formed treaties with no less than six foreign nations, and all of them, except Prussia, are Maritime." It would be a serious misfortune to have these treaties broken and incur

the destruction of war or the expense of unneighborliness. Great importance is to be placed on assuming the obligation to observe treaties. "The laws of nations," Jay contended, would be much better observed by one national government than by thirteen separate state governments, or several confederacies of states.¹ This idea recurs again and again throughout The Federalist. The opponents of the proposed constitution interpreted union to mean a confederation of sovereign and independent states, whereas the writers of The Federalist thought this to be no union with merit but, instead, a step toward disunion and anarchy. So Jay was certainly right in maintaining that one national government would better observe treaty obligations than several separate confederacies or thirteen independent states.

Where a union exists with one national government as the agent to interpret treaties and execute them there is less likelihood of violations or infractions. Unquestionably this is conducive to peace. Hamilton in Essay Number 79 stated:

If there are such things as political axioms, the propriety of the judicial power of a government being coextensive with its legislative, may be ranked among the number. The mere necessity of uniformity in the interpretation of the national laws, decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government from which nothing but contradiction and confusion can proceed.²

¹. FED(3), 14. See (23), 142. ². FED(79), 516. See(3), 15.
F. Union as Security against Dissensions within the States. Hamilton in Essay Number 28 pictured a possible situation of a popular uprising in a state when the state is an independent sovereign and there is no national government to which appeal can be made. If the persons entrusted with power in a single state "become usurpers," the different divisions and districts find themselves unable to defend themselves. They have "no regular measures for defense." They are helpless victims so far as armed might is concerned. "The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair." The usurpers can crush any opposition before a great amount of strength is accumulated. This is easier to accomplish where territories are small than in large areas. Hamilton was thinking here of a purely military situation where both sides would, if possible, resort to armed might. He gave no consideration to the view that armed force may not be as good a weapon as ideas, or an indomitable faith in truths which are superior to military force.

The point which Hamilton wanted to make was that in union the people would be "the masters of their own fate." The danger of usurpation by rulers of individual states would be removed. Power would be "most always the rival of power." The general government would always check "the usur-

1. FED(28), 173.
pations of the state governments, and these will have the same disposition towards the general government." The people would always be able to make either side preponderant by throwing their weight in the scale.

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.¹

Here a part of the system of checks and balances is seen in operation. It is likely that Montesquieu influenced² the writers of The Federalist in their views on a system of checks and balances in government. Both Madison and Hamilton quote³ Montesquieu in The Federalist.

The above argument that rulers in state governments might usurp power were there no national government to intervene appears far-fetched to us who live under the constitution which the ratifying convention of 1788 made the supreme law of the land. Under a system of government such as Hamilton described as amounting to a confederation of independent sovereign states, however, the danger of usurpation could well be a real danger.

Another danger which Hamilton maintained would be very real if the "States should be either wholly disunited or only united in partial confederacies"⁴ was the danger of "violent

1. FED(28), 173-174.
2. See above, 58.
3. FED(9), 50-53. FED(47), 313-316.
4. FED(6), 27.
contests" the independent states might have with each other.

To presume a want of motives for such contests as an argument against their existence, would be to forget that men are ambitious, vindictive, and rapacious. To look for a continuation of harmony between a number of independent, unconnected sovereignties in the same neighborhood would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of the ages.

There are innumerable causes of hostility among nations, and Hamilton felt that some of them would operate upon the states if they were separated into distinct sovereignties. Among the causes of hostility Hamilton mentioned are "the love of power," "the desire of preeminence and dominion," "the jealousy of power," and "competitions of commerce." Hamilton was sure that a great amount of discord which would result among states as independent, collective sovereignties would be avoided in a union of the same.

What immediately comes to mind is whether this argument is sound in the present context. If, for example, a number of small independent, disunited states invite dissension and hostilities, is not the same true of a number of small states united in a larger whole? Are the causes of factions, and dissensions, and hostilities removed by uniting parts into a larger whole? One argument, at least, which Hamilton would submit in reply is that states or nations are usually enemies if they exist side by side.

1. FED(6), 27.
2. FED(6), 27-28.
So far is the general sense of mankind from corresponding with the tenets of those who endeavor to lull asleep our apprehensions of discord and hostility between the States, in the event of disunion, that it has from long observation of the progress of society become a sort of axiom in politics, that vicinity, or nearness of situation, constitutes nations natural enemies. An intelligent writer expresses himself on this subject to this effect: 'NEIGHBORING NATIONS are naturally enemies of each other, unless their common weakness forces them to league in a CONFEDERATIVE REPUBLIC, and their constitution prevents the differences that neighborhood occasions, extinguishing that secret jealousy which disposes all states to aggrandize themselves at the expense of their neighbors.' This passage, at the same time, points out the EVIL and suggests the REMEDY.

This quotation by Hamilton is from Mably's Principes des Négociations. Madison quotes Milot in Essay Number 18 to the same effect. The writers of The Federalist made constant appeal to the history of federal government to add weight to their points of view. It was, as well as being an appeal to history, an appeal to human nature and experience.

This is one argument the writers of The Federalist would give to the question of whether the evils which befall small, independent sovereignties do not befall larger confederacies as well. Other arguments which the writers of The Federalist would give would flow from the first one and be an extension of it. It is simply a matter of historical fact that small independent states existing side by side with other

1. FED(6), 33.
2. Hamilton gives this information in a footnote to FED(6), 33.
3. FED(18), 108.
small states do find it harder to get along with each other than when united into a federal system. And when small states exist side by side with much larger states, it has usually been the case that they often have been overrun. This is avoided to a large extent when there exists a union of states. A difficulty the writers of *The Federalist* had in using their knowledge of the history of federal government was in finding good models to refer to. They could not find any but which sooner or later fell to pieces because of some obvious error or mistake. What the writers of *The Federalist* do is call attention to the error. More than from any theory of society the writers of *The Federalist* drew from their knowledge of the federal republics of the past and profited by their acquaintance with the mistakes of those republics.

What would be the consequences of dissension between the states in the case of disunion, or several different combinations of the states? Hamilton held that the first result would be a "desultory and predatory" war. Hamilton here again tells a story of the history of similar examples. The initial stage, according to Hamilton, which the states would undergo would be an instance of large states tramping upon smaller ones. Sufficient time would not have elapsed for military fortifications to be built. In Europe time has allowed military blockades to be established, and conflict

1. *Fed(B), 42.*
there takes on a different picture than it would in the case of the American states.  

In America:

The want of fortifications, leaving the frontiers of one state open to another, would facilitate inroads. The populous states would, with little difficulty, overrun their less populous neighbors. Conquests would be as easy to be made as difficult to be retained. War, therefore, would be desultory and predatory. PLUNDER and devastation ever march in the train of irregulars. The calamities of individuals would make the principal figure in the events which would characterize our military exploits.

Madison in a reference to this same situation stated in Essay Number 41:

This picture of the consequences of disunion cannot be too highly colored, or too often exhibited. 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.

Hamilton, with moving eloquence, reasoned a bit further on the consequences of disunion and saw the danger of dissensions among the states to civil liberties. He observed that safety from danger is one of the most powerful directors of human conduct and national life. Men who most love liberty, in a continued state of danger with violent destruction of life and property a frequent experience, are at times compelled to resort for security to those "institutions which have a tendency to destroy their civil and political

1. FED(8), 42.  2. FED(8), 42. See also (41), 264.
3. FED(41), 264.
rights.\textsuperscript{1} Hamilton then writes a sentence which could well be written on the hearts of all who live in this power-stricken and muscle-bulging world of ours: "To be more safe, they at length become willing to run the risk of being less free."

The writers of The Federalist were firmly against any situation which would permit the ascendency of the military over the civilian. America disunited would, in their opinion, clear the way for this unhappy event. When the military prevails over the civilian, liberties become the prey to means of defense. The paramount danger is that a sense of human rights will be weakened among those who live under the military. Hamilton saw this danger as a real one when the military state becomes elevated above the civil.

The inhabitants of territories, often the theatre of war, are unavoidably subjected to frequent infringements on their rights, which serve to weaken their sense of those rights; and by degrees the people are brought to consider the soldiery not only as protectors but as their superiors.\textsuperscript{2}

G. Importance of Union to Commerce. America disunited would be, in the opinion of the writers of The Federalist, a happy hunting ground for all nations interested in commercial advantages at the expense of the rest of mankind.\textsuperscript{3} It would be to the great advantage of countries hungry for commercial advantage to see the individual states of America

1. FED(8), 42.
2. FED(8), 45.
3. FED(11), 63. (23), 142.
completely disunited or united into separate confederacies. These countries could then play these states against each other and exploit them at will. The states united could "counteract a policy so unfriendly" to their "prosperity in a variety of ways."\(^1\)

By prohibitory regulations, extending, at the same time, throughout the States, we may oblige foreign countries to bid against each other, for the privileges of our markets. This assertion will not appear chimerical to those who are able to appreciate the importance of the markets of three millions of people.\(^2\)

The states united could prevent other nations from monopolizing the profits of their trade. Disunited the states would be especial prey to nations at war and eager for additional resources for waging war.

