**Federalist and Anti-Federalist Papers**

**"Cato"
Letter V
The New-York Journal, November 22, 1787**

*To the Citizens of the State of New York.*

In my last number I tried to prove that the language of the article relative to the establishment of the executive of this new government was vague, that the great powers of the President, connected with his duration in office would lead to oppression and ruin. That he would be governed by favorites and flatterers…that a vice president is as unnecessary, as he is dangerous in his

…adopt a system so vague, and which has discarded so many of your valuable rights. -- Is it because you do not believe that an American can be a tyrant? If this be the case you rest on a weak basis; Americans are like other men in similar situations, when the manners and opinions of the community are changed by the causes I mentioned before, and your political compact vague, your posterity [ future generations] will find that great power connected with ambition, luxury, and flattery, will as readily produce a Caesar, Caligula, and Nero in America, as the same causes did in the Roman empire.

1. What is the main concern of “Cato”?
2. What does he mean by “favorites and flatterers”?

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| **The Real Character of the Executive From the New York Packet. Friday, March 14, 1788.Hamilton** |

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I PROCEED now to trace the real characters of the proposed Executive, as they are marked out in the plan of the convention. This will serve to place in a strong light the unfairness of the representations which have been made in regard to it.

That president is to be elected for FOUR years; and is to be re-eligible as often as the people of the United States shall think him worthy of their confidence. In these circumstances there is a total dissimilitude between HIM and a king of Great Britain, who is an HEREDITARY monarch, possessing the crown as a patrimony descendible to his heirs forever; but there is a close analogy between HIM and a governor of New York, who is elected for THREE years, and is re-eligible without limitation or intermission.

The President of the United States would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes or misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law. The person of the king of Great Britain is sacred and inviolable; there is no constitutional tribunal to which he is amenable [accountable]; no punishment to which he can be subjected without involving the crisis of a national revolution.

1. What is the main difference between the King and the President as far as how long they serve in office?
2. What is one limit on the President’s power that is mentioned?

**Federalist Paper 51--James Madison**

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.

For Discussion

1. What is Madison’s main argument? What does he claim about men?

**Federalist Paper 72--Alexander Hamilton**

 [An] ill effect of the exclusion would be depriving the community of the advantage of the experience gained by the chief magistrate in the exercise of his office. That experience is the parent of wisdom is an adage, the truth of which is recognized by the wisest as well as the simplest of mankind. What more desirable or more essential than this quality in the government of nations?

For Discussion

1. What argument does Hamilton give against limiting the number of times a person may be elected president?

**Federalist Paper 78--Alexander Hamilton**

"If then the courts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.

This independence of the judges is equally requisite to guard the constitution and the rights of individuals from the effects of . . . designing men."

For Discussion

1. What does Hamilton mean by "the permanent tenure of judicial offices"? Does Hamilton support or oppose this idea?

2. What does Hamilton mean when he says that an "independent spirit in the judges" is essential for them to do their duty?

**Federalist #84**

Federalist Paper #84 The most considerable of the remaining objections is that the plan of the convention contains no bill of rights . . . It has been several times truly remarked that bills of rights are, in their origin, stipulations between kings and their subjects, abridgements of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was MAGNA CHARTA, obtained by the barons, sword in hand, from King John . . . It is evident, therefore, that, according to their primitive signification, they have no application to constitutions professedly founded upon the power of the people, and executed by their immediate representatives and servants. Here, in strictness, the people surrender nothing; and as they retain every thing they have no need of particular reservations. “WE, THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ORDAIN and ESTABLISH this Constitution for the United States of America.” . . . I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? . . .

1. What is his main argument against the Bill of Rights?

**Antifederalist Paper 84 ON THE LACK OF A BILL OF RIGHTS**

**By “BRUTUS”**

When a building is to be built which is intended to stand for ages, the foundation should be firmly laid. The Constitution proposed to your acceptance is designed, not for yourselves alone, but for generations yet unborn. The principles, therefore, upon which the social compact is founded, ought to have been clearly and precisely stated, and the most express and full declaration of rights to have been made. But on this subject there is almost an entire silence.

If we may collect the sentiments of the people of America, from their own most solemn declarations, they hold this truth as self-evident, that all men are by nature free. No one man, therefore, or any class of men, have a right, by the law of nature, or of God, to assume or exercise authority over their fellows….But it is not necessary, for this purpose, that individuals should relinquish all their natural rights.

This principle, which seems so evidently founded in the reason and nature of things, is confirmed by universal experience. Those who have governed, have been found in all ages ever active to enlarge their powers and abridge the public liberty. This has induced the people in all countries, where any sense of freedom remained, to fix barriers against the encroachments of their rulers. The country from which we have derived our origin, is an eminent example of this. Their magna carta and bill of rights have long been the boast, as well as the security of that nation. I need say no more, I presume, to an American, than that this principle is a fundamental one, in all the Constitutions of our own States; there is not one of them but what is either founded on a declaration or bill of rights, or has certain express reservation of rights interwoven in the body of them.

For the security of life, in criminal prosecutions, the bills of rights of most of the States have declared, that no man shall be held to answer for a crime until he is made fully acquainted with the charge brought against him; he shall not be compelled to accuse, or furnish evidence against himself-the witnesses against him shall be brought face to face, and he shall be fully heard by himself or counsel. That it is essential to the security of life and liberty, that trial of facts be in the vicinity where they happen. Are not provisions of this kind as necessary in the general government, as in that of a particular State? The powers vested in the new Congress extend in many cases to life; they are authorized to provide for the punishment of a variety of capital crimes, and no restraint is laid upon them in its exercise, save only, that “the trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be in the State where the said crimes shall have been committed.” No man is secure of a trial in the county where he is charged to have committed a crime; he may be brought from Niagara to New York, or carried from Kentucky to Richmond for trial for an offense supposed to be committed. What security is there, that a man shall be furnished with a full and plain description of the charges against him?

For the security of liberty it has been declared, “that excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted. That all warrants, without oath or affirmation, to search suspected places, or seize any person, his papers or property, are grievous and oppressive.”

These provisions are as necessary under the general government as under that of the individual States; for the power of the former is as complete to the purpose of requiring bail, imposing fines, inflicting punishments, granting search warrants, and seizing persons, papers, or property, in certain cases, as the other.

For the purpose of securing the property of the citizens, it is declared by all the States, “that in all controversies at law, respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.”

Does not the same necessity exist of reserving this right under their national compact, as in that of the States? Yet nothing is said respecting it. In the bills of rights of the States it is declared, that a well regulated militia is the proper and natural defense of a free government; that as standing armies in time of peace are dangerous, they are not to be kept up, and that the military should be kept under strict subordination to, and controlled by, the civil power.

So clear a point is this, that I cannot help suspecting that persons who attempt to persuade people that such reservations were less necessary under this Constitution than under those of the States, are wilfully endeavoring to deceive, and to lead you into an absolute state of vassalage.

1. What is his main argument for the Bill of Rights?

**Exit Ticket** – On a sheet of paper and on your own, respond to the following prompt in a well written paragraph.

1. If you were at the Constitutional Convention, who would you support? Federalist or AntiFederalists? Give a couple of reasons.