

The Federalist Papers

Modern English Edition Two



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translator/editor

includes:

United States Constitution
all 85 Federalist Papers
expanded universal Federalist Papers Index

"Separation of Powers" Within Government

Number 47: Separation of Legislative, Executive, Judicial Power

I will now examine the structure of the proposed government and the distribution of its power.

Critics: Violates Separation Rule

2 There is an important political rule. It says the legislative, executive, and judiciary departments should be separate.

Some opponents of the Constitution say the Constitution violates this rule. They say the separation-of-powers rule is an essential precaution to preserve liberty. And that some parts of the proposed federal government are exposed to the danger of being crushed by the greater power of other parts.

Separation of Powers Maintains Liberty

3 This objection is based on a political truth. A government becomes a tyranny when one person or a group of people holds all of government's powers—legislative, executive, and judiciary. It doesn't matter if the government is a monarchy, dictatorship, or a democratic republic. Therefore, if the new Constitution mixes powers in a way that could lead to one branch taking over the powers of the other branches, it should be rejected.

However, the Constitution does not violate this rule. Opponents are using the rule incorrectly. To understand this important subject, we will look at why the three types of power should be separate to preserve liberty.

Montesquieu: Separation of Power

4.5 The famous Montesquieu is the expert on this rule. And he said the British Constitution mirrors political liberty.

Powers Mixed in British Constitution

6 However, the British legislative, executive, and judiciary departments are not totally separate from each other.

The chief executive has some legislative authority. He makes treaties with foreign nations that sometimes have the force of legislative acts. The monarch appoints all judges; and he can petition the two Houses of Parliament to remove them. And if he wants to consult legislators, they can become one of his constitutional councils.

One legislative house is the monarch's constitutional council. It also has judicial power in cases of impeachment and is the supreme court of appeals in all other cases.

Judges often participate in the legislature's discussions, though they cannot vote.

No One Has Total Power of 2 Branches

7 Montesquieu said, "There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates," and "if the power of judging be not separated from the legislative and executive powers."

He didn't mean that the government's branches should have no *partial agency* in or no *control* over the acts of each other. His words and examples make his meaning clear. If one person or one group holds all the power of two branches of government, the basic principles of a free constitution are subverted. For example, this would be true if the British king, the sole executive, also held all the legislative power. Or if the king acted as the country's supreme court. Or if the entire legislature was also the supreme court or held all executive authority.

The king cannot make law, though he can veto laws. He doesn't personally administer justice, though he appoints the judges.

The judges have no executive power, though the executive chooses them. And judges don't make laws, although they can advise legislative councils.

The entire legislature doesn't act as a court, but it can remove a judge from office, and one house has the judicial power of final appeal. The entire legislature, again, has no executive powers, though one house acts as the supreme executive magistracy. And the other house, after an impeachment vote, can try and condemn all the subordinate officers in the executive department.

Liberty Demands "Separation" Rule

8 Montesquieu's reasons for the separation rule clarify his meaning.

"When the legislative and executive powers are united in the same person or body," says he, "there can be no liberty, because apprehensions may arise lest *the same* monarch or senate *enact* tyrannical laws then *execute* them in a tyrannical manner."

And: "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for *the judge* would then be *the legislator*. Were it joined to the executive power, *the judge* might behave with all the violence of *an oppressor*."

Some of the reasons are more fully explained in other places. But even these brief comments establish the meaning of the rule.

Separation of Powers: New Hampshire

9 The State constitutions have the "separation" rule. However, no State makes the departments of power absolutely separate.

New Hampshire has the newest constitution. It qualifies the rule. It says "that the legislative, executive, and judiciary powers ought to be kept as separate from, and independent of, each other *as the nature of a free*

government will admit of, that binds the whole in unity and amity."

The New Hampshire constitution provides for the executive, the president, and the Senate in various ways. The Senate elects the executive, the president, and the president appoints judges. The Senate elects the president, and the president appoints judges. The Senate elects the president, and the president appoints judges. The Senate elects the president, and the president appoints judges.