Hamilton understood a close relationship to exist between a prosperous commerce and a navy. The states united, he argued, would be able to establish a federal navy which would be of respectable weight if thrown into the scale of either of two contending parties.\(^3\) A union of the states under the plan proposed by the Philadelphia Convention would permit them for the first time to become the "arbiter of Europe in America." This would permit the states to incline the balance of European competitors as their "interest may dictate."\(^4\)

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1. FED(11), 63.
2. FED(11), 63.
3. FED(11), 64-69.
4. FED(11), 65.
What would be the situation regarding internal commerce among the states in the event of either disunion or union? The reply the writers of *The Federalist* give is a ready one.¹ In the event of disunion the states would be interested in profiting at the expense of each other. Either the states individually or as several distinct groups would interest themselves in commercial advantage to the injury of all of them. For in so doing they would create a discord and weakness which would be lucrative bait for interested outsiders. But in the event of union, commercial intercourse between the states would be unrestrained and profitable. Commercial enterprise would have much greater scope due to the diversity of productions in various states. States, like men, are capable of producing different things. Hamilton anticipated a free flow of commerce between the states united which would permit the citizens of individual states to concentrate on what they were best suited to produce. It would be unnecessary for them to try and undertake such measures as would enable them to live alone. In union trade would be advanced both for home and foreign markets.

H. Importance of Union to a Sound Revenue.² The most productive source of national wealth, according to Hamilton, is commerce.³ As we have just seen, the states disu-

1. FED(11), 68.
2. FED(31), 190; (34), 204-207; (21), 130; (30), 182; (21), 127-128; (30), 182.
3. FED(12), 70.
nited and fraught with dissensions and aggressive motives at the expense of each other, would place commerce in a state of peril. No strong commerce would be able to develop in a situation where each state undertook to be the sole guardian of its trade.

It is astonishing that so simple a truth should ever have had an adversary; and it is one, among a multitude of proofs, how apt a spirit of ill-informed jealousy, or of too great abstraction and refinement, is to lead men astray from the plainest truths of reason and conviction.¹

The ability to pay taxes is dependent on the amount of money in circulation, and the amount of money in circulation is dependent upon commerce. It is not possible to visualize material wealth without commerce. The two exist together. Unless there be money in circulation with which taxes can be paid, it is useless to levy taxes.

The ability of a country to pay taxes must always be proportioned, in a great degree, to the quantity of money in circulation, and to the celerity with which it circulates. Commerce, contributing to both these objects, must of necessity render the payment of taxes easier, and facilitate the requisite supplies to the treasury.²

Another significant point which Hamilton makes with regard to the "importance of Union to a sound revenue" is that "it is impracticable to raise any very considerable sums by direct taxation."³ No matter how many times tax laws are multiplied to raise money by direct taxation, they are never

1. FED(12), 71.  
2. FED(12), 71.  
3. FED(12), 71.
adequate enough to raise a sufficient amount of money for the operation of a government. Hamilton did not have in mind a federal income tax. The major part of tax money is raised by the method of indirect taxation.

In so opulent a nation as that of Great 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.

The states disunited or grouped together in separate confederacies would practically eliminate the possibility of raising any great amount of money by indirect taxation.

In union there is also a protection against illicit trade.

The relative situation of these states; the number of rivers with which they are intersected, and of bays that wash their shores; the facility of communication in every direction; the affinity of language and manners; the familiar habits of intercourse;—all these are circumstances that would conspire to render an illicit trade between them a matter of little difficulty, and would insure frequent evasions of the commercial regulations of each other.

As a means of avoiding the development of a situation such as this the states would be induced to lower their duties. This, of course, would reduce income.

What happens when revenues are too small to pay the

1. FED(12), 72. 2. FED(12), 73. 3. FED(12), 73.
expenses of government? Hamilton answered with the view that national existence is dependent upon an income adequate for the operation of government. "A nation cannot long exist without revenues. Destitute of this essential support, it must resign its independence, and sink into the degraded condition of a province." ¹ The existence of a national government in America, he concluded, was dependent upon a union of the states after the plan adopted by the Philadelphia Convention. A plan of union similar to the Articles of Confederation which permitted the states to act in a sovereign and independent role was inadequate. If for no other reason than its failure to make possible the raising of revenue, a plan similar to the Articles of Confederation would lead to the dissolution of the union. "Union is important to a sound revenue."

I. Advantage of Union with Regard to Economy of Government. The writers of The Federalist rightly maintained that in the case of union there would be one national government to support instead of a number of independent governments. They understood that revenue would be required to operate the individual states even were the plan of union adopted. But in the case of disunion each state would have to support a separate civil list, whereas in the event of union there would be only one civil list to support.²

¹ FED(12), 75.
² FED(13), 76.
Also, fewer persons would be required to guard the inland communities against practices of illicit trade.\(^1\)
In the event of union illicit trade practices would be less common because of a free and unbridled exchange of trade among the states. And where illicit practices did occur the national government would handle the situation. It would be much less expensive to have the responsibility of guarding against illicit trade practices than for each state to support a separate means for doing this. In the event of union it would be unnecessary for each state to maintain extensive military establishments. Union is conducive to economy in government.

J. Advantages of Extent of Country Embraced by Union.

Opponents of the proposed constitution contended during the period between its adoption by the Philadelphia Convention and its ratification by the states that the size of the territory embracing the states made a republican administration impracticable.\(^2\) The opponents of the proposed constitution had used passages from Montesquieu to substantiate their contention that the geographical size of America was too large for a republican form of government.\(^3\) Hamilton, in dealing with the opponents of the proposed plan of government on the question of the feasibility of a republican form of government for a large territory, wrote the following:

1. FED(13), 79.
2. FED(14), 80.
3. FED(9), 49.
The opponents of the plan proposed have, with great assiduity, cited and circulated the observations of Montesquieu on the necessity of a contracted territory for a republican government. But they seem not to have been apprised of the sentiments of that great man expressed in another part of his work, nor to have adverted to the consequences of the principle to which they subscribe with such ready acquiescence.

Hamilton, in rebuttal to the argument produced by the opponents of the proposed constitution that the size of the country was too large for a republican administration, used Montesquieu's *The Spirit of the Laws*. In so doing Hamilton was making use of the reasoning of the same person to uphold the proposed plan of government that its adversaries had used to argue against it. Hamilton concludes that

So far are the suggestions of Montesquieu from standing in opposition to a general Union of the States, that he explicitly treats of a CONFEDERATE REPUBLIC as the expedient for extending the sphere of popular government, and reconciling the advantages of monarchy with those of republicanism.

Hamilton was right in disagreeing that only a small geographical area could be administered satisfactorily by a republican form of government. His quotations from Montesquieu on this subject, however, never seem to be exactly to the point. The quotations he uses deal with the advantages of a republican government in quelling factions and preventing tyranny but have nothing to do with whether a republican government can be adequately administered over

1. FED(9), 49.  2. FED(9), 50.  3. FED(9), 50-51.
a large territory.

Madison thought that one of the great assets of a republican form of government lay in the fact that it could be administered over a large territory. In Madison's opinion, the fact that a greater number of citizens and "extent of territory" could be brought within the compass of republican than of democratic government was the principal circumstance which rendered "factious combinations less to be dreaded in the former than in the latter."\(^1\)

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. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

The great extent of the country was, in the opinion of the writers of The Federalist, a utility and a security.\(^3\) Against the attacks of a foreign power it is a utility. And it has "precisely the same effect against the enterprises of ambitious rulers in the national councils."\(^4\)

Madison further remarked,\(^5\) contrary to the ideas held by some of the opponents to the plan of union adopted by the Philadelphia Convention, that if the plan of union were

1. FED(10), 60.
2. FED(10), 61.
3. FED(28), 174.
4. FED(28), 174; (51), 340; (23), 146; (43), 282.
5. FED(14), 83.
adopted, improved roads and means of communication would be one of the benefits. Travel and commerce between the states would be facilitated.

K. Union Will Give Government Power to Execute Necessary Measures. One of the severe experiences under the Articles of Confederation was the experience of a government which was impotent. The impotence of the national government under the Articles of Confederation was the chief defect from which others issued. The writers of The Federalist, with a thorough understanding of the Articles of Confederation, warned repeatedly\(^1\) that if the plan of union adopted by the Philadelphia Convention were not ratified, the conditions experienced under the Articles of Confederation would not only be continued but worsened.

It is true, as has been before observed, that facts, too stubborn to be resisted, have produced a species of general assent to the abstract proposition that there exist material defects in our national system; but the usefulness of the concession, on the part of the old adversaries of federal measures, is destroyed by a strenuous opposition to a remedy, upon the only principles that can give it a chance of success. While they admit that the government of the United States is destitute of energy, they contend against conferring upon it those powers which are requisite to supply that energy. They seem still to aim at things repugnant and irreconcilable; at an augmentation of federal authority, without a diminution of State authority; at sovereignty in the Union, and complete independence in the members. They still, in fine, seem to cherish with blind devotion the political monster of

\(^{1}\) FED(15), 89; (20), 122; (41), 263; (25), 154-158; (20), 124; (30), 184.
an imperium in imperio.¹

Union under the plan of government proposed will establish an insular situation with regard to the defects of the Articles of Confederation. The supreme law of the land will be enforced.² A reversion to any plan of government which is so weak as to allow the states to act as independent sovereigns will terminate in dissolution.³

L. Union Will Afford a More Efficient Administration.

The writers of The Federalist adopted the point of view that a single government based on the proposed plan of union would be administered by abler men than the states disunited. In Essay Number 4 Jay clearly expressed this opinion. Jay was interested in the treaty-making powers of government and indicated this fact in the following quotation.

