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# Alexander Hamilton's Philosophy of Government and Administration

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When Thomas Jefferson called Alexander Hamilton the "colossus of the Federalists"<sup>1</sup> he was recognizing the fact that Hamilton was *the* member of his party who articulated the comprehensive vision of republican national government and commercial society that the Federalists labored to establish. Moreover, as colossus of the Federalists a claim might be ventured that Hamilton should be considered the chief architect of our political union. For as has often been observed despite the fact that the Federalists would never win a national election following their defeat by the Republicans in 1800, it is remarkable how little President Jefferson dismantled the engine of central authority that Hamilton called into being, and how little Jefferson was able to alter the nation's course from the vision of commercial union that Hamilton had set forth. Nevertheless, such a claim for Hamilton's influence would be too strong. In some important respects the election of 1800 was a profound repudiation of Hamilton's political thought. We would, I think, be helped to understand our political society better if we consider both the extent to which Hamilton's political thought has been influential and also the reasons why its influence is limited.

Hamilton's political thought should be especially interesting to those students of American government whose study centers in public administration. The reason is that Hamilton's thought regarding the proper form of government and society are directly connected with his concern for effective administration. It must be granted that Hamilton nowhere contributes anything to

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<sup>1</sup> Henry Cabot Lodge, *Alexander Hamilton*, in Standard Library series, American Statesmen, vol. VII (Boston & New York: Houghton Mifflin Co., 1898), p. 273.

the development of a science of administration *per se*, nor even does he provide much in the way of that proverbial wisdom that once was taught as the way of getting things done. Leonard White, in his unsurpassed recount of public administration under the Federalists, expresses some disappointment that he could not find in Hamilton's writings a set of administrative principles that White hoped and believed could at last be established through the study of public administration.<sup>2</sup> What explains this is that Hamilton's thoughts on public administration are not separate from his constitutional and social philosophy. For Hamilton, the study of government and the study of administration is but one study. The issues for that study are how to liberate the good sense and the natural competence of public ministers from certain kinds of confusion that Hamilton thought to be most dangerous, and how to bind those ministers' self-interest and personal honor to the public welfare as Hamilton's was seemingly bound by his own nature.<sup>3</sup>

Hamilton's political philosophy is presented fully in his contribution to the *Federalist Papers*. His lesser writings, letters and pamphlets, give some amplification illustrating specific measures towards carrying out the social policy that his *Federalist Papers* outline and defend. Of special interest in this regard are his Reports to Congress as secretary of the treasury on public credit and on the state of manufactures, and his *Pacificus* pamphlets written in defense of President Washington's authority to issue the proclamation of neutrality in the war between England and France in order to remove certain doubts that are left open in the *Federalist* concerning the exclusivity of

<sup>2</sup> Leonard White, *The Federalists* (New York: The Macmillan Company, 1948), chapter 37, especially the concluding paragraph on page 478. Much light is shed on Professor White's mature judgment on the prospects for developing a modern "science" of administration, and the relationship of his study of Hamilton to those prospects, if we reflect on his statement that, "Fortunately, much of the administrative art is synonymous with common sense, sound judgement, initiative, and courage—homely virtues that were doubtless as readily at hand then as now. The art was practiced, but we cannot say it was cultivated for yet a hundred years." The words suggest that for White, the study of public administration must always take its bearings from practical experience and that its usefulness will consist in providing a kind of preview of the wisdom that can only be born out by experience.

<sup>3</sup> Hamilton confessed his heart in writing to Henry Lee that ". . . the public interest. This in my eyes is sacred." Quoted by Lynton Caldwell, *The Administrative Theories of Jefferson and Hamilton* (New York: Russell & Russell, Inc., 1964), p. 6. The reader may wish to note that Caldwell's book was originally published by the University of Chicago Press in 1944, such that Leonard White is able to refer to it, approvingly, in *The Federalists*.

the president's powers in the realm of foreign affairs.<sup>4</sup> In reading the *Federalist Papers* we need to develop an eye to Hamilton's subtlety, which is imposed upon him by reason of the circumstances under which the *Federalist* was written. For one thing, the *Federalist Papers* are intended to interpret the Constitution faithfully and authoritatively, but also to secure its ratification, so that each of the authors of the *Federalist Papers* must practice the art of expressing his more contentious points in language least likely to give offense or rhetorical advantage to their opponents. Moreover, Hamilton himself writes only 51 of the 85 papers; the remainder were written by James Madison or, in the case of five random contributions, John May.<sup>5</sup> With slight oversimplification we can assert that the *Federalist Papers* are the work of two minds, and while these two are careful to avoid contradicting each other lest the Constitution itself appear to lack integrity, there are differences between them which, when developed, could and did become divisive. To grasp Hamilton's own thought it is necessary to understand how his contribution to the *Federalist* is related to that of James Madison.

At first it appears that there is no more difference between Hamilton and Madison in the *Federalist Papers* than that imposed by the division of labor. Hamilton writes most about the advantages of union, of the need for strong government with plenary powers, and of the constitution of the executive and the judiciary branches; whereas Madison analyzes the separation powers between state and national government, checks and balances among these three branches, and most famously, he discusses the constitution of the House and the Senate and the theory of representation that they reflect. This is a comparison that makes Madison the more prominent member of the partnership, because in this nation the idea of representation and that of the legitimate limits of governmental power are the recurrent themes of politics, and it is Madison who addresses those themes most directly. Thus Hamilton's contribution to the *Federalist Papers*, while more voluminous, seems to be less than

<sup>4</sup> Hamilton's explicit argument in *Pacificus* that the president derives substantive powers from the statement in Article II that "The executive power shall be vested. . . ." has not been accepted as the true meaning of the Constitution on this point. But so as not to destroy Hamilton's authority altogether, the standard opinion is that there is a tension, or even a contradiction between *Pacificus* and Hamilton's *Federalist Papers*, concerning the constitutional basis and definition of the president's powers. I will argue subsequently that, at least in Hamilton's own mind, there is no incompatibility between what he says in these two sources; cf. pp. 18-21 below.