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government will admit; or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity."

The New Hampshire constitution mixes the three departments in several ways. The Senate acts as a court for impeachment trials. The chief executive, the president, heads the Senate; he has an equal vote and the casting vote in cases of tie votes. The legislature elects the chief executive yearly; the executive council is chosen from the members of the legislature. The legislature appoints several State officials. And the executive appoints judges.

Massachusetts Constitution

10 The Massachusetts constitution says "that the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them."

This follows Montesquieu's rule. It prohibits any branch from having all the powers of another branch, like the proposed Constitution. The Massachusetts Constitution has a few overlapping powers. The chief executive has a qualified veto. The Senate is the impeachment court for members of the executive and judiciary. The executive appoints judges; the two legislative houses can remove them. And the legislature appoints a number of government officials.

Rhode Island, Connecticut, New York

11 The Rhode Island and Connecticut constitutions were written before the Revolution. At the time, few people were even aware of the separation of powers principle.

12 New York's constitution doesn't mention this subject. However, the framers understood the danger of improperly blending the different departments. Yet the chief executive and the judiciary have partial control over the legislature. And the legislative and the executive have roles in the appointment of executive officers and judges. One house of the legislature and the State's highest judges are its court for appeals and impeachment trials.

New Jersey, Pennsylvania Constitution

13 New Jersey's constitution blends the powers of government even more. The legislature appoints the governor. The governor judges some cases, is one of the supreme court judges, and is president—with a casting vote—of one of the legislative houses. The same legislative house is the governor's executive council and, with him, they are the Court of Appeals.

The legislature appoints judges, who can be impeached and removed by the legislature.

14 In Pennsylvania, the legislature has the primary role in electing the chief executive. The chief executive and his council appoint judges and form an impeachment court for trial of officers, judiciary and executive. The legislature may remove supreme court judges and justices of the peace. The legislature has some power to pardon, normally an executive power. The members of the executive council are EX OFFICIO [automatically] justices of peace in the State.

Delaware Constitution, New York

15 In Delaware, the legislature elects the chief executive every year. The speakers of the two legislative houses are vice-presidents in the executive branch. The chief executive with three people appointed by each legislative house is the Supreme Court of Appeals. The chief executive joins with the legislature to appoint other judges.

In all the States, it appears that legislators may also be justices of the peace. In New York, the members of one house are justices of the peace, as are the members of the executive council. The legislature appoints most executive officers. And one legislative house is the impeachment court. All officers may be removed by formal legislative petition.

Maryland, Virginia Constitution

16 The Maryland constitution declares that the legislative, executive, and judicial powers of government should always be separate. However, the legislature appoints the chief executive. And the executive appoints judges.

17 Virginia's Constitution declares, "that the legislative, executive, and judiciary departments shall be separate and distinct; so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except that the justices of county courts shall be eligible to either House of Assembly."

County judges may serve in the legislature. And the legislature appoints the chief executive and his council. Every three years, the legislature removes two members of the executive council. The legislature appoint all principal offices, both executive and judiciary. Also, in one case, the legislature has the executive power of pardon.

North Carolina, South Carolina, Georgia

18 North Carolina's constitution declares, "that the legislative, executive, and supreme judicial powers of government ought to be forever separate and distinct from each other." Yet the legislature appoints the chief executive and all the principal officers within both the executive and the judiciary.

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19 The South Carolina legislature appoints all State officers, including the chief executive, judges, justices of the peace, sheriffs, and captains in the army and navy of the State.

20 The constitution of Georgia declares "that the legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercises the powers properly belonging to the other." However, the legislature appoints all members of the executive and it has the executive power of pardon. The legislature even appoints justices of the peace.

New Constitution Doesn't Violate Maxim

21 In the State constitutions, the legislative, executive, and judiciary departments aren't kept totally separate. I am not supporting the organization of these State governments. They show many excellent principles. However, they also show the haste and inexperience under which they were framed. Some of the State constitutions violate the separation of powers rule. Some mix the powers too much. Some combine powers. And none of them provide a way to maintain the separation called for by their constitutions.

