Tenth Period Webinar
Close Reading: Federalism’s Moment

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Federalist 1 October 27, 1787: The Invitation

After full experience of the insufficiency of the subsisting federal government, you are invited to deliberate on a New Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences, nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire, in many respects, the most interesting in the world. It has been frequently remarked, that it seems to have been reserved to the people of this country to decide, by their conduct and example, the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force. If there be any truth in the remark, the crisis at which we are arrived may, with propriety, be regarded as the period when that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind...

And yet, just as these sentiments must appear to candid men, we have already sufficient indications, that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude, that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts, by the loudness of their declamations, and by the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government, will be stigmatized as the offspring of a temper fond of power and hostile to the principles of liberty...On the other hand, it will be equally forgotten, that the vigor of government is essential to the security of liberty; that, in the contemplation of a sound and well informed judgment, their interests can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people, than under the forbidding appearances of zeal for the firmness and efficiency of government. History will teach us, that the former has been found a much more certain road to the introduction of despotism, than the latter, and that of those men who have overturned the liberties of republics, the greatest number have begun their career, by paying an obsequious court to the people...commencing demagogues, and ending tyrants

Federalist 10  

**November 22, 1787: Faction²**

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 instability, injustice, and confusion, introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have every where perished; ...Complaints are every where heard from our most considerate and virtuous citizens, ...that our governments are too unstable; 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. ...It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor, have been erroneously charged on the operation of our governments...These must be chiefly, if not wholly, effects of the unsteadiness and injustice, with which a factious spirit has tainted our public administrations.

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: The one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: The one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

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

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The second expedient is as impracticable, as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed...The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to an uniformity of interests. The protection of these faculties, is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties. The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders, ambitiously contending for pre-eminence and power; or to persons of other descriptions, whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good.

Current Events Story: Pelosi forms new select committee to oversee $2 trillion coronavirus relief package, Politico

The first question that offers itself is, whether the general form and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government. If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible....

“But it was not sufficient,” say the adversaries of the proposed Constitution, “for the convention to adhere to the republican form. They ought, with equal care, to have preserved the FEDERAL form, which regards the Union as a CONFEDERACY of sovereign states; instead of which, they have framed a NATIONAL government, which regards the Union as a CONSOLIDATION of the States.” And it is asked by what authority this bold and radical innovation was undertaken? The handle which has been made of this objection requires that it should be examined with some precision.

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

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

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The next relation is, to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion, and on the same principle, as they are in the legislature of a particular State. So far the government is NATIONAL, not FEDERAL. The Senate, on the other hand, will derive its powers from the States, as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is FEDERAL, not NATIONAL. The executive power will be derived from a very compound source.

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.

**Current Events Story: Federalism and the Coronavirus Lockdown, Wall Street Journal**

To what expedient then shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government, as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention. 

But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man, must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions...

Current Events Story: Florida Gov. DeSantis asks circuit judge to toss out beach closure lawsuit


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I have taken the pains to select this instance of misrepresentation, and to place it in a clear and strong light, as an unequivocal proof of the unwarrantable arts which are practiced to prevent a fair and impartial judgment of the real merits of the Constitution submitted to the consideration of the people. Nor have I scrupled, in so flagrant a case, to allow myself a severity of animadversion little congenial with the general spirit of these papers. I hesitate not to submit it to the decision of any candid and honest adversary of the proposed government, whether language can furnish epithets of too much asperity, for so shameless and so prostitute an attempt to impose on the citizens of America.
Federalist 68 Friday March 14, 1788: The Mode of Election of the Executive

It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it, not to any preestablished body, but to men chosen by the people for the special purpose, and at the particular conjuncture.

It was equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations.

It was also peculiarly desirable to afford as little opportunity as possible to tumult and disorder. This evil was not least to be dreaded in the election of a magistrate, who was to have so important an agency in the administration of the government as the President of the United States. But the precautions which have been so happily concerted in the system under consideration, promise an effectual security against this mischief. The choice of SEVERAL, to form an intermediate body of electors, will be much less apt to convulse the community with any extraordinary or violent movements, than the choice of ONE who was himself to be the final object of the public wishes.

And as the electors, chosen in each State, are to assemble and vote in the State in which they are chosen, this detached and divided situation will expose them much less to heats and ferments, which might be communicated from them to the people, than if they were all to be convened at one time, in one place.

Current Events Story: Electoral College 'Not Carved In Stone:' Author Advocates Rethinking How We Vote


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Federalist 69

March 14, 1788: The Executives Powers

The President of the United States would be an officer elected by the people for FOUR years; the king of Great Britain is a perpetual and HEREDITARY prince. The one would be amenable to personal punishment and disgrace; the person of the other is sacred and inviolable. The one would have a QUALIFIED negative upon the acts of the legislative body; the other has an ABSOLUTE negative. The one would have a right to command the military and naval forces of the nation; the other, in addition to this right, possesses that of DECLARING war, and of RAISING and REGULATING fleets and armies by his own authority. The one would have a concurrent power with a branch of the legislature in the formation of treaties; the other is the SOLE POSSESSOR of the power of making treaties. The one would have a like concurrent authority in appointing to offices; the other is the sole author of all appointments. The one can confer no privileges whatever; the other can make denizens of aliens, noblemen of commoners; can erect corporations with all the rights incident to corporate bodies. The one can prescribe no rules concerning the commerce or currency of the nation; the other is in several respects the arbiter of commerce, and in this capacity can establish markets and fairs, can regulate weights and measures, can lay embargoes for a limited time, can coin money, can authorize or prohibit the circulation of foreign coin. The one has no particle of spiritual jurisdiction; the other is the supreme head and governor of the national church! What answer shall we give to those who would persuade us that things so unlike resemble each other? The same that ought to be given to those who tell us that a government, the whole power of which would be in the hands of the elective and periodical servants of the people, is an aristocracy, a monarchy, and a despotism.

Current Events Story: Military may build two more hospital ships, Trump says


THERE is an idea, which is not without its advocates, that a vigorous Executive is inconsistent with the genius of republican government. The enlightened well-wishers to this species of government must at least hope that the supposition is destitute of foundation; since they can never admit its truth, without at the same time admitting the condemnation of their own principles. Energy in the Executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy. Every man the least conversant in Roman story, knows how often that republic was obliged to take refuge in the absolute power of a single man, under the formidable title of Dictator, as well against the intrigues of ambitious individuals who aspired to the tyranny, and the seditions of whole classes of the community whose conduct threatened the existence of all government, as against the invasions of external enemies who menaced the conquest and destruction of Rome.

There can be no need, however, to multiply arguments or examples on this head. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government. Taking it for granted, therefore, that all men of sense will agree in the necessity of an energetic Executive, it will only remain to inquire, what are the ingredients which constitute this energy? How far can they be combined with those other ingredients which constitute safety in the republican sense? And how far does this combination characterize the plan which has been reported by the convention?

The ingredients which constitute energy in the Executive are, first, unity; secondly, duration; thirdly, an adequate provision for its support; fourthly, competent powers.

The ingredients which constitute safety in the republican sense are, first, a due dependence on the people, secondly, a due responsibility.

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Brutus 1, 18 October 1787 To the Citizens of the State of New-York. ⁹

When the public is called to investigate and decide upon a question in which not only the present members of the community are deeply interested, but upon which the happiness and misery of generations yet unborn is in great measure suspended, the benevolent mind cannot help feeling itself peculiarly interested in the result...

Perhaps this country never saw so critical a period in their political concerns. We have felt the feebleness of the ties by which these United-States are held together, and the want of sufficient energy in our present confederation, to manage, in some instances, our general concerns. Various expedients have been proposed to remedy these evils, but none have succeeded. At length a Convention of the states has been assembled, they have formed a constitution which will now, probably, be submitted to the people to ratify or reject, who are the fountain of all power, to whom alone it of right belongs to make or unmake constitutions, or forms of government, at their pleasure. The most important question that was ever proposed to your decision, or to the decision of any people under heaven, is before you, and you are to decide upon it by men of your own election, chosen specially for this purpose. If the constitution, offered to your acceptance, be a wise one, calculated to preserve the invaluable blessings of liberty, to secure the inestimable rights of mankind, and promote human happiness, then, if you accept it, you will lay a lasting foundation of happiness for millions yet unborn; generations to come will rise up and call you blessed. You may rejoice in the prospects of this vast extended continent becoming filled with freemen, who will assert the dignity of human nature. You may solace yourselves with the idea, that society, in this favoured land, will fast advance to the highest point of perfection; the human mind will expand in knowledge and virtue, and the golden age be, in some measure, realised. But if, on the other hand, this form of government contains principles that will lead to the subversion of liberty—if it tends to establish a despotism, or, what is worse, a tyrannic aristocracy; then, if you adopt it, this only remaining assylum for liberty will be shut up, and posterity will execrate your memory.

Momentous then is the question you have to determine, and you are called upon by every motive which should influence a noble and virtuous mind, to examine it well, and to make up a wise judgment. It is insisted, indeed, that this constitution must be received, be it ever so imperfect. If it has its defects, it is said, they can be best amended when they are experienced. But remember, when the people once part with power, they can seldom or never resume it again but by force. Many instances can be produced in which the people have voluntarily increased the powers of their rulers; but few, if any, in which rulers have willingly abridged their authority. This is a sufficient reason to induce you to be careful, in the first instance, how you deposit the powers of government.

With these few introductory remarks, I shall proceed to a consideration of this constitution:

The first question that presents itself on the subject is, whether a confederated government be the best for the United States or not? Or in other words, whether the thirteen United States should be reduced to one great republic, governed by one legislature, and under the direction of one executive and judicial; or whether they should continue thirteen confederated republics, under the direction and control of a supreme federal head for certain defined national purposes only?

This enquiry is important, because, although the government reported by the convention does not go to a perfect and entire consolidation, yet it approaches so near to it, that it must, if executed, certainly and infallibly terminate in it. This government is to possess absolute and uncontrollable power, legislative, executive and judicial, with respect to every object to which it extends, for by the last clause of section 8th, article 1st, it is declared “that the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution, in the government of the United States; or in any department or office thereof.”...