<sup>5</sup> We owe this information to the scholarship of Douglass Adair. Cited by Clinton Rossiter in his Introduction to his edition of the *Federalist Papers* (New York: The New American Library, Inc., 1961), p. xi.

Madison's in importance. Surely nothing Hamilton writes rivals in notoriety Madison's numbers 51 and especially number ten-papers that are sometimes said to contain the most significant American contributions to political thought. It is here that Madison cuts through the issue for his contemporaries of greatness and power versus freedom and shows how a nation can be both great in power and size and also republican and free. In this vein, Hamilton's papers look like a supplement to Madison's monumental achievement.

On closer inspection, however, Hamilton's argument in the *Federalist Papers* can be seen to have a weight of its own, and moreover, stretching the metaphor, it is Hamilton who sets the founding cornerstone upon which Madison builds his structure. For just in its own terms, Madison's argument is incomplete; it does not set forth the source of our national union. As every student of American government should know, Madison defines the problem of political society as that of faction and the problem of majoritarian government is majority faction which will most likely take the form of the "leveling spirit" of those many who "secretly sigh for a more equal distribution of (life's) blessings."<sup>6</sup> Madison's solution was to generate a large and commercial republic that would suppress the formation of a factious majority by generating a myriad of "interests" that in turn could form up governing majorities only through concurrence. Moreover, such concurrent majorities would be engineered among many disparate elements by representatives of whom a certain public virtue was a realistic expectation; "a coalition of a majority of a whole society could seldom take place on any other principles than those of justice and the general good."<sup>7</sup>

The difficulty with Madison's celebrated argument concerns the relation of the representatives to their constituencies. On one hand, the representatives must rather literally reflect the interests that are to form the governing majorities. They must be, in this sense, a channel of influence. On the other hand, those same representatives must be free enough of the interests they represent to rise above them and fashion them into a bargain under the aegis of justice and the general good. Representatives must both reflect and refine the variety of interests to be

<sup>6</sup> Winton U. Solberg, ed., *The Federal Convention and the Formation of the Union of the American States*, including Madison's Notes to the Convention (Indianapolis: The Bobbs-Merrill Company, Inc., 1958), p. 176.

<sup>7</sup> *Federalist Papers* No. 51, in Hamilton, *Federalist Papers*, p. 325. It might be remarked as an aside to those who are tempted to interpret Madison as a harbinger of modern pluralist thought that this passage reveals that Madison remains attached to the idea of the common good, and hence denies the central thesis of strict pluralist thought.

brought into concurrence. Were they only to reflect them, the representative assembly would itself need to be governed—the question of the source of the union of the many interests would simply have been pushed back one step. But neither does Madison's scheme work if each of the representatives assumes a Burkean posture, standing for the public interest as he sees it. That would be government by an elective aristocracy, not popular majority. There is in practice a tension between the representative's duty to refine and his need to reflect the interests he represents. Madison's scheme depends on an uneasy balance between the two functions of the representative.

For himself, Hamilton never capitulated in the erroneous translation from government rooted in the consent of the governed to government by consenting majorities. But his own political thought was vulnerable to that translation in a way that seems not to have understood. As has been observed, Hamilton expected the "first characters of the Union" to be drawn to public service by the natural "ruling passion of the noblest minds." But there is something nonliberal about that very passion. Granted Hamilton thought that the political aristocracy that would staff the federal government service would *not* be an aristocracy defined either by money or by blood. The uncompromising animus against nepotism and the argument for sufficient salary compensation were both prompted by the consideration that the new political aristocracy was to have no class interest apart from that of maintaining their honor as good rulers. In this way Hamilton thought his political aristocracy compatible with liberal government. But, on reflection, the defense is not sufficient. Even the purely political aristocracy will have to be a proud station if it is to beckon the noblest minds. The necessary implication is that to govern is something noble and fine—nobler and finer than the pursuit of self-interest ordinarily understood. But how can this be, if the very purpose of government is to facilitate self-interest? There is a contradiction in holding the task of governing to be a burden, albeit necessary, that is born only to facilitate private life, and on the other hand aspiring to govern. Theoretically, this contradiction could be resolved if the development of the political virtues that were expected of the governing class were itself taken to be the ultimate purpose of the regime. But that resolution would have called liberalism itself into question, as Jefferson sensed it was being questioned implicitly. It was precisely the illiberalism of the aspiration to

<sup>8</sup> *Ibid.*, No. 13, p. 102.

government for which Jefferson accused the Federalists and especially Hamilton. The deepest issue between the two men was not the issue of executive power, or legislative supremacy or limited government. Those were essentially derivative matters such that Jefferson could compromise his positions on all of them without letting go of the real difference between himself and his great antagonist. Jefferson accused the Federalists of encouraging men to forget that governing is a burden rather than a prize—an honor to be born when asked, but not sought. Against this challenge, Hamilton was without a defense. He could neither abandon what he saw as the requirements for effective, competent, high quality administration, nor could he abandon his understanding of Liberalism whereby the test of good government is nothing more than its capacity to administer to the needs of the citizens' pursuit of self interest.

Granted, what has been said so far does not ruin Madison's position. It could be argued that the representative himself must balance the two aspects of his function and that that is a realistic expectation. But the fact that the problem is not so easy to sweep aside is illustrated by the further difficulties that Madison encounters when he considers the appropriate size of the federal union and the nature of the separation of powers among the states and the national government. While what is most famous about Madison's argument is that the problem of majority faction is solvable only through *extending* the sphere of republican government, it is also true for him that we need to be concerned lest the nation get too large. In too large a nation, the proportion of representatives could no longer reflect all their constituents' particular interests. Thus Madison is required to make what today must be considered an embarrassing argument in *Federalist* No. 14—that the size of the nation (in 1789) is neither too large nor too small, but just right. Nor, by the way, can Madison's argument be rescued from this embarrassment by pointing to advances in communication and travel. It is the growth of population and the complexity of the economy rather than the physical size of the nation that threatens the proportion of representatives to their clients that is necessary to make Madison's scheme operate.