Opponents of the proposed Constitution say that it violates the separation of powers rule. This charge is not warranted. It doesn't violate the true meaning of the rule as it is understood in America.

The next paper will further discuss this interesting subject.

PUBLIUS

Number 48: Separation of Government's Powers, continued

In the last paper I showed that the three branches of government do not have to be totally unconnected to each other. I will now show that each branch must have some constitutional control over the others. Without it, the separation of powers can never be effectively maintained.

Encroaching Nature of Power

2 Everyone agrees that one branch of government should never directly administer either of the other branches. However, power has an encroaching nature and must be stopped from overstepping its authority. First government's power is divided into three branches. Then there must be a way for each branch to block invasions by the other branches. This is a more difficult task. What will this security be?

Written Barriers Inadequate

3 The Constitution defines the boundaries between the branches, but paper barriers do not stop the encroaching spirit of power. The State constitutions have not stopped the State legislatures from expanding their power

beyond their constitutional limits. Therefore, the weaker branches of government need a stronger defense against the more powerful legislative branch.

Danger from Legislative Usurpations

4 The founders of our republic knew that an all-grasping hereditary monarch, supported by a hereditary legislature, jeopardizes liberty. Legislative usurpations lead to the same tyranny as executive usurpations.

Protect Liberty from Legislature

5 In a monarchy, the executive branch is dangerous to liberty.

In a democracy, all the citizens gather to exercise the legislative functions. However, this huge number of people cannot regularly meet to discuss and make laws. Therefore, the executive can easily declare an emergency and assume tyrannical powers.

In a representative republic, the chief executive's power and term in office are limited. But legislators assume they have influence over the people and they fearlessly use their power. The people should take precautions against the ambition of the legislature.

Legislative Limits Imprecise

6 The legislative branch has many constitutional powers with imprecise limits. It can surreptitiously encroach on the other branches.

Executive power is better defined and less extensive. The judiciary is even more limited. People could immediately see and stop usurpation attempts by the executive or judiciary.

Nor is this all. The legislature both imposes taxes and sets the wages of the executive and judiciary branches. Therefore, all government officials are dependent on the legislature, making legislative encroachments even easier.

State Legislatures Usurping Power

7 Every State has an example of legislative power encroachments. I will give examples from two States.

Virginia Legislature Usurped Powers

8 The first example is Virginia. Its constitution says that the three government branches should not be intermixed. Mr. Jefferson is the governor.

In *Notes on the State of Virginia*, page 195, Mr. Jefferson says that all of government's powers—legislative, executive, judiciary—revert to the legislative body. In a despotic government, the same people hold all of the government's powers. Having a group of people hold all the power is no better than if a single person holds it. One hundred and seventy-three despots are as oppressive as one. For proof, look at the republic of Venice.

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9 The Council of Censors "to inquire whether the part; and whether the had performed their duties, or exercised, of constitution."

The council compared constitutional powers of the legislature flagrant instances:

10 As a precaution, the public nature be previous laws were passed without

11 The constitutional trust delegated by the constitution

12 Executive powers have

13 The Pennsylvania constitution be fixed, but the legislature has frequently he

14 The Pennsylvania Constitution The war may have caused result of a poorly formed

It is no consolation that we elect the representatives. We did not fight for an *elective despotism*. We fought for a government founded on free principles with powers divided and balanced among the government branches so that no one branch can use powers beyond their legal limits without being effectually checked by the others.

"For this reason, the convention that organized [Virginia's] government made the legislative, executive, and judiciary separate and distinct, so that no person should exercise the powers of more than one of them at the same time. *But no barrier was provided between these several powers.* The judiciary and executive branches were left dependent on the legislative for their subsistence in office, and some of them for their continuance in it. If, therefore, the legislature assumes executive and judiciary powers, no opposition is likely to be made; nor, if made, can be effectual because" they can create "acts of Assembly", which the other branches must okay. The legislature has often "*decided rights* which should have been left to *judiciary controversy*, and the *direction of the executive, during the whole time of their session, is becoming habitual and familiar.*"

Pennsylvania Violated Constitution

9 The Council of Censors in Pennsylvania assembled in 1783 and 1784 "to inquire whether the constitution had been preserved inviolate in every part; and whether the legislative and executive branches of government had performed their duty as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the constitution."

