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A Study Guide to the Federalist: Selections 1977-1997

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THE FEDERALIST: SELECTIONS
A STUDY GUIDE
1977-1997

Steven Alan Samson

No. 1 General Introduction (Hamilton)

1. What is so important about the fate of the American union at this particular moment in history? Is the question of ratifying the constitution likely to hinge on its merits? What are some of the obstacles? From which two classes are they apt to come from? What are some reasons for showing restraint even in the pursuit of truth?

2. What does Hamilton expect from the opposition? What sort of motives and passions does Hamilton warn against? What is the particular danger posed by ambitious demagogues?

3. What is the purpose for this series of papers?

No. 2 Concerning Dangers from Foreign Force and Influence (Jay)

1. How does John Jay draw upon elements of social contract theory to justify a single national government? What are some of the physical characteristics of independent America that favor its habitation by one united people? Why was a federal government instituted at an early period? How early?

2. What advantages did the members of the constitutional convention enjoy? What attitude have they taken toward its consideration for approval by the people? What lessons may be learned the events of 1774 (which gave rise to a Continental Congress)? What considerations induced the people to accept its leadership? Why should the people to be even more inclined to do so now?

3. What was the great object of the people in forming the convention? What would dissolution of the union signify?

No. 3 The Same Subject Continued (Jay)

1. What is the first object to be sought by a wise and free people? Identify some of the just causes of war and how do they bear on the issue of peace in America?

2. What are the advantages of a national government (as opposed to independent states) in assuring that other countries will not be given just cause to go to war? Why would a national government be more temperate and cool? What lesson may be learned from the submission of Genoa to France in 1685?

No. 4 The Same Subject Continued (Jay)

1. Why do absolute monarchs make war when it is not in their countries' interest? Why might other countries be jealous of the American states?

2. How would a national government give added protection against the pretended causes of war? What are some of the advantages of unity? Why might disunity invite war?

No. 6 Dangers from Wars Between the States (Hamilton)

1. Why would it be unwise to permit the American States to become wholly disunited or remain united only in a partial confederacy? What are the causes of hostility among nations?

2. Does familiarity (or proximity) breed contempt (or hostility)?

No. 9 The Union as a Safeguard Against Domestic Faction and Insurrection (Hamilton)

1. Why is a firm union vital to the peace and liberty of the states? What lessons may be learned from the histories of the Greek and Italian city-states ("petty republics")? What conclusions have the "advocates of despotism" drawn from their experience? Is there any evidence to the contrary?

2. What improvements in the "science of politics" provide a means to enhance the positive aspects of republican government while lessening its imperfections?

3. What does Hamilton mean by "enlargement of the orbit" within which the system is to revolve? How does it help lessen these imperfections?

4. How is a confederacy useful in suppressing faction and guarding the internal tranquility of states? How does a proper understanding of Montesquieu support this? What are the advantages of a Confederate Republic?

5. Why is the distinction between a confederacy and a consolidation more subtle than accurate? How does Hamilton view the modifications of federal authority? How are the states made constituent parts of the "national sovereignty?" How does the new federal government compare with the Lycian confederacy?

No. 10 The Same Subject Continued (Madison)

1. Identify two ways of breaking and controlling the mischiefs of faction. What are some of the problems associated with such political divisions? How does Madison define the term "faction?"

2. Identify two methods of removing the causes of factions. What is wrong with each? What are the latent causes of faction? What is the most durable source? What are some of the factions identified by Madison and issues that lend themselves to factional dispute? How are justice and the public good determined?

3. How does the republican principle help control the effects of faction? How may the rights of minorities be protected? How may a majority be prevented from oppressing the rest?

4. Why is a republic preferable to a pure democracy? Why is a large republic preferable to a small one? What advantages are enjoyed by the Union over the States composing it? What are some of the sources of faction within the States?