Once we see the importance for Madison's argument of the problem that the nation might indeed grow too large for a republican form of government, and if we also see how blithely hopeful is the "solution" offered in *Federalist* No. 14, then what Madison says about the separation of powers in *Federalist* No. 39 appears to be an attempt to respond to this same problem on a higher

level of sophistication and subtlety. In No. 14 he admits that those who argue that the nation is already too large for a republican form of government would have a point, "Were it proposed . . . to abolish the government of the particular states." But what saves us from this charge is that, in truth, the national government's "jurisdiction is limited to certain enumerated objects only." Madison's idea of the separation of powers is a refinement of his remark about the appropriate size of a republican government. The subtler answer to the question of size depends on the powers to be exercised and their specific objects. Thus, the logic of his own idea of representation forces Madison to swallow the doubts he expressed in the Philadelphia Convention about the possibility of limiting the national government's powers through an enumeration, and to assert, in No. 39, that, "In this relation (viz. the scope of its powers), the proposed government cannot be deemed a *national* one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several states a residuary and inviolable sovereignty over all other objects."<sup>9</sup> While these words contain enough ambiguity to preserve the working agreement between Madison and Hamilton in the *Federalist Papers*, the implications of his argument in Nos. 14 and 39 would eventually drive Madison to break from the simpler nationalism of Hamilton, and to support the party of limited government and state's rights.

But the implications of *Federalist* Nos. 14 and 39 are wrong. The expansive reading of the national government's powers, especially by way of the necessary and proper clause as interpreted by Hamilton in *Federalist* No. 33, and confirmed by Chief Justice Marshall in *McCulloch v. Maryland*, is such that it is not possible to answer the charge that the nation is too big by pointing to the "residual and inviolable sovereignty" of the States. The States can make no claim to impede the national government from exercising powers that it deems necessary and proper merely because such exercise would violate the sphere of powers reserved to the states. The hard conclusion is that the conditions necessary for Madison's idea of representation are not met, and thus, is it not by Madison's genius that we can explain the manner and the degree to which this nation combines greatness and freedom.

The source of the contrast between Hamilton's and Madison's thought is that Hamilton rejects one of the two implicit elements in Madison's idea of representation. What I have here called the

<sup>9</sup> *Ibid.*, No. 39, p. 245; cf. Madison's Notes to the Convention, in Solberg, *Federal Convention*, p. 88.



reflecting element in representation Hamilton calls "actual representation," and Hamilton goes out of his way to argue that actual representation is not only impossible in a pure sense, because it is flatly impossible, it is not an appropriate standard nor even partial standard for republican government. "The idea of an actual representation of all classes of the people by persons of each class is altogether visionary."<sup>10</sup> But this observation does not lead Hamilton to recommend government by electoral representatives who will devote themselves to an idea of the public interest that excludes any personal interest. Like Madison, Hamilton finds the condition for effectively representative government to be met by a large and commercial republic, but not quite for the same reason. Commercialism is good, for Hamilton, not primarily because it creates a plethora of interests that diffuses the natural and factious majority, but more importantly because it generate a new *class* of persons who are, by reason of their particular interest, the "natural representatives" of all the many interests. This is the class of *merchants*; that is, those who neither manufacture nor mine nor farm, but rather those who earn their way by buying cheap and selling dear, as the saying goes. This class has no particular interest in the prosperity of any single industry in the nation's economy; if they are but shrewd they will channel their resources in whatever direction promises the most profit. Hence they promote those enterprises that are the most profitable. The merchants, as a class, are like cultivators of the natural harmony of the productive arts. They facilitate and thrive off what Adam Smith called "the natural system." Indeed, so natural is the merchants' claim to be the natural representative class of a commercial society that no constitutional provision is even necessary for them to assume their rightful station! It will just happen that way for the most part.

The idea of an actual representation of the people by persons of each class is altogether visionary. Unless it were expressly provided in the Constitution that each different occupation should send one or more members, the thing would never take place in practice. Mechanics and manufacturers will always be inclined, with few exceptions, to give their votes to merchants in preference to persons of their own professions or trades. Those discerning citizens are well aware that the mechanic and manufacturing arts furnish the materials of mercantile enterprise and industry. Many of them, indeed, are immediately connected with the operations of commerce. They know that the merchant is their natural patron and friend; and they are aware that however great the confidence they may justly feel in their own good sense, their interests can be more

<sup>10</sup> *Ibid.*, No. 35, p. 214.

effectively promoted by the merchant than by themselves. They are sensible that their habits in life have not been such as to give them those acquired endowments, without which in a deliberative assembly the greatest natural abilities are for the most part useless; and that the influence and weight and superior acquirements or the merchants render them to the public councils, unfriendly to the manufacturing and trading interests. These considerations and many others that might be mentioned prove, and experience confirms it, that artizans and manufacturers will commonly be disposed to bestow their votes upon merchants and those whom they recommend. We must therefore consider merchants as the natural representatives of all these classes of the community.<sup>11</sup>

Thus, in one stroke Hamilton cuts through Madison's dilemma. The many differing interests in a complex, commercial society do not need to be each actually represented. What government must represent is only what those interests all have in common. This general advantage, in a commercial society, is just the merchants' specific advantage, namely a powerful economy where the prospects for profitable exchange are high. Much as those who were renowned for their nobility and virtue represented in their own character that common good that premodern political societies strove to realize, the merchants are the natural representatives of that society that is established to facilitate each person's pursuit of his own profit.<sup>12</sup>

For the reason outlined above, commercialism is critical to Hamilton's solution to the problem of representation, but it should not be inferred from that that Hamilton thinks commerce is the sufficient condition for good republican government. Were it so, the Articles of Confederation could have provided an adequate government for the United States. But Hamilton's *Federalist* No. 6 is a powerful argument against the contention that commerce in and of itself will bring about civil peace and social harmony. "Has commerce," he asks rhetorically, "hitherto done

<sup>11</sup> *Ibid.*, No. 35, pp. 214-215.