One government can collect and avail itself of the talents and experiences of the ablest men, in whatever part of the Union they may be found. It can move on uniform principles of policy. It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each. In the formation of treaties, it will regard the interest of the whole, and the particular interests of the parts as connected with that of the whole. It can apply the resources and power of the whole to the defence of any particular part, and that more easily and expeditiously than State governments or separate confederacies can possibly do, 'for want of concert and unity of system.'⁴

¹ FED(15), 89.
² FED(15), 91-92; (27), 169.
³ FED(20), 122; (41), 263; (25), 154-158.
⁴ FED(4), 20; (3), 14.
Madison explained in Essay Number 58 how the legislative branch of the proposed plan of union would be constituted by the ablest men. Theoretically Madison was right, but as a matter of actual experience the House of Representatives has not always been constituted by the ablest men. Yet Madison still might be right in the possible reply that any other plan than the one proposed would open the way for a greater number of incompetent representatives to gain office. It was Madison's view that under the proposed plan of union there would not be an excessively large number of elective offices and the people would be able to choose from a few good leaders.\(^1\) Incompetent men would not be able to win popular approval with a comparatively low number of elective offices available. Madison drew upon his knowledge of the history of federal government to say:

\begin{quote}
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 sceptre 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.\(^2\)
\end{quote}

Madison thought, then, that a rational mean should be adhered to in the creation of public offices. The goal was to permit the different interests of society to be represented,

\(^1\) FED(58), 377-383.  
\(^2\) FED(58), 382.
and nothing could be gained in establishing elective offices beyond that point.

Experience will forever admonish them that...

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.¹

The writers of The Federalist were explaining the value of union as a form of national government. They repeatedly made reference to how local conditions would be affected were the proposed plan of union adopted; but they were too intent on the plan of union to discuss such a thing as the New England Town Meeting as a way of handling local affairs. Certainly they would never have agreed upon this as a means of handling national affairs. This idea was repugnant to them as a national procedure.

M. Union Affords a Uniform Policy. This topic is a general summary of the answer to the question, "Why union?"

In the event of the adoption of the proposed plan of union, the writers of The Federalist rightly maintained that one system of courts² would be better than a number of courts. If the states as independent sovereigns or grouped in several confederacies maintained separate courts, there would be no uniform interpretation of national laws dealing with internal affairs. Neither would there be a uniform interpretation of laws dealing with treaties. A pluralism in the

¹. FED(58), 382.
². FED(83), 548; (22), 138; (27), 169; (3), 15.
courts such as this would lead to frustration and chaos.

The military under the proposed plan of union will not be dangerous to the liberties of the people. If the military be placed under the direction of the Union, there will be no danger of a supine and listless inattention to the dangers of a neighbor, till its near approach had superadded the incitements of self-preservation to the too feeble impulses of duty and sympathy.

Standing armies maintained by separate confederacies or independent sovereign states would be dangerous to liberties as well as incompetent and excessively expensive. Madison advised that all prudence should be exerted in "diminishing both the necessity and the danger of resorting to one [military establishment] which may be inauspicious to its liberties."^2

Independent states or states joined in separate confederacies with only a meaningless attachment to a national government would create conditions approaching anarchy with regard to intercourse between the states, foreign trade, taxation, and all other affairs of government. A uniform policy is possible only in union. And as Hamilton stated in Essay Number 84, union is the basis of the political happiness of the "citizens of America."^3

4. Interpretation and Crisis

The problem of States' rights and the power of the

1. *FED*(29), 182.  2. *FED*(41), 263.  3. *FED*(84), 564.
National government has always been an important question to American political thinkers. It was uppermost in the minds of American legislators before the Philadelphia Convention at which the Constitution was framed; it was a question of paramount importance during this Convention; and it has been a central question since the adoption of the Constitution.

In the opinion of Madison the Constitution was not an organism which had been brought about by the unfolding of some destiny. It was not older than the Philadelphia Convention. It was a compact. But it was not merely a compact. It was also a law. In order to give the Constitution a character of law, Madison insisted that it should be ratified by conventions elected by the people, and not by the State legislatures. If it were ratified by their own governments, the States would come to look upon it as a mere treaty; and a breach of it by any one of them would be held to absolve the others from their whole obligation. As a result the nation would be no whit better off than under the Articles of Confederation.

What has been called a "distinctively American idea" came out of the Philadelphia Convention. It was the "conception of a constitution as a law unalterable and unassailable by a majority of the legislature, and enforceable by the courts." The question before us now is, does a party

1. Farrand, RFC, I, 122-123; II, 92-93.
2. Burns, JMP, 93.
4. Burns, JMP, 93.
to this compact have a right to break it? Does a State have a right to secede?

It is necessary to bear in mind that the framers of the Constitution did not look upon it as being strictly national. It was partly national and partly federal. It was national in that the government operated directly upon individuals. It was federal in that it operated upon the several political units composing the Union. For a government to be completely national its authority would have to be indefinite over individuals and States. The United States government has a distinctly federal character in that the States have powers as political units. Conflicts between these two jurisdictions of power seem to be perpetual.

The political issues which most agitated the public mind during the first sixty years of the life of the Constitution were nullification and secession. Madison regarded the Union as a union of States formed by the people in the States as sovereign political communities not by the State governments. The Constitution was to him a compact among the States in the sense of political societies, and it was the instrument by which the people, that is a majority of them in each State, surrendered a portion of their sovereignty to the government of the Union. The only parties to the compact, however, were the States as political societies, not the people as individuals nor the governments of the States.

Madison held that the Constitution as a compact was

1. Burns, JMP, 117.
binding on all the States. A State had no more right than an individual to violate solemn engagements. Each party to a compact has a right to decide whether the agreement has been broken. If a party to a compact insists that it has been violated the other parties have a right to contend that the compact is still valid and to demand its execution. It would appear from this reasoning that Madison held the Union to be indissoluble. Unfortunately, Madison became identified, though the identification was too rigid, with the States' rights movement.

Madison is commonly credited with having advocated nullification and secession in the Virginia Resolutions of 1798. But as Commager points out:

These resolutions, it must be remembered, were not primarily concerned with presenting a philosophy of States Rights, or a compact theory of government, but rather with restating the fundamental principles of the Revolutionary struggle—the principle that government is limited, that there are certain things no government can do, and that among these is depriving men of liberty. It was liberty that Jefferson and Madison were concerned with here, not constitutional doctrine.

In 1799 Madison drafted a long "Report on the Virginia Resolutions" in which he said nothing of armed resistance against the federal government. There is nothing in any of the letters which Madison wrote against the South Carolina

3. Commager, LIA, 273.
4. Burns, JMP, 120.
nullificationists in 1832 to indicate that he advocated disruption of the Union.  

Madison, in his "Notes on Nullification" repudiated the doctrine that any State can declare a law of Congress unconstitutional, "arrest the operation of that law within its own territory, and at the same time maintain its adherence to the Constitution." If an individual State had no constitutional right to declare an act of Congress unconstitutional, neither did it have any constitutional right to secede from the Union.

It should be noted that Madison made one important exception to his denial of the right of a State to withdraw from the Union. This right, he maintained, was a natural right, not a constitutional one. After suffering intolerable oppression at the hands of the federal government a State would be permitted to exercise this natural right just as an individual might go into exile if oppressed beyond endurance by a State.

This problem of nullification and secession, as has been stated, was an important one until after the Civil War. Daniel Webster was the most ardent spokesman for the view that the Union is indissoluble. But it took the crisis of the Civil War to crystallize his arguments into solid fact.

5. Summary

Opponents of the Constitution proposed by the Philadelphia Convention as well as those who favored it were agreed upon one thing, namely, that a change in the structure of government was necessary. Just what should be the extent of this change was debatable. Would it be necessary to alter the entire fabric of the existing government, or could the needed changes be made within the framework of the Articles of Confederation? A review of the evils which existed under the Articles of Confederation made it clear to a majority of the builders of the Constitution that a complete overhaul was essential.

This chapter has dealt with the idea of union as basic in the minds of the Constitution's framers. It was clear to them that only under a more perfect union than they had experienced could their survival as a nation be assured.

Constitutional thought with regard to the indissolubility of the Union was much divided until after the Civil War.

If the concept of union was looked upon as fundamental to the life of the American republic the question which naturally arises is, how should the idea of union work concretely? What kind of union did the builders of the Constitution think was best for the American States in 1787? It will be the pur-

from these speeches may conveniently be found in Commager, LIA, 276-279; 283-286.
pose in the succeeding chapter to consider this question as it was answered by the writers of The Federalist.
CHAPTER IV

WHAT KIND OF UNION?