No. 15 The Insufficiency of the Present Confederation to Preserve the Union

(Hamilton)

1. What evidence is there that the union was advancing toward dissolution?

2. What was the great and radical vice in the construction of the Confederation?

3. Identify some of the ways in which a centrifugal tendency may be manifested?

No. 17 The Insufficiency of the Present Confederation to Preserve the Union (Hamilton)

1. Given the typical concerns of state government, why did Alexander Hamilton believe that it held out “slender allurements to ambition?” But if “mere wantonness and lust of domination” (Augustine’s *libido dominandi*) were sufficient to “beget that disposition,” what will “control the indulgence of so extravagant an appetite?”

2. What view of human nature is suggested when Hamilton writes that “affections are commonly weak in proportion to the distance or diffuseness of the object?” What might destroy the “force of hat principle?” What are the “powerful auxiliaries” that Hamilton believes will incline people to focus their ambitions on state government? What is the “great cement of society?”

3. How did feudal monarchs manage to succeed in prevailing over the vassals? [Here Hamilton seems to be undercutting his point].

No. 39 The Conformity of the Plan to Republican Principles (Madison)

1. What is it important that the new government be republican in form? What are the distinctive characteristics of that form? Identify some features of the proposed constitution that are "conformable" with this standard.

2. How does Madison answer critics that the convention framed a national rather than a federal government. How does Madison distinguish between a "federal" and a "national" government?

3. Using the federal/national distinction, how does Madison describe each of the following: The act establishing the constitution? The House of Representatives? The Senate? The President? The operation of the government? The extent of its powers? The method of amending the constitution? What does he conclude about its general character?

No. 44 Restrictions on the Authority of the Several States (Madison)

1. What is the justification for denying states the following powers: the granting of letters of marque and reprisal; the right of coinage; issuing bills of credit; bills of attainder, *ex post facto* laws, and laws impairing the obligations of contracts? Why may not states either restrict or regulate commerce?

2. Why is the "necessary and proper" (or elastic) clause both necessary and proper? How may the Constitution have otherwise tried to accomplish its purpose? Would these alternatives been satisfactory? What is the remedy for congressional misconstruction of the Constitution? [Question: What has subsequently changed that makes this restraint less reliable?]

3. Why was it necessary to include the "supremacy clause"? Why is it that all officers within the federal system -- both of the United States and the several states -- be bound by oath to support

the federal Constitution?

No. 45 The Alleged Danger from the Powers of the Union to the State Governments Considered (Madison)

1. Was the War for Independence fought for the sake of the dignity and sovereignty of individual states and particular municipal establishments? Why does Madison complain about state sovereignty and compare it to the "impious doctrine in the Old World, that the people were made for the kings, not kings for the people?"

2. Historically, which is more likely to threaten the balance: the general government or the states? That is, what did he see as the most typical threat to ancient and modern confederacies as well as feudalism? Why is the same likely to be true in the present case?

3. Give several reasons why State governments "have the advantage of [over] the Federal government." [Have some of Madison's points been invalidated by subsequent developments?].

4. How do the powers delegated by the proposed Constitution to the federal and state governments differ? When is the federal government most likely to prevail over the state governments? Why will giving the federal government more adequate powers for the national defense give the state governments an additional advantage over the federal government?

5. What new powers have been added or old powers modified? How does Madison argue against the possibility of a consolidation of government?

No. 46: The Influence of the State and Federal Governments Compared (Madison)

1. Where does ultimate political authority reside? What level of government enjoys "the first and most natural attachment of the people?" What evidence for this does Madison cite?

2. Why are members of the federal branch more likely to be dependent on members of state governments than the reverse? [Has this changed?]. Why would state governments have the advantage in defeating encroachments by the federal government? How would such encroachments be regarded and treated?

3. What sort of "visionary supposition" would be required to imagine the downfall of state governments? [Why does this not seem so visionary in retrospect? Madison wrote before the French revolutionaries resorted to a national conscription law to raise a massive army that they fielded against the other powers of Europe. Napoleon raised an even larger army by such means]. What insult to "the free and gallant citizens of America" was Madison unwilling to countenance?