<sup>12</sup> I realize that the word profit might be objected as a narrow and even demeaned version of the word happiness, as it occurs in Jefferson's more sublime expression of the purpose of government to facilitate the "pursuit of happiness." But I think that the substitution is justified and helpful. After all, what form of happiness can we imagine pursuing, *individually*, that requires government's protection, except the happiness that comes from property? On this observation it seems fair to say that Jefferson's phrase, "the pursuit of happiness" is itself a sweeter but vaguer version of John Locke's more original and stricter formulation. Locke says men unite in civil society, "... for the mutual preservation of their lives, liberties, and estates, which I call by the general name 'property.'" John Locke, *The Second Treatise of Government* (Indianapolis: The Bobbs-Merrill Company, Inc., 1952), p. 71.

anything more than change the objects of war?"<sup>13</sup> The fuller statement of Hamilton's position is that while there is indeed a natural harmony among the productive arts, that harmony does not enforce itself with sufficient reliability in particular cases. There are situations where one of the parties to an exchange may take advantage of an extraordinary alteration in the rate of exchange, as when a man dying of thirst will give all he has to the one who will sell him the only available glass of water. Such situations are, by definition, exceptions to the norm; but human ingenuity being what it is, the exceptions are legion and their trains goes on forever. So too then are the instances of discord and civil unrest to which commerce gives rise. For these reasons Hamilton endorses what we would call "positive government" as necessary to preserve and even to promote "the natural system." In his early paper, the *Continentalist*, he says,

There are some who maintain that trade will regulate itself, and it is not to be benefited by the encouragements or restraints of government. Such persons will imagine that there is no need of a common directing power. This is one of those wild speculative paradoxes, which have grown into credit among us, contrary to the uniform practice and sense of the most enlightened nations.<sup>14</sup>

The specific features of Hamilton's program of positive governmental measures to promote the national economy can readily be understood from a reading of his *Papers on Public Credit* and his *Report on Manufactures*. Hamilton argued in favor of a protective tariff to sustain some American industries during their infancy, and he wanted to promote industrial activity by offering a bounty for useful inventions to be paid from the national treasury. Moreover, as is well known, he sought to establish the credit of the national government through the assumption of state debts and the funding of the entire governmental debt at par value. Finally, Hamilton sought to render the currency of the United States more stable and more available for capital investment through the aforementioned funding program and the establishment of a national bank. These programs can scarcely be mentioned today without acknowledging that they have been criticized because they tended to serve the

<sup>13</sup> *Federalist Papers* No. 6, Hamilton, *Federalist Papers*, p. 57. For an extended discussion of the difference between Hamilton and others on the question whether commerce itself tends towards peace, cf. Gerald Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Stanford: Stanford University Press, 1970), pp. 126-170.

<sup>14</sup> Alexander Hamilton, *The Continentalist* No. 5, quoted by Caldwell, *The Administrative Theories*, p. 63.

immediate advantage of certain monied interests.<sup>15</sup> For example, speculators who held government bonds, having in many cases bought them at a depreciated price, would be much benefited by the assumption and refunding plans. But criticism of Hamilton's economics to the effect that some persons would benefit more from his measures than others—even if those who do so benefit are a "monied few"—is insufficient unless it also shows that the measure does not serve the public interest in the way that it is claimed to do. Hamilton admitted that his economic plans would benefit some more directly than others;<sup>16</sup> But he also argued that the same thing could be said against any other plan, or no plan. In defense of what he was recommending, Hamilton asserted that the public interest would be served through the generation of a vigorous, capitalistic economy. Unlike some of his critics, Hamilton did not shrink from the fact that such an economy required capital, and capitalists.

To return to the main argument, Hamilton's fiscal and economic program is an illustration of his general belief that the "natural system" of political economy is the foundation of healthy political community, and at the same time the "natural system" is not self-enforcing but that it needs positive governmental "encouragements and restraints" to keep it working. Thus, whereas commercialism has been shown to be the indispensable condition for Hamilton's solution to the problem of representation, the health of commercial society depends *in turn* on properly constituted political authority to supply the necessary measures. This chain of dependency would be circular if Hamil-

<sup>15</sup> I have in mind Joseph Charles in particular. Charles wants to attack Hamilton by showing that his plan for the Federal Government's Assumption of the States' debts and for funding the entire public debt at par went beyond what was strictly necessary for clearing the public debt, and then he wants to show that Hamilton had a much broader and more sinister motive for the plans. Charles quotes Oliver Wolcott, Hamilton's assistant secretary of the Treasury, that the *real* purpose of the financial scheme was to create a stable environment for capital investment and capitalists' profits. Wolcott says explicitly that in this country the capitalists, rather than a hereditary nobility, or a clergy, or a body of military officers, are to be the "engine" of the nation's life. But why is thought sinister? We can't have capitalism without capitalists, and Charles nowhere gives us any critique of capitalism. He excoriates Hamilton's views on the foundation of social union as if merely *because* they aid the "monied few" more directly than others they are bound to destroy the "loyalty, affection and best interests of all (the nation's) citizens." But not every citizenry is so constrained by jealousy that it cannot give its loyalty and affection to a regime in which there is inequality of property. Cf. Joseph Charles, *The Origins of the American Party System* (New York: Harper & Row, Publishers, 1961), pp. 7-36. Forrest MacDonald shows a shrewdness Charles lacks when he summarily describes Hamilton's financial plan as "convenient." Forrest MacDonald, *The Presidency of George Washington* (Lawrence: The University Press of Kansas, 1974), p. 185.