The council compared the actual legislative and executive acts with the constitutional powers of these branches. Most of the council agreed that the legislature flagrantly violated the constitution in a variety of important instances:

10 As a precaution, the Pennsylvania constitution requires that all bills of a public nature be previously printed for the people to consider. Yet many laws were passed without public notification.

11 The constitutional trial by jury has been violated and powers not delegated by the constitution have been assumed.

12 Executive powers have been usurped.

13 The Pennsylvania constitution requires that the salaries of judges must be fixed, but the legislature has occasionally changed them. And the legislature has frequently heard and judged cases belonging to the judiciary.

14 The Pennsylvania Council of Censors journals have more specifics. The war may have caused some of the problems. But the majority are the result of a poorly formed government.

Executive Violated Constitution

15 It appears that Pennsylvania's executive branch has also violated the constitution. However, three observations should be made:

- 1) Most were either necessary because of the war or they were recommended by national Congress or the commander-in-chief.
- 2) Most conformed to the sentiments of the legislature.
- 3) Pennsylvania's executive council has more members than the other States, so it's similar to a legislative assembly. And a council doesn't feel the same restraint as an individual, who is personally responsible for his acts. Members get confidence from each other and are influenced by each other so that unauthorized measures are more easily tried than where the executive branch is administered by a single hand or a few hands.

Words, Alone, Don't Block Tyranny

16 Defining the limits of each branch in the Constitution is not enough. Encroachments can lead to a tyrannical concentration of all the powers of government in the same hands. PUBLIUS

Number 49: Jefferson: Constitution Convention to Correct Power

Paper number 48 quoted *Notes of the State of Virginia* by Mr. Jefferson. He also wrote a State constitution because the Virginia legislature planned to have a convention in 1783 to create a constitution.

Like everything by Mr. Jefferson, the plan is original, comprehensive, and accurate. It shows Mr. Jefferson wants a republic. And he suggests precautions against some dangers. One precaution safeguards the weaker branch of power against the invasions of the stronger. This may be his original idea.

2 He suggests that when the constitution needs to be altered or when the government takes unconstitutional actions, two of the three branches of government may call a convention.

Citizens Source of Power

People are the source of all government power. Government gets all its power from the constitution, which gets its power from the people. If government's powers need to be changed or one branch of government encroaches on the authorities of another branch, republican theory says that the people—the original authority—should make the corrections. Therefore, only the people can declare the constitution's true meaning and enforce it.

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4 It seems reasonable to return to the people to keep the branches of government within their constitutional limits, but there are some insurmountable problems.

Two Branches Usurp Authority of Third

5 This proposal doesn't address the problem of two branches usurping the authority of the third. The legislature can easily influence the other branches. If either the executive or judicial branch supports the legislature, this provision wouldn't help the other branch.

I won't dwell on this objection. I object to the entire proposal, not its specific details.

Numbers Strengthen Opinions

6 The next objection comes from the basic nature of the proposal. Every call for a convention would imply the government is defective. Time gives people and organizations respect. If frequent conventions were held, the government would lose respect. Without respect, the wisest and freest government would not be stable.

Governments are only as strong as the people think they are. And the strength of each individual's opinion and its influence on his conduct depends on the number of people he thinks have the same opinion. When one man has an opinion, he is generally timid and cautious. As more people agree with him, he gains confidence. When *ancient and numerous* examples support an opinion, they have a double effect.

A nation of philosophers would not have to worry about this problem. Enlightened men would respect laws. But we cannot expect to have a nation of philosophers. Therefore, a rational government knows the advantage of having the prejudices of the community on its side.

Danger of Destructive Passions

7 There is a more serious objection. If the whole society has to decide constitutional questions, passions will be strong. This is a danger to public tranquility.