No. 51 On a Just Partition of Power

1. Given the inadequacy of a merely external separation of powers, how is the defect to be remedied?

2. Why is it evident that each department should have a will of its own? What are some difficulties and how are these at least partially resolved? In what other ways should departments be rendered independent of each other?

3. What is the great security against a usurpation of power by one department? What psychological principle offers the best protection? What auxiliary precautions are offered?

4. Why should the legislative power in a republic be divided? Why should the executive power be fortified?

5. What is the rationale for a separation of powers in single republic? What is the double security for
the rights of the people inherent in a compound republic?

6. By what two methods may the rights of minorities be protected? Which is exemplified in the federal republic of the United States? What is the advantage of having a multiplicity of interests and a multiplicity of sects? Why does a federal system offer the best security?

7. What is the end or goal of civil society? How is it endangered by some weak forms of government? Why should even stronger individuals wish for a stronger government? Why is a larger society advantageous and how does the federal principle support the republican cause?

No. 53 House of Representatives: Term

1. How does the author answer the charge "that where annual elections end, tyranny begins?" What is the chief security against such tyranny in America? What reasons may be given in support of biennial elections to the U.S. house? What branches of knowledge are the peculiar concern of members of congress?

2. Apart from the specialized knowledge required, what other considerations favor biennial terms? What abuses may be expected from annual elections?

No. 55 Number of Representatives

1. What objections were offered against the planned size of the house? How do you determine whether the size of an assembly is too small or too large?

2. What is the author's answer to the complaint that the House is too small? How does it compare with the arrangement in the old continental congress? From whence would the dangers come? How do the checks and balances meet the challenge?

3. Why does the author rebuke certain "sincere friends of liberty?" Where does "indiscriminate and unbounded jealousy" lead?

No. 56 Duties of Representatives

1. Why else is the house alleged to be too small? How may this objection be answered?

2. What are the proper objects of federal legislation? Does the information pertaining to any of these require the expertise of more than a few people? Where are members of congress likely to have gotten their previous experience?

3. What foresight was shown at the convention that made provision for a growing population and the growing variety and complexity that would result from industrial progress?

4. What lessons may be gained from the experience of Great Britain?

No. 57 Supposed Dangers

1. What is the nature of the third charge against the house? Why does it strike at the very root of republican government? What precautions against "degeneracy" are taken under the Constitution?

2. What are the federal requirements for exercising the right to vote? What sort of men may be expected to hold the "representative trust?" What factors may be relied upon to restrain them from abusing their power? If members of congress should ever be permitted to pass laws that are not binding upon them, what will the people be prepared to tolerate?

3. What are the cords that bind representatives to their constituents? What objections are made by the critics that could not apply with equal force to the states? How do the practices in Britain, New Hampshire, and New York differ? Why would Philadelphia be better represented in the House than in its own state legislature?

No. 58 Future Numerical Increase

1. What is the constitutional provision for apportionment (and reapportionment) of seats in the House? What peculiarity of the federal Constitution affords a double protection against an augmentation of Congress's power?

2. How may the House defend itself from encroachment by the senate? How does the varying population of states, including new ones, help maintain a political balance? How does the power over the purse protect the House?

3. What are the disadvantages of a larger assembly? Why should a majority be sufficient for a quorum?

No. 62 On the Constitution of the Senate

1. What is the purpose of the specific constitutional qualifications for holding the office of senator? What is the double advantage of having senators elected or appointed by the state legislatures?

2. How does the equal representation of states in the senate give congress both a federal and a national character and exemplify "a spirit of amity" rather than theory? How does it preserve the "residuary sovereignty" of the states? How does it provide an additional impediment against "improper acts of legislation?"

3. How is the longer duration of senatorial appointment meant to safeguard the integrity of the system against usurpation? Against impulsiveness? Against errors from ignorance and lack of experience? Against mutability (instability)? What are some of the effects of changeable, voluminous, or incoherent policy? Who gains an unreasonable (or unfair) advantage from public instability?

No. 63 Duration of the Senatorial Term

1. Why would the esteem of foreign powers be forfeited by the absence of a senate? Why is attention to the judgment of other nations important? Why should the senate be small?

