

from
FEDERALIST 51
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----- *Publius* -----

The *Federalist* was a series of articles originally published as letters to colonial newspapers during the ratification debates of 1787–1788. Each article addressed specific provisions of the Constitution and argued for its ratification. Though these articles originally appeared anonymously under the pseudonym Publius, they were later attributed to Alexander Hamilton, James Madison, and John Jay.

THINK THROUGH HISTORY: Drawing Conclusions

How does the separation of powers protect minority interests? Does the Constitution account for all of the possible interests in American society and protect them equally?

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....

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent, is admitted on all hands to be essential to the preservation of liberty, it is evident that 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....

It is equally evident that the members of each department should be as little dependent as possible on those of the others....

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....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....

But it is not possible to give to each department an equal power of self-defence. In republican government the legislative authority necessarily predominates. The remedy for this inconveniency is, to divide the legislature into different branches; and to render them by different modes of election, and different principles of action, as little connected with each other, as the nature of their common functions, and their common dependence on the society, will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified....

There are moreover two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view.

First. In a single republic, all the power surrendered by the people, is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people, is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other; at the same time that each will be controlled by itself.

Second. It is of great importance in a republic, not only to guard the society against the oppression of its rulers; but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: The one by creating a will in the community independent of the majority, that is, of the society itself; the other by comprehending in the society so many separate descriptions of citizens, as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This at best is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties....In a free government, 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. The degree of security in both cases will depend on the number of interests and sects: and this may be presumed to depend on the extent of country and number of people comprehended under the same government....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....In the extended republic of the United States, and among the great variety of interests, parties and sects which it embraces, a coalition of a majority of the whole society could seldom take place upon any other principles than those of justice and the general good: Whilst there being thus less danger to a minor from the will of the major party, there must be less pretext also, to provide for the security of the former, by introducing into the government a will not dependent on the latter; or in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practicable sphere, the more duly capable it will be of self government. And happily for the *republican cause*, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the *federal principle*.

PUBLIUS.

Source: *The Federalist*, Number 51. Reprinted in *The Papers of James Madison*, edited by Robert A. Rutland (Chicago: The University of Chicago Press, 1977), pp. 476–480.

THINK THROUGH HISTORY : ANSWER

Students may answer that the separation of powers protects minority interests by establishing more than one source of power in the federal government, thereby preventing any one branch of the government (and the people who elect that branch) from wielding too much power. Publius argues that minority rights are best protected when society is very diverse, with so many different interest groups that no majority group can establish itself permanently. Students may argue that the Constitution accounts for an infinite number of interest groups by establishing a democratic government, with power divided among separate branches of the federal government and shared with state governments. Students may argue that the Constitution does not necessarily protect all interests equally, since the majority can gain control of all three branches of the federal government.