Throughout this study the answer to the question of the nature of the union advocated by the writers of The Federalist has been implied. This has been necessarily true because it is not possible to discuss what they were against or the advantages of union as opposed to disunion without implying what kind of union they favored. In producing the arguments of the writers of The Federalist which were against the Articles of Confederation, and in producing their arguments favoring a union of the states instead of a disunion of the same, it was discovered that they were opposed to any plan of government which permitted the states to exist as independent sovereigns or in groups of separate confederacies.

Their studies in the history of federal government had convinced them of the error of legislating for states in their collective capacities. It was particularly true of Madison that he had excelled in the study of federal government. The error of legislating for states in their collective capacities was a present experience while living under the Articles of Confederation. Specifically, then, what did the writers of The Federalist say should constitute the nature of union? In their answer to this question is the genius of their work, and their contribution to social philosophy.
1. A Union Which Is Compatible with the Genius of the American People

Madison may have been guilty of special pleading in this particular instance of explaining not only the proposed plan of union, but what he held to be the best possible kind of union. It was, nevertheless, good technique, for in promoting a cause it is essential that the emotions of men be kept not too far in the background. Yet Madison was right in his assumption that union would be compatible with the genius of the American people. And he was right again in proclaiming that such a form of union as the one proposed would be in keeping with "the fundamental principles of the Revolution." Madison was again right when he maintained that the people of America were capable of self-government and that union ought to be constructed on that premise.

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.

2. Characteristics of the Republican Form of Government

A. No Adequate Precedents. The writers of The Fed-

1. FED(39), 243. 2. FED(39), 243.
eralist were convinced of the fact that no adequate prece-
dents existed by which a republican form of government could
be characterized. Hamilton's and Madison's knowledge of the
history of federal government, as well as their knowledge of
the theory of society, was indispensable to their clarifica-
tion of the nature of a truly republican form of government.
No greater contribution to the concept of federal government
based on republican principle has been made than that of
Madison and Hamilton in their analysis of the nature of re-
publican government in The Federalist. Hamilton calls at-
tention to the fact, in Essay Number 9, that no adequate
precedents exist.

It is not to be denied that the portraits
they [opponents of the plan proposed] have
sketched of republican government were too
just copies of the originals from which
they were taken. If it had been found im-
practicable to have devised models of a
more perfect structure, the enlightened
friends to liberty would have been obliged
to abandon the cause of that species of
government as indefensible.

It was Madison, however, who was clearer and more
specific in this matter of denying the existence of ade-
quate precedents.

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 constitu-
tions of different States, no satisfactory
one would ever be found. Holland, in which
no particle of the supreme authority is

1. FED(9), 48.
derived from the people, has passed almost universally under the denomination of a republic. The same title has been bestowed on Venice, where absolute power over the great body of the people is exercised, in the most absolute manner, by a small body of hereditary nobles. Poland, which is a mixture of aristocracy and of monarchy in their worst forms, has been dignified with the same appellation. The government of England, which has one republican branch only, combined with an hereditary aristocracy and monarchy, has, with equal impropriety, been frequently placed on the list of republics. These examples, which are nearly as dissimilar to each other as to a genuine republic, show the extreme inaccuracy with which the term has been used in political disquisitions.1

B. A Government Which Receives Its Authority from the People. A government, first of all, should receive its authority from the people.2 It was maintained in The Federalist that the Articles of Confederation had never been ratified by the people.3 Evidently this was one reason the writers of The Federalist mentioned the view that a government should receive its authority from the people. Hamilton stated in Essay Number 22:

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,

1. FED(39), 243. 2. FED(31), 192-193; (28), 173; (49), 327-328; (41), 265; (37), 227; (46), 305; (40), 257-258; (33), 200; (40), 255; (39), 244-246.

3. FED(22), 140.
it has been contended that the same author­
ity might repeale the law by which it was
ratified.

Another, and much more significant reason, for men­tioning the view that a government should receive its au­
thority from the people was the firm conviction that "the
fabric of American empire ought to rest on the solid basis
of THE CONSENT OF THE PEOPLE." 2 It is not possible to say
to whom, if any particular person, the writers of The Fed­
eralist were indebted for this idea. They may have obtained
it from Locke, 3 or from no particular person. The important
fact is that they held it.

C. A Government Which Extends Its Authority to the
People. The Articles of Confederation was prohibited from
extending its authority to the people because it dealt with
the states in their collective capacities. Here, again, the
writers of The Federalist used their knowledge of the history
of federal government 4 to illustrate that in all instances of
a national government having to deal with member states in
their collective capacities the national government has been
impotent. Its only means of enforcing laws is military co­
ercion. And military coercion ultimately leads to a military
state and the loss of liberties. This eventually can be
avoided when the national government can extend its authority

1. FED(22); 140-141.
2. FED(22); 141.
3. Locke, ECCG, ch. ii, sec. 15. See above, 90-95.
4. FED(16), 97.
to the citizens and demand obedience of them.

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. Such a scheme, if practicable at all, would instantly degenerate into a military despotism; but it will be found in every light impracticable.

The proposed plan of union would extend the supreme law of the land to the people. The individual citizens would be protected by the federal courts, and they would likewise be responsible to the federal courts. The federal courts would be practically meaningless to the individual citizens were they to extend only to the states and were the states to maintain separate courts to interpret national laws. The latter would be a step in the direction of confusion, dissolution, and anarchy.

D. Necessity of Resorting to Principles. Since, in the opinion of the writers of *The Federalist*, all historical examples of federal government gave witness to an inadequate relationship between the federal government and the people, it became necessary to appeal to the principles of federal government in order to determine its true nature. How, then, may a truly republican form of government be defined?

If we resort for a criterion to the different

1. *Fed*(16), 97-98; (15), 89; (23), 141-142.
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.

To whom were the writers of The Federalist indebted for the principles to which they resorted? Had not Locke said, for example, that governments should rest on the consent of the governed? 2 Was not Montesquieu referred to in connection with the discussion of the separation of powers in government? 3 Had not Harrington in The Commonwealth of Oceana also advocated the principle of the separation of powers in government? And had he not also set forth a theory of the economic basis of politics which foreshadowed Essay Number 10? Had Harrington not given an analysis to the cause and remedy of factions similar to that of Madison in Essay Number 10? All these statements are true, but the extent of their influence on the writers of The Federalist cannot be definitely determined. It is highly probable that Madison was thoroughly familiar with the works of all of the above mentioned 4 and that Hamilton and Jay were familiar with them as well. What can be stated with definiteness is the fact that the writers of The Federalist made use of the thought

1. FED(39), 243-244.
2. Locke, ECCG, ch. viii, sec. 121.
3. FED(47), 313-317.
4. See above, 44-61.
of no one without placing the stamp of their own originality upon it. Consider, for example, the functional division of powers in government. MacIver correctly pointed out that it "does not imply the constituent division of sovereignty itself. The latter had no real precedents."¹

As was previously quoted:²

The balanced state which Madison did so much to construct and Hamilton so much to defend had a character entirely different from that of the exemplars and models to which they pointed.³

And the use made by the writers of The Federalist of the functional division of powers

flouted an agelong tradition. It owed nothing to Locke or Harrington or even Montesquieu. Greatly influenced by European political philosophies as were the builders of the Republic, the fabric they constructed was in essentials, almost without their knowing it, profoundly new.⁴

MacIver was right in using the phrase "almost without their knowing it," but the writers of The Federalist knew that they were advocating the use of the principles of federal government in a novel way. They also knew they had advanced improvements on historical federations. What they could not foresee was the verdict of history and experience.

The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. The regular distribution of power into dis-

¹. MacIver, Art.(1938), 60.
². See above, 120.
³. MacIver, Art.(1938), 60.
⁴. MacIver, Art.(1938), 60.
tinct 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.¹

The analysis given of republican government by the writers of The Federalist constitutes a masterful effort at keeping a government within the confines of the control of the citizens. The working arrangement they gave to the system of checks and balances had no exact precedent in either Montesquieu or Harrington. The writers of The Federalist made certain to so arrange the functional separation of powers that the danger of the emergence of any tyrannical usurpation of power would be forestalled. The republican principle of government would be guaranteed to each state,² and there would be no 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.³

E. Republican Government as a Remedy for Factions.

Madison in Essay Number 10 gave an unexcelled account of re-

¹. FED(9), 48. See also (10), 54, where Madison claims improvements on republics both ancient and modern and says that these improvements cannot be too much admired.
². FED(43), 283.
³. FED(39), 245.
publican government as a remedy for factions.

Among the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it.

Madison observed that complaints were heard from the "most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty" that governments were unstable and inadequate. The conflict of rival parties disregarded the public good. Measures were often decided by an overbearing majority instead of according to "the rules of justice and the rights of the minor party." Alarm prevailed concerning the state of private rights and the "distrust of public engagements." Madison observed further that these undesirable conditions were chiefly, if not wholly, the effects of the unsteadiness and injustice with which a factionous spirit has tainted our public administrations.