<sup>16</sup> Hamilton, *The Continentalist*, quoted by Caldwell, *The Administrative Theories*, p. 54.

ton expected that the initiative for the right kind of positive governmental measures would come from the legislative assembly, populated by a monied class of merchants the economy would generate. But it appears that Hamilton did not rely very much on the species of political wisdom that would, at best, reside in the legislature. The advantage of the assembly of merchants is that it is able to surmount the necessary divisions in society; it can act out of accord. But even Hamilton's well constituted assembly will not have the degree of unity or energy and duration that would be necessary for it to serve as the real agency of government. Hamilton expects that the well constituted assembly will be able to react, with a minimum of confusion, to the initiatives that must be supplied from somewhere else—namely, from the executive branch. For this reason Hamilton's thoughts on the nature of the executive power are his central thoughts. Moreover, for Hamilton the key to the strength of the national government is not so much the concurrent majoritarianism that Madison describes in *Federalist* Nos. 10 and 51, but rather it is the unity and the degree of independence of the executive that he himself outlines in *Federalist* Nos. 67-77.

Much of the opposition to Hamilton's political program, in his own time and subsequently, centered on his defense of the independence of the executive. As for Hamilton himself, he thought that his ideas about executive independence were perfectly compatible with the fundamental, liberal principles, e.g., popular sovereignty and even legislative supremacy. In his early career Hamilton supported the posture of Congress towards the British Parliament and he endorsed the American Revolution on the basis of his commitment to liberal political philosophy. In the pamphlet he wrote during that period, "A Full Vindication of the measures of Congress," he gives his view unambiguously that ". . . the only distinction between freedom and slavery consists in this: In the former a man is governed by laws to which he has given his consent, either in person or by his representative: In the latter he is governed by the will of another."<sup>17</sup> Nor did Hamilton ever retract the sentiments he had expressed on that occasion; in *Federalist* No. 67 he defends the separation of the executive and legislative branches of government as necessary to maintain the distinction between a government of laws from arbitrary government.<sup>18</sup> The law and the legislature must be

<sup>17</sup> Quoted by Stourzh, *Hamilton and the Idea of Representative Government*, p. 42.

<sup>18</sup> *Federalist Papers* No. 67, Hamilton, *Federalist Papers*, p. 409.

supreme because the law is the medium through which the people give their consent to government, and consent is the whole foundation of legitimacy.

But for Hamilton legislative supremacy as a formal requirement of legitimate government is one thing, the question of the degree of detail that the law must descend to in directing the executive is another. On this issue Hamilton always defended executive discretion. Moreover, the formal supremacy of the law *per se* is not a principle that excludes the executive from taking the initiative for recommending policy to the legislature. Hamilton's executive would actually seize the initiative. The executive had to be the real agency of government for Hamilton because only the executive had the requisite degree of unity that could generate the energy and rationality, at least in the administrative sense of the word, that is necessary for sound public policy. The main thrust of Hamilton's *Federalist Papers* on the executive is a defense of the executive power under the Constitution being vested in a single officer against the idea of a "dual executive" or an executive council. His discussion also contains a defense of the indefinite reeligibility of the president. On this latter point Hamilton reveals his expectation that an indefinitely reeligible president will probably serve for an indefinite duration, thus among other advantages providing against a "mutability of measures."<sup>19</sup> Thus in the interest of promoting the unitary character of government over time, Hamilton goes so far as to recommend what he hopes will amount to an executive for life.

What gives Hamilton's thoughts on the proper constitution of the executive in liberal government its elegance, and at the same time what makes it frightening and hateful to his Republican opponents, is the fact that Hamilton did not think that his defense of executive unity, independence and initiative in any way compromised his commitment to government as responsible to the governed whose consent would be expressed through law. Hamilton defends the unity of the executive as much on the grounds that it promotes responsibility as that it comports with administrative rationality, and in fact, these two considerations are merged together to reveal a single idea of good government. For instance in *Federalist* No. 70 Hamilton defends executive unity by citing the "deep, solid, and ingenious," writer that " 'the executive power is more easily confined when it is one.' "<sup>20</sup>

<sup>19</sup> *Ibid.*, No. 72, p. 439.

<sup>20</sup> *Ibid.*, No. 70, p. 430.

But one of the weightiest objections to a plurality in the executive, and which lies as much against the last as the first plan is that it tends to conceal faults and destroy responsibility. Responsibility is of two kinds—to censure and to punishment. The first is the more important of the two, especially in an elective office. Men in public trust will much oftener act in such a manner as to render them unworthy of being any longer trusted, than in such a manner as to make them obnoxious to legal punishment. But the multiplication of the executive adds to the difficulty of detection in either case. It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or a series of pernicious measures, ought really to fall. It is shifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author. The circumstances which may have led to any national miscarriage or misfortune are sometimes so complicated that where there are a great number of actors who may have different degrees and kinds of agency, though we may clearly see upon the whole that there has been mismanagement, yet it may be impracticable to pronounce to whose account the evil which may have been incurred is truly chargeable.<sup>21</sup>

In sum, the unitary executive is all alone in the spotlight. But is this a sufficient guarantee of his government's responsibility? Might we not object to Hamilton that a unitary executive might attempt all sorts of things that run contrary to the wishes and the interests of many people, perhaps a majority, so long as he might reasonably gamble that his misdeeds would not be deemed sufficient grounds for removing him from office? This is a natural question, but the person who asks it does not see how remarkably far-reaching Hamilton's argument is. In its fullest implications, Hamilton's argument for executive unity implies that unity is not only the necessary condition for responsible government, but the sufficient condition as well! This surprising conclusion can be seen to follow from what has been said above if we bear in mind that what Hamilton says is the only practically possible meaning of responsibility in government must have nothing to do with "actual representation." Government is to be held responsible not to this or that segment of the population's perceived interests but rather to the general interest of the population as such; and that public interest, in the final analysis, consists in nothing but unity, in the sense of the people's freedom from social measures whereby one factious interest gains at the expense of the whole.