So far, our governmental reforms have been successful. We can credit the virtue and intelligence of the American people for this success. However, experimenting with the government's structure can be dangerous and should not be done lightly. The State constitutions were framed during a time of danger, which repressed many destructive passions. The people felt an enthusiastic confidence in their patriotic leaders. Because of the danger, there was less diversity of opinions, a diversity that we normally hear on great national questions. No party partisanship inflamed passions about the changes needed to reform abuses. Future situations will not have a similar security against the anticipated danger.

Legislature Most Influential Branch

8 Remember, we are looking for a way to keep the branches of government constitutionally equal. A constitutional convention could not achieve this goal.

In a republic, the legislative is the most powerful branch. Therefore, the executive and judiciary branches would usually request a convention. But would each branch have an equal voice at a convention?

The executive and judiciary branches have fewer members than the legislative. Therefore, fewer people personally know them. And politicians not in the executive are usually jealous of it. Therefore, negative propaganda can make members of the executive branch unpopular. And judges have a lifetime appointment, so they are less in touch with the everyday concerns of citizens.

On the other hand, legislative members are numerous. They live among the people. They have relatives, friends, and acquaintances in the most influential part of society. The fact that they were elected to the legislature implies that they have personal influence among the people and they are seen to be the guardians of the rights and liberties of the people. With these advantages, the branches seeking the correction would not have an equal chance for a favorable outcome.

Congressmen Majority of Delegates

9 Members of Congress could successfully plead their cause to the people, and they would probably also judge the issues. Members of Congress, especially congressional leaders, would be elected to the convention, just as they got elected to the legislature. In short, most members of the convention either would be past, current or future members of the branch whose conduct was being questioned. Consequently, parties to the question would be deciding the question.

Passions would Judge

10 Sometimes appeals would favor the executive and judicial branches. Legislative usurpations might be so outrageous and rapid that there is no time for a specious spin. A strong party might agree with the executive or judiciary. Or the president might be such a favorite of the people that members of the legislature have less influence on citizens. However, a convention's decision still would not be objective. The same prominent people who have argued for and against the measures debated at the convention will also make the decisions at the convention. Inevitably, the decision would reflect the spirit of pre-existing parties or of parties springing out of the question itself.

Public *passions*, therefore, not *reason*, would sit in judgment. But public reason, alone, should control and regulate government. And passions should be controlled and regulated by the government.

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Convention Can't Enforce Words

11 We found in the last paper that just writing limitations into the Constitution is not sufficient to keep the branches within their legal rights. From the arguments in this paper, it appears that having an occasional convention would not be a proper or effective way to fulfill the goal.

I will not examine other parts of the Virginia constitution. Some are unquestionably founded on sound political principles, and all are framed with singular ingenuity and precision.

PUBLIUS

Number 50: Periodic Conventions to Correct Infractions

The last Paper listed the objections to *occasional* conventions. What if conventions were scheduled? Would they prevent *and correct infractions of the Constitution*?

Scheduled Conventions Ineffective

2 I am examining ways to *enforce* the Constitution and keep the branches of power within their limits. I am not discussing having conventions to *alter* the Constitution.

Scheduled conventions will not be any more helpful than conventions held when problems come up. If the time period between conventions is short, the same circumstances will exist that tend to slant the result with occasional appeals.

If there is a long period between conventions, the same argument applies to all recent questions. Others will receive a dispassionate review depending on their remoteness. However, several problems counterbalance this advantage: If a legislature is determined to achieve an unconstitutional objective, they will not stop because their conduct might be censored in ten, fifteen, or twenty years. The negative effects of their abuses would often be completed before the scheduled convention. And if not completed, they would be of long-standing, taken deep root, and not easily corrected.

Pennsylvania: Branch Encroachment

3 When the Pennsylvania Council of Censors met in 1783 and 1784, one objective was to ask if "the constitution had been violated, and whether the legislative and executive branches had encroached on each other." Some facts about the Council of Censors will illustrate my reasoning about the current discussion.