What is a faction? Madison stated:

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,

1. FED(10), 53.  2. FED(10), 54.  3. FED(10), 54.
4. FED(10), 54.  5. FED(10), 54.
or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community. 1

How can the "mischiefs of faction" be cured? There are two ways of doing this. One is "by removing its causes; the other, by controlling its effects." 2

How can the causes of faction be removed? One way is to destroy "the liberty which is essential to its existence." Another way is to give "to every citizen the same opinions, the same passions, and the same interests." 3 Madison observed that the first remedy would be 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 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. 4

The second remedy for the removal of the causes of faction Madison found to be "as impracticable as the first would be unwise." 5 Men have different faculties, interests, passions, and opinions. Man's reason is also fallible and as long as he is at liberty to exercise it, his reason and his self-love, passions and other interests will have a reciprocal influence on each other. Also, "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." 6 It can

1. FED(10), 54. 2. FED(10), 54-55. 3. FED(10), 55. 4. FED(10), 55. 5. FED(10), 55. 6. FED(10), 55.
never be expected that men will have a uniformity of interests, passions, and opinions, and that their reason will lead them to identical points of view.

Madison's inference, then, regarding the removal of the causes of faction was that "the causes of faction cannot be removed, and that relief is only to be sought in the means of controlling the effects."1

How can the "effects" of faction be controlled? It can be done by one of two means only.

Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression.2

Madison's discussion of the subject of controlling the "effects" of passion was a comparison and contrast between a pure democracy and a republican form of government. By a pure democracy Madison meant "a society consisting of a small number of citizens, who assemble and administer the government in person."3 A pure democracy, he maintained, could never admit of a "cure for the mischiefs of faction."4 In a pure democracy, no satisfactory relationship can ever exist between majorities and minorities, between men of different passions. The "effects" of faction can be most satisfactorily controlled under a republican form of government.

1. FED(10), 57.  
2. FED(10), 58.  
3. FED(10), 58.  
4. FED(10), 58.
"A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking."¹

In what way are the "effects" of faction controlled in a republic? The public views will be enlarged and refined by passing them through a chosen body of citizens whose love of justice and patriotism will not permit them to sacrifice partial considerations to the national welfare.² Madison was aware of the possibility of "men of factious" tempers winning elections and betraying the interests of the people.

The question resulting is, whether small or extensive republics are more favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter.³

The men who possess the "most attractive merit" will find it easier to win elections when it is necessary to win the approval of a large number of citizens. But even in a large republic there is a danger of factious-minded men gaining office where elective offices are too greatly multiplied. Also, the extent of territory which can be brought within the compass of a republican form of government "renders factious combinations less to be dreaded"⁴ than in a democracy.

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

¹ FED(10), 59. ² FED(10), 59. ³ FED(10), 59. ⁴ FED(10), 60.
feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.  

Madison therefore reached the following conclusion with regard to the subject of controlling the "effects" of faction. "The same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic,--is enjoyed by the Union over the States composing it."  

"A republican remedy," then was discovered "for the diseases most incident to republican government."  

3. Proposed Plan of Union Conforms to Republican Principles

That the proposed plan of union conformed to republican principles is obvious from the fact that The Federalist was written to recommend the proposed plan of union to the people composing the ratifying conventions. Frequent reference has been made in this study to the circumstances of states existing as independent sovereigns or as separate groups of confederacies, while at the same time being parts of a national government. What will be the status of the states in the proposed plan of union?

1. FED(10), 61.
2. FED(10), 61.
3. FED(10), 62.
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.¹

Madison drew a clear distinction between a single republican government and a compound one.² The former is characterized by the fact that all the power surrendered by the people is administered by a single government. "Usurpations are guarded against by a division of the government into distinct and separate departments."³ The situation is far different in a compound republic. And the proposed plan of union is designed for a compound republic.

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

¹. FED(32), 194; (62), 451; (51), 339; (31), 197.
². FED(51), 338-339.
³. FED(51), 339.
different governments will control each other, at the same time that each will be controlled by itself.¹

The proposed plan of union was also compound with regard to being either wholly national or wholly federal. It was neither. It was both. Madison summarizes succinctly the national and federal characteristics of the proposed plan of union in the following way.

The proposed Constitution, therefore, 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.²

With this said the writers of The Federalist made no claim that they had said the last word with regard to how a republican form of government could be best constituted. To one who studies The Federalist now it is a cause of wonder that the writers of The Federalist could have so thoroughly analyzed the nature and structure of federal government. Precedents in the field of the theory of society or actual historical republics were not too helpful as guides. The Federalist is an original and creative analysis of the nature and structure of what a republican form of government ought

1. FED(51), 339.
2. FED(39), 250.
to be like. Madison said of the critics of the proposed plan of union:

It is a matter both of wonder and regret, that those who raise so many objections against the new Constitution should never call to mind the defects of that which is to be exchanged for it. It is not necessary that the former should be perfect; it is sufficient that the latter is more imperfect. No man would refuse to give brass for silver or gold because the latter had some alloy in it.

4. Did Hamilton and Madison Agree with The Federalist?

This question is not intended to raise the question of integrity. It must be remembered that The Federalist was written as a piece of campaign literature. The proposed plan of union was a result of compromise between its framers. The product of any deliberative assembly is a result of compromise. And this is good, for what is brought about as a result of compromise in a deliberative assembly is formed to accommodate many different interests. The question before us is, "Did Hamilton and Madison agree with The Federalist?" In other words, did they accept the proposed plan because it was all they had to recommend as a replacement for the Articles of Confederation, or did they actually believe what they wrote in The Federalist?

The proposed plan of union was in large measure a product of Madison's mind. He had guided the debates in the

1. FED(1), 6.
Philadelphia Convention with his superior knowledge of the history of federal government and his knowledge of the theory of government. There is no reason to doubt that he believed at least most of what he had written in *The Federalist*.

Hamilton wrote in Essay Number 1:

> I own to you that, after having given it an attentive consideration, I am clearly of opinion it is your interest to adopt it. I am convinced that this is the safest course for your liberty, your dignity, and your happiness. I affect not reserves which I do not feel....I frankly acknowledge to you my convictions....My motives must remain in the depository of my own breast. My arguments will be open to all, and may be judged of by all. They shall at least be offered in a spirit which will not disgrace the cause of truth.\(^1\)

It seems clear that Hamilton meant every word of the above confession. The proposed plan was, in his opinion, much superior to the Articles of Confederation. It was his only alternative. And he was willing to support it with all his energy and vigor. It seems equally clear, however, that the plan of union was not what Hamilton wanted.\(^2\) Adair reminds us that while Hamilton was preparing to write *The Federalist*,

> he [Hamilton7 drew up a private memorandum in which he prophesied its failure unless additional power could be squeezed out of its clauses by interpretation.\(^3\)

Hamilton favored a strongly centralized government and never, outside *The Federalist*, argued for a republican form of gov-

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1. *FED*(1), 6. 2. See above, 22-23; 71-72. 3. Adair, Art. (1944)\(^2\), 257. This memorandum is printed in Lodge (ed.), *WAH*, I, 420-424 under the title, "Impressions as to the New Constitution."
ernment similar to the one discussed in it.

Hamilton made a speech at the Philadelphia Convention June 18, 1787 which lasted five hours. His speech constituted a plea for the adoption of a plan of government modeled after the British monarchy.1 Madison's notes of Hamilton's speech contain the following statement: "In his private opinion he had no scruple in declaring...that the British Government was the best in the world: and that he doubted whether anything short of it would do in America."2

Hamilton in Essay Number 32 in support of the proposed plan of union said:

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 government 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.3

But in the Philadelphia Convention Hamilton maintained that, "only by the establishment of a state which institutionalized in its very organs a 'will' independent of the people could the class struggle be allayed in the United States."4 Hamilton's syllabus of his speech in the Convention contains this line: "The principle chiefly intended to be established is this---that there must be a permanent will."5 Hamilton's ca-

3. FED(32), 194. 4. Adair, Art.(1944)' 2, 257.
5. Farrand, RFC, I, 310.
reer both before and after The Federalist indicated that he did favor a government with a stronger will than he advocated in The Federalist.

Madison's chief embarrassment over The Federalist was his broad construction statement that the end justifies the means. "No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorized."¹ No doubt Madison firmly believed this when he wrote Essay Number 44. He could not anticipate what use would be made of this idea, and when Hamilton used it to justify the creation of the national bank, Madison developed a "strict construction" theory of the Constitution. The idea of a broad construction interpretation of the Constitution was not Madison's idea alone. It was Hamilton's as well. In Essay Number 23 Hamilton gave a broad construction theory of the Constitution. This was one way he could salvage something from his own original plan presented to the Convention. It enabled him to place power in the government.

This is one of those truths which, to a correct and unprejudiced mind, carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests on axioms as simple as they are universal; the means ought to be proportioned to the end; the persons, from whose agency the attainment of any end is expected, ought to possess the means by which it is to be attained.²

Frequently in this study use has been made of the

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¹. FED(44), 294.
². FED(23), 142.
phrases "the writers of The Federalist were of the opinion," or "the writers of The Federalist held" when referring to a particular idea. This usage has been fair in view of the fact that The Federalist as an analysis of republican government must be understood as it was written. Its merit as a study in republican government is discovered not in what Hamilton or Madison thought before or afterward, or even during the writing of The Federalist, but, instead, in what is actually written.