From the point of view of this interpretation we can read with an enlightened eye what Hamilton says in *Federalist* No. 68

<sup>21</sup> *Ibid.*, No. 70, pp. 427-28.

about his degree of agreement with Alexander Pope's famous statement that, "For forms of government let fools contest—/ That which is best administered is best."<sup>22</sup> It is true that Hamilton brands Pope's statement a "political heresy" but we should note how careful he is to state his disagreement in a way that reveals a considerable agreement. Without breaking sentences Hamilton follows Pope's heretical statement by saying, ". . . yet we may safely pronounce that the true test of a good government is its aptitude and tendency to produce a good administration."<sup>23</sup> In contrast to Pope's statement, forms of government are important, but they are only so in so far as they tend to promote good administration, Hamilton's response to Pope is very clever; for while he does charge Pope with heresy, he misses the point of that heresy—or rather, he actually endorses it! Surely the scandalous or heretical element in what Pope says is the suggestion that it does not matter what ends or purposes a government owns; so long as whatever it does it does effectively and efficiently, and takes care of themselves. And Hamilton appears to agree. Pope had been careless—he had perhaps misused a bit of poetic license—in saying that "forms" are absolutely unimportant. Forms, in truth, have a secondary importance as they tend to foster or hinder good administration. But the point remains that the relatively pedestrian standards of administration as such, effectiveness and efficiency, are the standards of government as a whole. It is this consideration that recommends the most important part of the formal structure of the government Hamilton is helping to establish, namely the unitary character of the executive.

That Hamilton was able to hold forth his bold thesis about responsible government is due to his grasp, more solid and direct than most of his contemporaries, of what was essential to the liberal political philosophy that his generation generally adopted. His first several *Federalist Papers* on the disadvantages of the Confederation and the need for a genuine political union with a strong central government are reminiscent of Hobbes' and Locke's account of the inconvenience of the "state of nature" and the need for government to establish and keep the peace. And his solution follows with appealing directness from his statement of the problem. The right of each member of the community to use force must be vested in one, sovereign agency. The constitution, or "form," of that agency is, strictly speaking, for the parties to the contract to determine—but however they de-

<sup>22</sup> Ibid., No. 69, p. 414.

<sup>23</sup> Ibid., No. 69, p. 414.



cide it, somewhere in the government they create the sovereignty must come into a single point of focus or else what they do is in vain. Hobbes' argument for monarchy had stressed this point with force. Locke saw it too for that matter, although Locke had also seen more clearly than Hobbes the need to veil the terrifying image of the monarch by calling for a body of legislators separate from the person of the executive.<sup>24</sup> The veil for Hamilton's liberal monarch was provided by those features of the Constitution that Madison stressed, in the now more celebrated *Federalist Papers*. But it was Hamilton rather than Madison who expressed what really held it all together. Good government is unitary, rational administration. The discomforting neutrality towards the ends or goals of administration contained in that statement derives from Hamilton's profound understanding of the essential neutrality of liberal political philosophy towards the question of the ultimate aims of human life. The only common good or public interest in a regime that exists only to provide the conditions where each person may pursue his own idea of happiness with minimal interference is the elimination of the disturbances and threats to the public peace such as are posed by factions. Thus the interest of a monarch and the public interest thus understood are automatically woven together.

I have been arguing that there is a potential tension between Hamilton and Madison in the *Federalist Papers* regarding representation, and correspondingly, regarding the issue of executive initiative versus legislative supremacy. I do not mean to suggest by this argument that the subsequent break between Hamilton and Madison was inevitable or foreseeable, but with the benefit of hindsight it is understandable. We can see how both Hamilton and Madison would consider their subsequent political positions as being consistent with the *Federalist Papers*, and accuse the other of contradiction and even perfidy. An illustration of the ambiguity in this situation is provided by the subsequent disagreement between Hamilton and Madison regarding the authority of President Washington to issue his Proclamation of Neutrality towards the conflict between England and France. Madison, in his *Helevidius Papers*, argues that the authority to

<sup>24</sup> I take it as pretty well established that Locke's discussion of "executive prerogative," read carefully, reveals the extent to which his doctrine of legislative supremacy is a formal requirement that can be dispensed with under severely extenuating circumstances; and thus legislative supremacy can be said to veil the Hobbesian character of libertarian government when circumstances are more ordinary. Cf. Robert A. Goldwin, "John Locke" in *History of Political Philosophy*, eds. Strauss and Cropsey (Chicago: Rand McNally & Company, 1972), pp. 477-82.

issue such a statement belongs to the legislature, whereas Hamilton, in the *Pacificus Papers*, defends President Washington. Can Hamilton's bold statement in *Pacificus* be seen to square with what he had said in the *Federalist*? Recently it has been suggested by Professor Raoul Berger that in the *Pacificus Papers* Hamilton finally abandons any real attachment to the idea of legislative supremacy and that therefore he contradicts his more moderate and proper thoughts on that point in the *Federalist Papers*.<sup>25</sup> But this suggestion is based on a failure to understand the far reaching implications of the *Federalist*. What is true by way of contrasting *Pacificus* from *Federalist* Nos. 67-77 is that *Pacificus* argues the opening words of Article II of the Constitution, "The executive Power shall be vested . . ." convey a positive grant of power to the president over and above what is to be inferred from the remainder of Article II whereas in the *Federalist*, Hamilton says that the executive powers specifically enumerated in the text of Article II exhaust the president's powers. But the one of the specifically enumerated powers in Article II is the power to take care that the laws be faithfully executed—and is not the Constitution itself, including its mention of "the executive power" that is to be vested in one president, a part of the law that the president is to execute faithfully? Of course this argument can be rightly accused of being disingenuous, for it finds a general grant of executive power within the slippery terms of a specific grant of power. But there are good reasons for us to wink at the disingenuity and accept the argument in *Pacificus*' behalf. When Hamilton writes about the executive in the *Federalist* he has to respond to the fear among his readers of executive tyranny, and so he veils the most expansive possible interpretation of the executive's constitutional powers. In *Pacificus* his purpose is to announce and vindicate the more expansive interpretation. But to pursue conflicting purposes at different times is not to be guilty of a contradiction of principles. And moreover, if we have read the *Federalist* comprehensively, we should have been prepared for what *Pacificus* tells us. When Hamilton discusses the enumerated powers of the legislature in *Federalist* Nos. 23-33, especially the necessary and proper clause in No. 33; and again when he discusses the proposal for a bill of rights in No. 84, Hamilton shows very clearly why he does not think that a government's powers can be usefully or effectively limited through specific enumerations or positive limitations. The interpretation of all specific grants and