Party Activists/Council Leaders

4 *First*. Some Council leaders were also activists in the parties that pre-existed in the State.

Some in Council Reviewed Own Work

5 *Second.* The council leaders had been active, influential members of the legislative and executive branches during the period reviewed.

Two members had been vice president of the Senate, several had been members of the executive council, one had been speaker and, several others, distinguished members of the legislature. As members of government, they supported or opposed the measures brought before the council for the constitutional test.

Passions Ruled Debates

6 *Third.* These facts effected their deliberations. The council split into two fixed and violent parties. No matter how unimportant or unconnected the issues, the same men stood on opposite sides of them. Every unbiased observer may think, without being judgmental, that *passion*, not *reason*, presided over the Council's decisions.

When men exercise their reason coolly and freely on a variety of distinct questions, inevitably they have different opinions on some of them. When a common passion guides people, their opinions, if they can be called "opinions," will be the same.

Some Constitutional Misinterpretations

7 *Fourth.* In several instances, the Council misconstrued the constitutional limits on the legislative and executive branches, increasing rather than limiting their power.

No Effect on Legislature's Behavior

8 *Fifth.* The Council's constitutional decisions, whether right or wrong, have not influenced the legislature. In one case, the current legislature denied the opinions of the council and actually prevailed.

Problems Exist, Council Didn't Cure

9 A study of the council proves that the disease exists and the remedy doesn't work.

Crisis Doesn't Excuse Liabilities

10 Pennsylvania was at a crisis, fueled by partisan rage. There will never be a seven-year period free from partisanship. We cannot presume that any State, at any time, will be exempt from it. And we should never even desire no partisanship, because an extinction of parties implies either a massive threat of danger or an absolute extinction of liberty.

Excluding Government Officials

11 Even if every member of the government during the time being reviewed had been excluded from the Council, it wouldn't solve the prob-

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Number 51: Separation of Powers: Checks and Balances

The Constitution divides government power among three branches. The government must be designed so that the three branches—executive, legislative, and judiciary—can keep each other in their proper places. We will study the Constitution and decide whether it fulfills this goal.

Perfect Separation: People Appoint All Officials

2 To preserve liberty, government's powers must be separated. The first step towards the separation of powers is finding a way to appoint or elect people to each branch, without the appointee being overly dependent on people in another branch.

If we wanted total separation of powers, the people would elect every member of the executive, legislative, and judiciary branches. This would be difficult and expensive. Instead, each branch must have as little input as possible in appointing members of the other branches.

Judiciary: Specific Qualifications

Electing judges might not be very successful.

First, judges must have specific qualifications. There should be a way to choose judges that secures these qualifications.

Second, since judges are appointed for life, they will not feel obligated or dependent on the people who appoint them.

Compensation Creates Dependence

3 If executive and judicial branches depend on the legislature for their pay, they would not be independent. Therefore, members of each branch should depend—as little as possible—on other branches for their pay.

Resisting Usurpations

4 There needs to be a way to block a branch of government from getting more power than the constitution gives it. Each branch needs both constitutional tools and personal motives to block encroachments. Ambition must counteract ambition. The personal interests of the man must be connected with the constitutional rights of his office.

Government Reflects Human Nature; Angels Don't Need Government

Government is, after all, the greatest of all reflections on human nature. If men were angels, no government would be necessary. If angels governed men, no controls on government would be necessary. But men govern men. So, security measures are necessary to control the abuses of government.

In framing a government, the great difficulty lies in this:

- first, the government must control the governed, and
- second, it must be forced to control itself.

The primary control on the government is its dependency on the people. But experience teaches us that more precautions are necessary.

Checks, Balances In All Organizations

5 All organizations use rival interests to maintain a balance of power. To keep a balance of power, power is divided among lower-level offices. The goal is to structure the organization so that the offices become a check on each other. When the goal is met, the personal interest of the officeholder guards the public rights. This balanced structure is just as important when distributing the supreme powers of government.

Divide Legislative; Fortify Executive

6 But it is impossible to give each branch of government an equal power of self-defense. In a republic, the legislature always has the most power. To counteract this, (1) the legislature is divided into two houses, (2) the houses are elected in different ways, and (3) they have different constitutional powers.