The conclusion in this regard, then, is that The Federalist contains a social philosophy which is better than its authors intended. It is possible now better to understand MacIver's statement:

Therefore the political philosophy of the Constitution is a different thing from the political philosophies that moved its creators. In this respect they builded better than they knew, indeed better than the world yet knows.

5. Arguments Applicable to International Union

One of the great problems confronting people everywhere today is how to solve international discord. Is the republican principle as advocated by the writers of The Federalist applicable to international union? It may be observed that the reasons offered for the rejection of the proposed constitution are similar to those which can be offered

against international union. It was maintained against the adoption of the proposed plan of union that the geographical size of the United States was too large; that individual state sovereignty would be diminished; and that a national sovereign would be established which would be a step toward tyranny. ¹

These arguments offered by the opponents of the proposed plan of union were satisfactorily answered by the writers of The Federalist. It was maintained by the writers of The Federalist that a republican form of government would operate more efficiently in an extended sphere. ² Why could not this principle be applied to international union? ³ To the question of the diminution of state authority the writers of The Federalist maintained that legislating for states in their collective capacities was a cardinal error. ⁴ The national government should receive its authority from the people, and extend its authority to the people. Could this same republican idea be applied to international union?

This is perhaps the greatest difficulty facing the adoption of a satisfactory plan of world union. In any plan where the member nations are dealt with in their collective capacities the same consequences will occur which have been the experience of federal governments, both ancient and modern. In my opinion the principles of republicanism advocated

1. FED(15), 88-89; (15), 92; (16), 99; (31), 192; (14), 79-85.
2. FED(10), 58-62.
3. See Cousins, MMIO, 53.
4. FED(23), 143; (16), 95; (18), 107; (23), 155; (15), 89;
by the writers of The Federalist are applicable to world union. The problem is to prepare the people of the world to want a world union based on the republican idea as contained in The Federalist. The League of Nations was similar to the Articles of Confederation in dealing with states in their collective capacities, and so is the United Nations Organization.

Ranney makes the following observation:

The American precedent is not a completely discouraging one... However, these positive forces are confronted by stronger obstacles than the colonists ever had to face, in the form of nationalism, cultural and political diversity, and economic interests which profit by disunion... There has been no tradition of union like that of the colonies under the British empire, and there has been no collective enterprise so intense in character as the fighting of the Revolution. Under the circumstances it would be naive to suppose that the world is ready for its Constitution; but it is not so fantastic, perhaps, to think that parts of it are getting ready for their Articles of Confederation.

The writers of The Federalist maintained with regard to the question of the possible emergence of a national sovereign that the system of checks and balances would prevent such an occurrence. The fact that the people would always be in control of the government would prevent the emergence of a national sovereign. And the compound relationship between the states and the federal government would prevent it.

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1. Ranney, Art. (1946), 34-35. 2. FED (47), 313-315. 3. FED (10), 61-62. 4. FED (51), 339; (31), 197; (32), 194; (62), 451; (32), 194.
Would not these deterrents to the emergence of a sovereign be just as effective in the event of international union? If the "extended sphere" idea be correct, the arguments maintained by the writers of The Federalist would work better in a case of world union than in a limited sphere like the United States.

6. Concept of Human Nature

The task of analyzing man as a political being is as old as the science of politics. A study of man as a member of society necessarily involves a view of man's nature. It can be said of the writers of The Federalist that they did two things in developing a social philosophy. To begin with they made an observation of man's nature. Next they sought to build their views of republicanism on the basis of what they had observed. To construct a social philosophy in any other way would be to court irrelevancy. A consideration of the concept of human nature presented by the writers of The Federalist raises two questions. What was their concept? And, what bearing did it have on their political views?

Two sides of human nature are emphasized. Madison reminds us of this in Essay Number 55.

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 de-
gree than any other form. Were the pictures which have been drawn by the political jealousy of some among us faithful likenesses of the human character, the inference would be, that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another.¹

Hamilton in another instance of emphasis upon man's depraved state describes him as "ambitious, vindictive, and rapacious."² A problem of the authors of The Federalist was to explain a means of controlling man's depravity.

In a discussion of the division of powers in the proposed government Madison wrote:

It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In forming 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.³

Again, a recurring theme in The Federalist is that "the principal task of modern legislation"⁴ is the regulation of various and interfering interests or factions. But "the latent causes of faction are...sown in the nature of man."⁵

¹ FED(55), 365. ⁴ FED(10), 56. ² FED(6), 27. ⁵ FED(10), 55. ³ FED(51), 337.
On the other hand the claim is made that man is capable of self-government. These views are not inconsistent. 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.

As well as recognizing the irrational side of man's nature, the authors of The Federalist were aware of man's power for rational self-determination. There is a rational and an irrational side of human nature. How did this affect the political views of the writers of The Federalist? They concluded that a republican form of government provided the best control of the factious spirit in man. It should be said that the idea of the total depravity of man's political nature is not proclaimed in The Federalist. Madison was aware of two conflicting views of human nature out of which political parties commonly develop.

According to one view the masses of men are slavish, licentious, ignorant, greedy, and incapable of discerning their true interests, much less the interests of the whole people. This theory is the basis of the aristocratic, or anti-republican, parties. On the other hand, there is the theory of the dem-

1. FED(39), 243.
2. FED(70), 457. See also (77), 502.
3. FED(10), 53-62.
ocratic or republican element, according to which the generality of mankind have at least sufficient wisdom and patriotism to be reasonably capable of self-government. Through enlightenment and awakening of their noble instincts they may be made more so.

Madison associated himself with the latter view. Yet, this was not to be identified with a belief in the inherent goodness of man. The purpose of government remained "the correction of the evil propensities of man's nature." And these "evil propensities" were best controlled in a republican form of government which extended its authority to the people.

Madison in the discussion of factions in Essay Number 10 maintained "that neither moral nor religious motives can be relied on as an adequate control." True as his statement may be, neither can a mere form of government be relied on as an adequate control; although, let it be admitted, a good form of government is of tremendous value in this regard. Madison could well have observed that man has redeemable qualities. The combination of Christian love and reason forms the human "compound" which will permit the true principles of republicanism to be established, not on parchments alone, but in the minds and hearts of men.

7. Summary

The republican form of government advocated in The

1. Burns, JMP, 31-32. This quotation is a good summary of a view given by Madison in an article in 1792. See Hunt (ed.), WJM, VI, 115-118.
2. Burns, JMP, 33.
3. FED(10), 58.
**Federalist** was based on the assumption that the American people were capable of self-government. It was to receive its authority from the people and extend its authority to the people. The authority invested in the general government through adoption of the Constitution was to be the supreme law of the land and interpreted as such by the courts.

Through an arrangement of a division of powers between the branches of the government any usurpation of power by any one branch was forestalled. This arrangement of functions of the several branches of government was seen as the most suitable remedy for the evil of factions.

The best form of republican government is one that is neither wholly national nor wholly federal. It is partly both.

Hamilton and Madison defended the proposed plan of government adopted by the Philadelphia Convention. It was a better plan than either of them had recommended to the Convention. It was not what they had asked for. It was all they could get. It seems that history has shown it to be a better plan than either of them knew, or desired.

Nothing short of the principles of republicanism as proclaimed in *The Federalist* will ever serve as an adequate basis for a lasting international union.

Human nature is divided into rational and irrational sides. The principal task of government is to guide the rational to control the irrational. A republican form of gov-
ernment is best adapted to accomplishing this purpose.

The next chapter will contain a summary of the fore­
going study with an account of the conclusions reached. It
will conclude this examination of the social philosophy of
The Federalist.
CHAPTER V
SUMMARY OF CONCLUSIONS

1. Account of Authorship

The essays which comprise *The Federalist* appeared originally as newspaper articles in New York's *Independent Journal* and *The New York Packet*. They began appearing serially in the *Independent Journal* on October 27, 1787. They made their first appearance in a collected edition in the spring of 1788. They were published by J. and A. M'Lean, who were the publishers of the *Independent Journal*. The first volume was published March 22, 1788, and Volume 2 was published May 28 of the same year.

The essays as they appeared in the *Independent Journal* and *The New York Packet* were written under the anonymous name Publius. In the first collected edition of these essays the name Publius was again given as the author. It was not until some years later that the authors were known to have been Hamilton, Madison and Jay. These men had confided to some of their friends that they had participated in writing these essays. No public account of the particular part that each of the authors had played in writing the essays was given until Hamilton left an account of the authorship in Judge Benson's office a day or two before he met his tragic death.

Not much attention was given to this account of the authorship until the publication of Delaplaine's *Repository*
of the Lives and Portraits of Distinguished American Characters in 1816. Prior to the publication of this book by Delaplaine, some of the friends of the authors had solicited their interest in making public an account of the part they had played in writing these essays. After the publication of Delaplaine's book, friends of Madison took issue with the claim that Hamilton had written most of the essays. Madison took no part in the controversy until after his tenure of office as President of the United States.