<sup>25</sup> Raoul Berger, "The Presidential Monopoly of Foreign Relations," *Michigan Law Review* 71 (November 1972):1-33.

restrictions will always be conditioned by the plain requirement that a government govern. Governments simply do what they do, to meet whatever exigencies may arise. (For that matter, Madison himself had expressed grave doubts at the Constitutional Convention whether an enumeration of the powers that the government was to have was realistically possible.) Hamilton thought that both the executive and the legislative powers would have to be interpreted to meet future exigencies. This interpretation would require reflection on the purposes implied in the specific powers mentioned by the Constitution and an assessment of the situation. In the specific instance discussed by *Pacificus*, the power to proclaim neutrality had to reside somewhere. Why not in the executive? Madison responded to Hamilton that the power to declare neutrality resided in the legislature by way of implication from its power to declare war. In either case then we must rely on implications. Are Madison's inferences more reliable than Hamilton's? The answer to that depends on whether the legislature or the executive is better equipped to respond to the situation at hand. When we raise that question, the whole issue turns in Hamilton's favor.<sup>26</sup>

But it is not only in the field of foreign policy where, Hamilton thought, the executive ought to supply the initiative of American government. In general, Hamilton tried to make the concession to the principle of legislative supremacy that would interfere as little as possible with the power of the executive to promote rational and energetically administered policy. Legislative supremacy was considered a formal requirement of legitimacy, executive direction was an actual requirement of rationality. These two principles could both be honored without contradiction if the actual role that Congress played in government was restricted to that of ratifying, or refusing to ratify, the general features of an administration's policy. Congress might exacerbate the latent tension between the two principles of good government if it tried to hold public officers responsible to a narrow and precise definition of jurisdiction or to a very specific definition of policy. Nor would Hamilton ever be able to argue that such assertions by Congress of its authority were unconstitu-

<sup>26</sup> Justice Sutherland support this general view of the presidency in the area of foreign policy in the famous case, *U.S. v. Curtiss Wright Corp. et. al.* 299 U.S. 304; and Professor Berger attacks the authority of that case. The issue in the Curtiss Wright case is not identical to the issue in *Pacificus*, but Sutherland's general observations about the presidency are relevant. The people are sovereign in the United States, but only in their collective capacity as a nation. The effective focus of that sovereign nation of people, when it focuses for the purpose of some definite action, is the executive.

tional;<sup>27</sup> he would argue only that they were ill advised. It was up to the president, through the exercise of executive leadership, to forestall such problems as best he could. The president, in short, was to use the strategic advantages of the office that the Constitution provided him.

Naturally, the adjustment of the principles of legislative supremacy and executive leadership required some art, for the issue is such that Hamilton could never be wholly free of the charge that he was trying to have his cake and eat it too. In fact Jefferson accused Hamilton of playing both sides of the ambiguity about legislative supremacy, ". . . he endeavored to place himself subject to the house when the executive should propose what he did not like, and subject to the Executive when the house should propose anything disagreeable."<sup>28</sup> Nevertheless, Hamilton cannot be accused of ever yielding the principle that the executive power is not to be construed as deriving from Congress' actions, but rather that it derives from the Constitution itself, and that it can set itself into motion. Moreover, inferior executive officers, albeit constituted by congressional action, may partake of such initiative in proposing measures for the general good, and in interpreting the practical meaning of Congress' resolves, as the president may choose to share with *his* subordinates. Thus, for example, if Congress had not created the post of secretary of the Treasury, the president could have assumed the initiative for the Federalists' financial program. It was this initiative, rather than Congress' authority, that Secretary Hamilton exercised when he issued his *Report on Manufactures*.

For the most part, Hamilton's idea that Cabinet and inferior officers that Congress created were *executive* officers, exercising an authority delegated by the president was generally accepted even by the Republicans. There was a public argument to the contrary but it deserves only a passing note. Representative Mercer of Maryland was an outspoken advocate of legislative supremacy in an actual as well as a formal sense, and he argued not only that the power, for instance, to initiate a finance program belonged to Congress exclusively, but moreover that Congress could not constitutionally delegate this power to any executive officer. Mercer held that ". . . the power of the House to

<sup>27</sup> The question whether Congress could bind inferior executive officers to its own particular will through specifically framed legislation, in direct opposition to the president's orders to such an officer was decided, in favor of Congress, in the important case *Kendall v. Stokes*, 12 Pet. 524, in 1838.

<sup>28</sup> Quoted by Caldwell, *The Administrative Theories*, p. 99.

originate plans of finance . . . (is) incommunicable.”<sup>29</sup> For Hamilton, Mercer’s argument could hardly be taken seriously. Such persons as Mercer failed to read the clear constitutional requirement for the separation and coordinancy of the legislative and the executive branches of government. Their reading of the Constitution was blinded by their devotion to the slogan of legislative supremacy rather than enlightened by a realistic interpretation of the requirements of rational and integral governmental policy.

