**Federalist 51**

 **Annotations**

|  |  |
| --- | --- |
|  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.  | Why should the American people support a constitution that partitions power? Exterior provisions (voting) are inadequate alone to secure the public good. Additional protections are needed.The structure of the government should be designed in such a way that departments have their own powers and are independent from encroachment by others.Separation of Powers; checks and balances |
| 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. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another…. | 1. Each department (executive, legislature and judiciary) should have a will of its own. We have dealt with this concern by giving them different powers, different constituents and different terms of office.Everyone agrees that, in order to maintain liberty, government power must be divided.1. Each department (branch) must have as little influence as possible over the selection of the members of the other departments.The people themselves are the true source of authority because they vote. |
| 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. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal. | Once in office they should not be expanded or contracted by other departments.Each branch must have as little influence as possible over the pay that members of the other branches receive. |
| 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….***The word department means branches of government*** | 2. The departments must be structured so that each serves as a “watchdog” on the others–keeping an eye on the others to be sure no branch oversteps its proper authority.2, 5. The personal interest of every member should lie in keeping members of other departments out of their way. In Madison’s own words, “5. Ambition must be made to counteract ambition”.***Government is a reflection of human nature. People generally try to gain power***.3.If people could be trusted to always be good to one another, government would not be needed.Those human beings who are elected to serve in government do not always behave righteously.Government must be structured so that it is powerful enough to control the people. Government must also control itself.2. Since the people are the true source of government’s authority, they must be the main “watchdogs” to be sure government officials do not abuse their power.The members of departments of the government can be elected by the citizens. Thus, the greatest control on the departments is in the hands of the people themselves, who can remove any representative who abuses his powers. |
| But it is not possible to give to each department an equal power of self-defense. 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. An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department? | Whenever there are not precautions over excessive powers by government, we find that private interests override public rights.However, if all the departments have equal rights or there will be unending gridlock and nothing in the public interest will get done. The weight of power must rely in a republic with the legislature which is divided into two chambers (prevents legislature from becoming too powerful). (House and Senate), with different constituents and with different powers but required to complete a common task (writing laws). If sheer numbers and a divided structure do not keep the legislature from harming the public-- there is always the presidential veto. However, if the president is not working for the public good the legislature will then override the veto.The legislature must be the main branch of government in a republic (because it is closest to the people themselves.)The legislature can be prevented from gaining too much power by dividing it into two chambers, or houses (Senateand House of Representatives.) The two chambers keep an eye on each other. |
| There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view. | There are safeguards in the constitution for both the state and national levels. In fact, these safeguards are more likely to work at the national levels (more diverse and attentive to differences) than at the state level where we see them working now. |
|  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.**Usurpations-** **the act of taking control of something without having the right to, especially of a position of power. To take by force, to abuse power.** | 6. Also available for our mutual protection is the structure of federalism - the division /sharing of power between the federal gov and state gov. (Compound republic)First, we have divided up the country into states and a national government. This will provide a double protection to the people. If the state becomes abuse the people can appeal to the national government and if the national government becomes abuse the people can fall behind the security of their states.7. The two houses of the legislature are elected in different ways. (This element of the Constitution was later changed by the 17th amendment).Government power in America is divided between a central (national) government and state governments. Power is further divided at each level among several branches. State and national levels of government control each other. |
| 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. The ***second method*** will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. **10**. ***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… **11.** ***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 a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted that if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. **12.** 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 on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a 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. | 8. At each level, government officials are responsible for controlling themselves and their proper powers.Government must be structured so that the rulers are controlled. It is equally important that classes of people within society be prevented from being unjust toward one another.***Majorities sometimes vote to violate the rights of people who disagree with them.*** 9. There are two ways to protect the rights of people who disagree with the majority:**One way** to protect the rights of people who disagree with the majority is for a king or dictator to have enough powerto protect them. This method of protecting rights is not satisfactory because the king or dictator may abuse his power by violating everyone’s rights.A **second way** to protect those with minority opinions is for the society itself to have so many different groupsthat no one is likely to be in the majority opinion on every issue. Freedom itself promotes many diverseopinions and groups. The main goal of government is justice (fairness, honesty, righteousness).10. If a government system makes it easy for the majority to unite and oppress those who disagree with them, then no one’s rights are safe.In a well-designed system of government, the majority willsubmit to a government that protects the weak becausethey know that someday they themselves may disagree with the majority.In a large, free republic, there are so many issues, groups, and opinions that the main principle on which they unite is that everyone’s rights should be secure.**11. Justice is the “end of government” (its main purpose). For when there is no justice, a stronger faction can unite and oppress the weaker, anarchy will result as in Hobbes’ state of nature.**  |

1. In order for the separate departments (branches) of government [executive, legislative, and judiciary] to each have a “will of its own,” the members of each department should have as little agency or power as possible over the others in what two areas or matters?

1. 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 do what?

1. Publius states that if men were angels, what would not be necessary? Do you agree? Why or why not?

1. In “framing a government which is to be administered by men over men,” what is the great difficulty?

1. Ambition must be made to counteract what? Can you think of a better way to check possible abuses of power?

1. What are the differences between a “single republic” and a “the compound republic of America”?

1. Under the Constitution, in order to achieve a “double security to the rights of the people,” the power surrendered by the people is divided between which two distinct governments? And, how many departments within each government? How does this function today?

1. Publius states that “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 what tendency?

1. There are two methods of protecting the rights of the minority from the majority. How does the federal republic of the United States exemplify the second method?

1. Publius states that “In a free government the security for civil rights must be the same as that for religious rights.” What is the connection between civil and religious liberty? If religious rights suffer, how can that affect our civil rights (or visa versa)? Cite examples and explain.

1. According to Publius, what is the end [main purpose] of civil government? Do you agree? Why or why not?

1. What features make “the extended [large] republic of the United States” more capable of self-government? How do Constitutional principles effectively provide for the freedom and liberty of 50 states and over 300 million people?

[**https://billofrightsinstitute.org/activities/federalist-no-51-excerpts-annotated**](https://billofrightsinstitute.org/activities/federalist-no-51-excerpts-annotated)

[**https://www.cpp.edu/~smemerson/PLSGreed420/Madisonparagraphs.htm**](https://www.cpp.edu/~smemerson/PLSGreed420/Madisonparagraphs.htm)

[**https://historyplex.com/summary-analysis-of-james-madisons-federalist-no51**](https://historyplex.com/summary-analysis-of-james-madisons-federalist-no51)