It was in 1818 that Madison's account of the authorship of The Federalist was made public in the Gideon edition of The Federalist. Madison's account differed from the account given by Hamilton in the Benson list. In the Benson list Hamilton had credited Jay with writing Essays Numbers 2, 3, 4, 5, and 54; Madison with Essays Numbers 10, 14, and 37 to 48 inclusive; Hamilton and Madison jointly with 18, 19, and 20; and Hamilton with all the rest. Discovery of the manuscript of Essay Number 64 in Jay's own handwriting dispelled any doubt that Jay wrote Essay Number 64 instead of Essay Number 54, as had been stated by Hamilton in the Benson list.

Madison made the claim in his account of the authorship of The Federalist that he had written Essays Numbers 10, 14, 18, 19, 20, 37 to 58 inclusive, 62 and 63; and that Hamilton had written the remainder. Madison stated in a footnote to Essay Number 18 in the Gideon edition of The Feder-
alist that he and Hamilton discovered that they were both engaged in writing Essays Numbers 18, 19, and 20. It was further discovered that Hamilton had prepared only a small amount of material to write these essays, and that Madison had prepared a much larger amount of material. Hamilton gave to Madison the notes he had prepared to write these essays, and the essays went to press at the hand of Madison. There is no evidence to substantiate either the claim that Hamilton participated in writing Essays Numbers 18, 19, and 20, or that much of the material, if any, which he gave to Madison was used.

The question which had to be answered was this: Did Madison write Essays Numbers 49 to 58 inclusive and Essays Numbers 62 and 63, or did Hamilton write them? It was shown in this study that the available internal and external evidence makes clear the conclusion that Madison wrote these disputed essays instead of Hamilton.

Why the importance of reaching a conclusion with regard to the authorship of these disputed essays? Some have disposed of this dispute by assigning joint authorship in cases of doubt, or by dismissing the question of authorship altogether. It was held in this study, however, to be of great importance to establish, if possible, the authorship of each essay. In no other way, it was held, would it be possible to give an account either of the thought contained in The Federalist or the sources of that thought. Of course, it would
be possible without a discussion of this dispute over authorship to present what is contained in *The Federalist*, but a correct account of the authorship of the individual essays was deemed essential to an understanding of what the individual authors actually believed and what the background of their thought was. This was considered necessary in order thoroughly to understand the views of republicanism contained in *The Federalist*.

On the basis of the data which was examined, the following conclusion seems to be well established: The correct account of the authorship of *The Federalist* is as follows: Essays Numbers 2, 3, 4, 5, and 64 were written by Jay; Essays Numbers 10, 14, 18-20 inclusive, 37-58 inclusive, 62 and 63 by Madison; and all the others by Hamilton.

2. Creativity of Madison

Madison made a detailed study of the history of federal government. No one in America or anywhere else in the world was credited with having selected as splendid a library as had Madison on the principles which were basic to the establishment of a federal government. Not only was he familiar with the history of governments which were held to have been either federal or republican in nature, he was also familiar with the history of political thought.

It is not possible to prove beyond a shadow of a doubt that Madison was deeply indebted to any political thinker who
preceded him, but it is reasonable to assume that Madison was thoroughly familiar with the thought of the most outstanding ones. It is probable that he was fairly well acquainted with the thought of Plato and Aristotle on the subject of politics, if not from primary sources, certainly from secondary accounts of the thought of these men. It is also highly probable that Madison was familiar with the political thought of Harrington, Hobbes, Locke, and beyond any doubt familiar with Montesquieu. It also seems clear that Madison was acquainted with Vattel, Pufendorf, Burlamaqui, and Bynkershoek.

But in none of the precedents which were the models of republican and federal governments of the past could Madison find anything suitable for the genius of the people of the American states. Assisted as he may have been by the thought of political philosophers who went before him, he could discover no blueprint for the form of republicanism which was advocated in The Federalist. There were aspects of the views on republicanism presented in The Federalist which were profoundly new. These new aspects centered in the views concerning the division of sovereignty. The republicanism of The Federalist not only received its authority from the people; it extended its authority to the people. It was partly federal and partly national. It was national in that certain powers were given to the central government. It was federal in that certain defined powers were left to
the individual states.

There was a separation of powers in the organ of the national government which forbade any one of the major divisions of the government to usurp power. The Constitution, through the power delegated to it by the people themselves, acting through their states as political societies, came to be understood as the supreme law of the land and was to be so interpreted by the courts of the land.

There was no precedent for this arrangement of a central government, either in political thought or in actual historical precedent. The following conclusion is therefore warranted: Although Madison possessed a thorough knowledge of the history of federal government and of the theory of society, he was creative in his construction of the principles of republican government and was not strictly obligated to any particular person's thought or any particular precedent of republican government.

3. A Prize of Compromise

Hamilton and Madison went to the Philadelphia Convention possessed of ideas with regard to what the new plan of government should be like which were different than the ideas contained in the plan which was finally adopted. Madison went to the Philadelphia Convention with the Virginia plan in mind. Although this was different in some respects from the plan which was finally adopted, it was much more
analogous to the plan which was adopted than the one which Hamilton took to the Convention.

Madison preferred to weaken the authority of the State governments and establish great authority in the national government. He desired that the national government receive its authority from the people and extend its authority to the people. Much of this general idea was adopted by the Philadelphia Convention.

Hamilton, on the other hand, was interested in establishing a strong national government at the expense of the State governments by creating a national government which had the authority to extend a permanent will over the States as well as over the people. He was interested in establishing a strong-souled government with the President and members of the Senate to serve for the duration of their lives. Hamilton distrusted the States and the people as agents of strong powers, but he returned to the Philadelphia Convention to accept what the framers of the new Constitution had produced. He believed it to be much better than the Articles of Confederation, and he gave heart and soul to making it a reality.

The years immediately following the adoption of the new Constitution made it clear that interpretations of the new government were made on a strict construction basis or a broad construction basis, depending on the end which was to be achieved. It seems clear that the Constitution adopted at the Philadelphia Convention and the principles of re-
publicanism enunciated in The Federalist are better than either Hamilton or Madison had presented to the Philadelphia Convention and, perhaps, better than they knew.

4. Views of Democracy

By democracy the authors of The Federalist meant a system in which the people gathered in person to perform the duties of government. There were no elected representatives or delegated authority; the people simply met and acted in concert. They were strictly opposed to this form of government. They thought it would result in anarchy, and instead of being a remedy for the factious spirit in man, would only serve to extend and agitate the factious spirit.

Yet, in spite of the authors' rejection of a pure democracy as a suitable form of government, it must be held that the principles of republicanism supported in The Federalist have aided the growth of the most distinguished democracy of history.

5. Union is Preferable

The survey of the history of republican and federal governments made by the writers of The Federalist enabled them to understand some of the reasons why the different interests of men had been inadequately controlled. The forms of those governments were not sufficient means of controlling the conflicting interests of men. They either dealt with
states in their corporate capacities, or they did not receive their authority from the people, or they did not extend their authority to the people. They were ill adapted to meeting the needs of men in their social community. It therefore became the purpose of the writers of The Federalist to construct a form of republicanism which would be able to cope with the political needs of men.

It was discovered that a union based on the republican principle which extended its authority to the people and could be interpreted as the supreme law of the land, while at the same time being characterized by a division of sovereignty, best served as a remedy to the evils incident to social community.

6. Possibility of International Union

No plan of international union which has been entered into by the major nations of the earth has had a sufficient likeness to the plan of national union adopted by the Philadelphia Convention. All of them, and specific reference is made to the League of Nations and the United Nations organization, have been in their natures more akin to the historic federations which the writers of The Federalist found to be unacceptable.

The salient shortcoming has been that they have dealt with nations as corporate states. No plan of international union has received its authority from the peoples of the
world, nor has one of them ever extended its authority to the individual citizens of the different countries. Plans of international union have, therefore, been powerless to exercise sufficient and necessary power. The conclusion was reached that the principles of republicanism as revealed in The Federalist seem adequate as a basis for a satisfactory world union.

7. Economic Basis of Politics

The authors of The Federalist were cognizant of the role played by economics in shaping man's political societies. Madison, in Essay Number 10, is credited by many as giving a classic discussion of the economic basis of social community.

It is irrefutable that there exists an economic man. To deny this fact would be to take a flight into a world unknown to man. As long as people live on the earth, there is no possibility of their escaping being affected by economics. Madison delineated man as a political animal, and it was necessary as a part of honest observation to see man as an economic being.

Yet it would be inaccurate to conclude from this that Madison gave a classic interpretation of the economic determination of history. Beard, who first made popular the view that the American Constitution was an economic document, later repudiated all determinism in history. He did not repudiate the economic side of man, but he did see the force
of ideas and ideals as well as other forces at work. Like­wise, it can be said of Madison that his ideas on republicanism and his belief in the capacity of man for self-government transcended any merely economic interpretation of history.

8. View of Human Nature

The writers of The Federalist interpreted man as having a depraved nature. He was unreliable, selfish, greedy, "vindictive and rapacious." They also believed that man was capable of rational self-determination. As members of social communities the depraved nature of men needed to be checked.

In their opinion it was the task of government to regulate itself in such a way that the conflicting interests of men would be controlled. They reached the conclusion that the factious spirit in human beings could be most ideally handled under the form of republicanism as portrayed in The Federalist. They presented a dualistic conception of human nature.