The picture of American government that emerges from reflecting on Hamilton’s thoughts is that of a constitutional monarchy. Jefferson and the republicans knew whereof they spoke when they branded Hamilton a “monarchist” and a “monocrat,” even if Hamilton never himself referred to his own thought in those words following the respectful repudiation of the avowedly monarchical stance he had taken in the Philadelphia Convention. Hamilton’s expectation, ultimately to be disappointed, that Washington would be re-elected every four years and thus serve in effect for life would win the point for monarchy in fact, even if the word had to be suppressed from the defense of the Federalist program. Serving Washington would be a national bureaucracy that would as far as possible reflect the stamp of statesmanlike character that Washington brought to the presidency. The terms of appointment and removal from national office reveal how that character was to be promoted.

As for appointment, Leonard White reports that Washington employed a “rule of fitness” for making his selections to the bureaucracy. By the word “fitness” he meant not so much a technical competence for any specific office, but rather that kind of moral character whereby some men seem to assume an authority over others so natural that it cannot be politely contested. Just what are the exact elements of such a character is not easy to say, and neither Hamilton nor Washington ever presented an open analysis of what was meant by such expressions as “fitness of character” or “the first characters of the Union,” that they used to describe those worthy of national office. Nevertheless, the standard was real—as real as the impression that Washington’s own personal character made on his countrymen.<sup>30</sup> It would probably be easier to recognize such characters on the basis of personal experience and reputation

<sup>29</sup> Quoted by White, *The Federalists*, p. 71.

<sup>30</sup> Many have attested to Washington’s physical impressiveness and to his political importance. Forrest McDonald cites the authority of John Adams that Washington “had a bearing and demeanor that inspired instant and total confidence. Forrest McDonald, *The Presidency of George Washington*, p. x.

than to define their qualifications. In fact the most definite thing that Professor White is able to say on this matter is that there were some considerations that *excluded* a candidate from consideration. These considerations were family relationship, indolence, and drink.<sup>31</sup> To these rules it seems that Washington held very strictly, and by holding to them he was better able to avoid the charge of arbitrary partiality despite the ambiguousness of his positive standards. Washington and the Federalists frankly wished to erect a political nobility to staff their government. Their Republican opponents may have quarreled with the Federalists' aims and values, but they did not accuse Washington and Hamilton of using deliberately fuzzy standards to serve their own personal interests.

It would have been impossible for the executive to emerge as the central agency of American government, and for him to direct the bureaucracy were it not for the fact that the president came to exercise the exclusive power to remove federal officers in addition to his power to appoint "with advice and consent" of the Senate. The Constitution is silent about the removal power, and that silence marks the ambiguity of the issue of executive initiative versus legislative supremacy. Fortunately from Hamilton's point of view, the "decision of 1789" resolved the question in favor of the president's exclusive power to remove subordinate executive officers. The "decision of 1789" refers to the action taken by the First Congress when they established the Department of Foreign Affairs. The question came up in that context as to how the secretary was to be removed, and after considerable deliberation it was decided that the power to remove would be exclusively the president's. Thereafter, the Federalists could and did assume that Congress established the precedent that was consistent with their own interpretation of the spirit of the Constitution in this matter. It is true, as many legal scholars have noted, that in fact the decision of 1789 contains an ambiguity; for the majority that voted to lodge the power to remove the secretary in the president exclusively was comprised of at least two groups. One group were of the opinion that the power of removal was implicitly vested in the president by the terms of Article II of the Constitution, and that Congress might only recognize that fact in its law. Another group took the position that Congress must itself vest the power of removal in the president if he were to have it in this case; and by way of implication, what Congress give in one case it may deny in another, or even

<sup>31</sup> White, *The Federalists*, p. 262.

take back. In fact, it was not until 1926 in the case of *Myers v. United States* that the president's exclusive power to remove ordinary executive officers was confirmed by the Supreme Court as valid constitutional law.<sup>32</sup> In that case Chief Justice Taft based his decision on his own reading of the "decision of 1789" as well as general reflection of the nature of executive power under our Constitution. It would therefore be appropriate to pronounce that Hamilton's interpretation of the nature of the American executive, at least in connection with the critical issue of the power to remove bureaucratic officers, ultimately received judicial approval at the hands of the only Supreme Court justice ever to have himself served as president.

The exclusive power over executive removals was necessary in order to preserve the unitary character of administration. By the same token, that power would have to be used modestly. A continual rotation in office would make for two related evils: it would deprive the administration of the opportunity to develop the credentials of experience in handling public affairs, and it would also deprive the "first characters of the Union" of the motive that could be expected to lead them to public service. In this regard Hamilton's thoughts were reflected in President Washington's practices. Washington was loathe to remove any officer, and did so only in cases of manifest incompetence or when faced with a kind of insubordination that seemed calculated to subvert and embarrass his administration.<sup>33</sup> Moreover, the partisan rivalry that bred such insubordination greatly distressed both Washington and Hamilton. In their view, men of character would be expected to aspire to public office as they aspire to a high station in life and not to vindicate a party or to line one's own pockets. Public office therefore could not be considered a temporary affair any more than one's high station or fitness of character was temporary. "The ruling passion of the noblest minds" that animated such men was a desire to be first in the eyes of their fellow citizens *because* they are able to rise above personal advantage and partisan perspective and devote themselves to the general good. This passion, in Hamilton's view, would be for example absolutely opposed to that raw form of ambition that seeks to use public office and power to serve one's own interests. That was the vice exhibited by Burr, and Hamilton condemned and loathed him for it. Hamilton's was a nobler vision. He did not place his faith in altruism—his public servants were indeed driven by a selfish desire—but it was a

<sup>32</sup> *Myers v. U.S.* 272 U.S. 52. The source of this account of the decision of 1789 is E.S. Corwin, *The President, