

Federalist #51 – A Paragraph-by-Paragraph Summary

1. The way to implement the theory of separation of powers in practice is to so contrive "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."
2. Accordingly, "each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others."
3. "It is equally evident that the members of each department should be as little dependent as possible on those of the others for the emoluments annexed to their offices."
4. A: "The great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others... Ambition must be made to counteract ambition. The interests of the man must be connected with the constitutional rights of the place."

B: Isn't relying on ambition and interest, "a reflection on human nature?" But, adds Madison, what is government itself but the greatest reflection on human nature? If men were angels, no government would be necessary."

C: "The Great Difficulty" of Founding: You must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government, but experience has taught mankind the necessity of auxiliary precautions."
5. "This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public." Madison calls this policy "inventions of prudence."
6. "In republican government, the legislative authority necessarily predominates." Thus, it is "not possible to give to each department an equal power of self-defense." Accordingly, we need to add here and subtract there. We can divide the legislature into two branches and fortify the executive a) with the power of a conditional veto and b) "some qualified connection" with the Senate.
7. The general government comes closer to passing the "self-defense" of each branch test than do the State governments.
8. "There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view."
9. First, America is a "compound republic," rather than a "single republic." This provides for a "double security... to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself."
10. Second, there are only two ways to combat "the evil" of majority faction, a) "by creating a will in the community independent of the majority," or b) creating an authoritative source "dependent on the society," but, and here is the essence of the American experiment, the society "will be broken down into so many parts," that it contain a vast number and variety of interests.

To repeat, the American society will "be broken down into so many parts, interests and classes of citizens, that the rights of individuals, or the minority, will be in little danger from interested combinations of the majority." Echoing Federalist 10, Madison says "the security for civil rights must be the same as that for religious rights. It

consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects." And both depend on "the extended republic." Let us not forget, adds Madison, that "justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit." Fortunately, in "the extended republic... a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good." We have rejected the "precarious security" provided by the "hereditary or self-appointed" alternative of "introducing into the government... a will independent of the society itself."

- Is simply dividing power between branches and between federal and state levels of government enough to protect individual rights? An Antifederalist responds...

Nov 1, 1787: Brutus II (New York)

He considers "the merits" of his argument in Brutus I "that to reduce the thirteen states into one government, would prove the destruction of your liberties." Again anticipating The Federalist, Brutus argues that "when a building is to be erected which is intended to stand for ages, the foundation should be firmly laid." **But the foundation of the Constitution is poorly laid because it lacks a declaration of rights "expressly reserving to the people such of their essential natural rights,** as are not necessary to be parted with." He rejects as "specious" the arguments of an unnamed Framer's State House speech (James Wilson) as to why a bill of rights is unnecessary: after all, "the powers, rights, and authority, granted to the general government by this constitution, are as complete, with respect to every object to which they extend, as that of any state government." Furthermore, why did the Framers secure certain rights in Article I, Section 9, "but omitted others of more importance"?

spe·cious

adjective

1. superficially plausible (possible on the surface), but actually wrong.