2. How does the frequency of popular elections create a lack of a due responsibility in the government to the people? Into what two classes may the proper objects of government be divided? Why does the House fail to answer the need for continuity? What is the remedy for this defect?

3. How may the senate restrain the temporary errors and delusions of the people? Why would such an institution been useful to the ancient Athenians? Why is it useful for the people to be spread over an extensive region? Why are auxiliary precautions still needed?

4. What has been the experience of ancient states -- both with and without a senate? What does their example have to teach Americans, if anything?

5. What two sorts of abuses threaten tyranny? What are the obstacles to the corruption of the senate?

6. By what means were other, more aristocratic "senates" -- the British, Spartan, Roman, and Carthaginian -- restrained or even corrupted by the popular assembly?

No. 67 The Presidency

1. What sort of misrepresentation, even caricature, has been directed at the office of president? What sort of attitudes is this propaganda designed to evoke? [Note especially similarities to ancient Greek fears of oriental despotism and more recent fears of the Turkish Empire in the references to janissaries, seraglios, and "voluptuousness."]

   [Compare a speech by Charles Ogle during the 1840 campaign on "The Royal Splendour of the President's Palace." “Little Van,” as the president was called, was said to douse his whiskers with French *eau de cologne*, sleep in a Louis XV bedstead, sip *soupe a la reine* with a golden spoon, eat *pate de foie gras* from a silver plate, and ride in a gilded British-made coach.]

2. How does Hamilton dispose of the notion that the president might be able to fill vacancies in the senate? What is the purpose of the clause concerning temporary appointments during recess? What is the constitutional provision for filling senatorial vacancies? What attitude does Hamilton take toward the author [New York Gov. George Clinton in *Cato*, No. 5] of this allegation?

No. 68 Mode of President's Appointment

1. What is the rationale for an electoral college? What safeguards were taken to ensure stability?

2. Identify some of the obstacles to intrigue and corruption. How has the danger of raising a foreign agent (or someone beholden to the powers that be) to the presidency been reduced? How is he rendered independent of all but the people for remaining in office?

3. How does this system favor more qualified candidates? What two reasons justify adding the office of Vice President? How does this compare with the office of lieutenant governor in New York?

No. 69 Characteristics of the Proposed Executive

1. How does the office compare with that of the English monarch, on the one hand, and that of the

New York governor, on the other hand?

2. Why is a president's four-year term a less potentially dangerous influence than the English king's hereditary tenure or the New York governor's three-year term? How does the President compare with the other two with respect to removal from office and exercise of a negative (veto)? Where does his power as commander-in-chief differ?

3. What makes the description of the president's pardoning power, which excludes cases involving impeachment, less dangerous that that of the New York governor?

4. How does the President's power of appointment compare with that of the New York governor?

No. 70 Energy in the Executive

1. What was the purpose of the Roman office of dictator? What is the result of having a feeble (or irresolute) executive?

2. What are the ingredients that constitute energy in the executive? That constitute safety in the republican sense? What is the advantage of having a single executive and a numerous legislature?

3. How may the unity of the executive be destroyed? What do we learn from the Roman experience with a dual or plural executive (consuls and tribunes)? What might be the consequences of differences of opinion or personal jealousy? Given their respective functions, why are such considerations of less concern in the legislative than in the executive branch?

4. What are two kinds of responsibility? In what ways does plurality destroy each? Why is an executive council unnecessary in a republic? Why is it likely to be positively dangerous?

No. 71 Duration in Office

1. What two purposes are served by providing the executive with a longer term in office (the second is dealt with in **No. 72**)?

2. What are the advantages of firmness of tenure? Why is a "lame duck" apt to be hesitant to exercise power? Instead of "servile pliancy" or "an unqualified complaisance to every sudden breeze of passion," what is demanded of an executive by the republican principle?

3. Why is such personal firmness especially important in the relations of the executive with the legislature? Why is it important for the different branches to be independent of each other?

4. How does a longer tenure contribute toward the desired firmness and independence of the magistrate?

No. 72 Stability of Administration

1. Which officials should be dependent on the chief magistrate for their appointment, or nomination, and be subject to his superintendence? Why is the stability of administration intimately connected with the duration of the executive magistrate in office?

2. If executive firmness is connected with duration, why is re-eligibility necessary to prolong the

talents and virtues of a chief executive?

3. Identify several ill effects of temporary or perpetual exclusion (term limits). How does the hope of continuing in office serve as an inducement to good behavior and to a willingness to undertake lengthy and risky projects? How might it serve to restrain avarice and prevent usurpation?

4. When would a change of administration be especially detrimental to the community? Should administrative stability be a source of concern as long as the option of changing exists?

5. What are the supposed advantages of term limits and how does Hamilton dispose of them? Does he sense a danger of usurpation when personal ambition combines with popularity?

No. 73 Salary and the Veto Power

1. What would give the legislature a power of intimidation or seduction over the executive?

2. What two distinct purposes are served by the president's negative (veto)? Which of the two is the "primary inducement?" How does Hamilton deal with criticisms of its propriety? Why is the veto apt to be used cautiously?

3. Is there more danger that the veto might be used too much, or too little? Why is a qualified negative more likely to be used than an absolute one? What are the hazards of a direct and categorical negative? How would its existence tend to encourage greater caution by the legislature?

4. What objections does he make to the New York system, which vests the negative in a council that includes judges?

No. 74 President as Commander-in-Chief

1. How does Hamilton dispose of any objections to this provision? How does he treat the pardoning power? In a practical sense, what does Hamilton mean by saying that "the sense of responsibility is always strongest in proportion as it is undivided?"

2. Why does Hamilton object to making it depend on consent of the legislature? Why might timeliness be important?

No. 75 Treaties

1. What objections have been made to the joint responsibility of president and the senate for making treaties? Why does Hamilton consider the power of making treaties, strictly speaking, neither legislative nor executive in function?

2. In the absence of a hereditary monarch to take responsibility, why is it "utterly unsafe and improper to intrust that power to an elective magistrate of four years' duration?" Why should it not be entrusted to the senate alone?

3. Why should the treaty-making power be kept from the house? Why should a 2/3 vote of the senators present be sufficient to ratify?

No. 76 Appointments

1. By what three methods may appointments be made? Why does Hamilton believe that "one man of discernment" is a more appropriate choice for exercising this power than a "body of men?" Why is appointment by an assembly inappropriate and unlikely to competently weigh the "intrinsic merit of the candidate?"

2. Why does the nomination of candidates by the president have all the advantages of giving him "sole and undivided responsibility" of appointment while avoiding some of its disadvantages? Why is it unlikely that a nomination will be overruled by the senate? Why is it important then that the president cooperate with the senate?

3. Is it likely that the president will be able to secure senatorial approval by corrupt means? How does the Constitution itself tend to minimize this possibility?

No. 77 Stability of Administration

1. How does the necessity of senatorial cooperation with the president contribute to the stability of the administration? [What more recent innovation was designed to counteract the politics of spoils that resulted from two-party competition?]

2. How does Hamilton dispose of the notion that either the president or the senate would have an undue influence over the other? Who is most apt to be blamed for a bad nomination? What is wrong with the New York system of appointment by council?

3. Why does enlarging the size of the body responsible for appointments reduce the possibility of cabal or intrigue? Why would the advantages of cooperation with the senate be defeated if the task of cooperation on appointments be entrusted to the house?

4. Why should the president be able to convene congress, especially the senate, upon extraordinary occasions? In sum, does the office of president combine the requisite attributes of energy and accountability to the people? How is abuse of power by the chief magistrate to be restrained?

No. 78 The Judiciary Department (Hamilton)

1. Why is the judiciary the "least dangerous" branch?

2. What is Hamilton's view of judicial review?

3. Regarding contradictory laws, what is the role of judicial construction?

4. Why is an independent judiciary an important safeguard against oppression?

5. What will protect against arbitrary discretion in the courts?