The legislative houses are as little connected as their duties and dependence on society will allow. And more blocks to dangerous encroachments may be necessary.

The strength of the legislative power requires that it be divided. The executive is weak and may need strengthening. The executive should have the power to veto legislation. But veto power, alone, may not be enough. It might be dangerously abused or might not be used when it is needed. Is there a way to structure government so that the weaker side of the stronger legislative branch could support the constitutional rights of the weaker executive branch, without hurting the rights of its own branch?

Constitution and Separation of Powers

7 The federal Constitution does not do a perfect job of separating government's powers. However, the State constitutions do a worse job of separating powers.

8 Two things make America's federal system unique.

9 *First.* In a single government, a single government has separate branches.

America is a country which is divided by powers given to separate branches. This means The State and federal time, each will have

10 *Second.* In a republic of its rulers. And of the office of another part.

Different groups united by a common interest. There are only two

One, create a will is, independent of the At best, it is a weak majority and minority

Or two, make sure society that unjust majority. The federal republicity will come from many different interests citizens that individual

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Justice is the final sued until it is obtained

When a society is and oppress a weaker weak individual is not even in nature, some s

States Check on Federal Government

9 *First.* In a single republic, the people surrender some of their power to a single government. To block usurpations, the government is divided into separate branches.

America is a compound republic. The people surrender some power, which is divided between the State and federal governments. Then the powers given to each government is subdivided among the separate branches. This means that the rights of the people are doubly protected. The State and federal governments will control each other; at the same time, each will have internal controls.

Oppression from Society

10 *Second.* In a republic, society must be protected against the oppression of its rulers. And one part of the society must be guarded against the injustice of another part.

Different groups of citizens have different interests. If a majority is united by a common interest, the rights of the minority will be in danger. There are only two ways to remove this danger.

One, create a will in the community independent of the majority—that is, independent of the society itself. This method prevails in dictatorships. At best, it is a weak security. At worst, a dictator can turn against both the majority and minority interests.

Or two, make sure there are so many different types of citizens in the society that unjust majority alliances will be impossible or impractical. The federal republic of the United States is an example of this. All authority will come from and depend on the citizens. The citizens will have many different interests. And there will be so many different groups of citizens that individual rights and minority rights will be in little danger.

In a free government, the security for civil rights is the same as that for religious rights. A society with a wide variety of interests secures civil rights; a wide variety of religions secures religious rights. This security depends on the size and population of the country.

To all people who like republics, this recommends a proper federal system. As territories become States and join the Union, it will be easier for an oppressive majority group to grow. The security for the rights of every citizen will diminish. Therefore, some part of government must be more stable and independent.

Justice is the final goal of civil society and government. It will be pursued until it is obtained or until liberty is lost in the pursuit.

When a society is structured so that a strong faction can easily unite and oppress a weaker group, anarchy reigns. This happens in nature. A weak individual is not protected against the violence of the stronger. Yet even in nature, some stronger individuals form a "government" that may

protect the weak as well as themselves just because they are unsure of what may happen.

In human society, a similar motive will encourage powerful factions or groups to want a government that will protect all groups, the weaker as well as the more powerful.

Let's suppose the State of Rhode Island was separated from the Confederacy and left to itself. Factious majorities would repeatedly oppress the people. Even the people within some of the majority faction would worry about losing their rights. They would call for a power that is independent of the people to help. The very factions, whose misrule had made it necessary, would look for outside help.

The United States is a large republic. It will include a great variety of interests, groups, and sects. A factious majority could seldom happen on any principles other than justice and the general good. There is less danger to a minority from the will of a majority party. There will also be fewer reasons to pass laws that secure minority goals but are not supported by a majority of society itself.

The larger the society, provided it lies within a practical size, the more capable it will be of self-government. And happily for people who want a *republic*, the practical size can be large by using judicious modifications and a mixture of the *federal principle*.

PUBLIUS

Number 52

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