THESES

1. The correct account of the authorship of The Federalist is as follows: Essays Numbers 2, 3, 4, 5, and 64 were written by Jay; Essays Numbers 10, 14, 18-20 inclusive, 37-58 inclusive, 62 and 63 by Madison; all of the others by Hamilton.

2. Although Madison possessed a thorough knowledge
of the history of federal government and of the theory of society, he was creative in his construction of the principles of republican government and was not strictly obligated to any particular person's thought, or any particular precedent of republican government.

3. Hamilton and Madison contended for a form of republicanism in The Federalist that was better than they had recommended to the Philadelphia Convention, or perhaps, even knew.

4. The principles of republicanism supported in The Federalist, in spite of the authors' disavowal of a pure democracy, have aided the growth of the most distinguished democracy of history.

5. Union based on the republican principle is preferable to any other form of government because it serves as a remedy to the evils incident to social community.

6. The principles of republicanism as revealed in The Federalist seem adequate as a basis for a satisfactory world union.

7. Although Madison was aware of the bearing of economics on political life, The Federalist cannot be satisfactorily understood on the basis of a purely economic interpretation.

8. A dualistic conception of human nature is presented in The Federalist.
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ABSTRACT

The purpose of this dissertation is to investigate the social philosophy of The Federalist. The research is made on the assumption that social philosophy deals with all aspects of social community, including that of political philosophy. This study will be historical only in so far as it is necessary to furnish an accurate background of the principles of social community.

The Federalist may be understood as (1) a study of the principles of true republicanism and the relevance of these principles to the American situation of 1788-1789; (2) an exposition of the proposed plan of union adopted by the Philadelphia Convention which has served ever since as a commentary on that plan. This investigation is concerned with The Federalist as a study in principles of republicanism.

In order to determine the thought of the contributors to The Federalist it is first of all necessary to adopt a point of view with regard to the disputed authorship of some of the individual essays. An analysis of relevant material shows that the view held by E. G. Bourne and Douglass Adair is correct; namely, that Madison's list of authors as printed in the Gideon edition of The Federalist is accurate. The correct account, then, of the authorship of The Federalist is as follows: Essays Numbers 2, 3, 4, 5, and 64 were written by Jay; Essays Numbers 10, 14, 18-20 inclusive, 37-58 inclusive, 62 and 63 by Madison; and all of the others by Hamilton.
An investigation of the sources of *The Federalist* is required to determine what influenced the formation of the ideas held by its writers with regard to the principles of republican government. Madison collected the most extensive library known on the history of federal government and on the principles of federal government. He was probably the most learned person of his day on the subject of federal government. Also Hamilton read extensively on many different subjects and he, too, was learned in the history of federal government. The thinking of these men on the subject of the principles of federal government cannot, however, be traced to particular sources. They did not depend exclusively on any one source. There were no adequate precedents in the history of federal government which could serve as a model for the American states. But the study Hamilton and Madison made in the history of federal government was profitable in that they learned what constituted the mistakes of the federal republics which had existed in the past. Neither were there any precedents in the theory of republicanism from which Hamilton and Madison could model their thinking. This was especially true of Madison, since he was more interested in republicanism than Hamilton and more thoroughly acquainted with it. Hamilton, though he supported the proposed plan of union, was interested in seeing a government established among the states similar to that of Great Britain.

What reasons are given in support of the proposed plan
of union? The citizens of the United States had undergone an "unequivocal experience of the inefficiency of the subsisting federal government," namely, that based on the Articles of Confederation. The major grievance was the impotency of the federal government. It could not collect taxes. It could not fulfill obligations. It could not control the factious elements incident to any government. The writers of The Federalist maintained that a plan of union based on the republican principle would offer the most satisfactory remedy to the imperfections of the existing government. It would be able to extend its authority to the individual citizens of the nation instead of having to deal with the states in their collective capacities. Madison's study of the history of federal government had led him to the conclusion that it is a fatal mistake for a republican form of government to be based on the idea that the authority of the national government should be directed to the states in their collective capacities rather than to the individual citizens. In their emphasis on the republican nature of the new plan of government it may be held that the writers of The Federalist stressed too much the defects of the existing form of government.

A plan of union, the writers of The Federalist maintained, based on the republican principle after the manner of the plan proposed by the Philadelphia Convention would be able to make secure the liberties of the people. The danger
of hostilities from abroad would be removed. The federal government would be able to cope with dissensions among the states. In the event of union most of such dissensions would vanish. Commerce would be strengthened by union. A system of sound revenue could be established. The operation of government would be less expensive. Union affords a more efficient administration. It affords a uniform federal policy and a uniform interpretation of treaties and national laws. Union based on the republican principle is preferable because it offers a remedy for the evils incident to social community.

What kind of union was advocated by the writers of The Federalist? In the absence of adequate precedents they resorted to principles of republican government. These principles were that the government should receive its authority from the people and extend its authority to the people. The government should be administered by people who hold their offices for a limited time or during good behavior. No titles of nobility are allowed.

A republican form of government is guaranteed the state governments. The power surrendered by the people is divided between two distinct governments, and then that which is allotted to each is subdivided among distinct and separate departments. This affords a double security to the rights of the people. As Madison maintained, "The different governments will control each other, at the same time that each will be controlled by itself." The purpose of the application of the
principle of the separation of powers is to render every department and division of government a check on the others. The application of this principle so as to affect "a constituent division of sovereignty" was a new development in republican government.

The plan of republicanism adopted by the Philadelphia Convention and defended in The Federalist was different from any of the plans presented to the Convention. It was also better than either Hamilton or Madison knew or wanted. Although Hamilton argued for the plan, he did not trust republicanism and wanted a government with a stronger will. Madison regretted ever having maintained that where an end is desired the means are justified. His defence of "the necessary and proper clause" caused him much embarrassment.

Although it has been accurately claimed that Madison gave clear expression to the economic basis of politics, it would be inaccurate to maintain that he believed in the economic determination of history.

The writers of The Federalist emphasized the partial depravity of man. They understood the causes of faction to arise from man's nature. But they also acknowledged the possibility of his rational self-determination. Although the causes of faction cannot be removed because they arise from man's nature, the effects of faction can be controlled under a republican form of government which, by extending the sphere of its influence, can render the factious elements ineffectual. Madison's republican faith was that the rational could overcome the irrational.
Are the principles of republicanism supported by the writers of *The Federalist* applicable to international union? It is held in this investigation that they are suitable, but it is unlikely that the people of the world are ready to live under an international republican form of government.

**THESES**

1. The correct account of the authorship of *The Federalist* is as follows: Essays Numbers 2, 3, 4, 5, and 64 were written by Jay; Essays Numbers 10, 14, 18-20 inclusive, 37-58 inclusive, 62 and 63 by Madison; all of the others by Hamilton.

2. Madison not only possessed a thorough knowledge of the history of federal government and of the theory of society, but he was also creative in his construction of the principles of republican government and was not strictly obligated to any particular person's thought, or any particular precedent of republican government.

3. Hamilton and Madison defended a form of republicanism in *The Federalist* that was better than they had recommended to the Philadelphia Convention, or, perhaps, even knew.

4. In spite of their disavowal of a pure democracy, the authors of *The Federalist* supported the principles of republicanism which have aided the growth of the most distinguished democracy of history.

5. Union based on the republican principle is prefer-
able to any other form of government because it serves as a remedy to the evils incident to social community.

6. Although Madison was aware of the bearing of economics on political life, *The Federalist* cannot be satisfactorily understood on the basis of a purely economic interpretation.

7. While the writers of *The Federalist* recognized a depraved state in man, they also acknowledged the possibility of his rational self-determination. Man's rational affirmation of himself can best be achieved under a republican form of government.
AUTOBIOGRAPHY

Irvin Woodward Weaver was born on October 16, 1911, in LaGrange, Georgia, the son of Addie Woodward Weaver and Dr. William Henderson Weaver. He is the brother of William H. Weaver, Jr., Mrs. Rosser Wood, his twin, and Mrs. Thomas L. Martin.

He was graduated from Mountville High School in Mountville, Georgia, in 1929. After attending Emory Junior College at Oxford, Georgia, for two years, he served as Educational Director of C.C.C. Camp, Co. 1450, at St. George, Georgia for one year. He then returned to Emory University, receiving his B.A. degree in 1937. In 1939 he received his B.D. degree from the Candler School of Theology at Emory University. In 1939 he received a Graduate Assistantship in the Department of Philosophy of Boston University Graduate School, where he studied until 1944.

In 1945 he was Instructor in Philosophy at Syracuse University. He assumed the pastorate of Park Methodist Church in New Haven, Connecticut in May, 1946. From May, 1948 to the present time he has served as pastor of the Summerfield Methodist Church in New Haven, Connecticut. He was ordained an Elder in 1948 and since that time has been a member of the New York East Annual Conference of The Methodist Church.

He was married in 1945 to Harriet Poland. A son,
Irvin W. Weaver, Jr., was born in 1950. A daughter, Sarah Virginia Weaver, was born in 1952. He lives at 113 Second Street, Hamden, Connecticut.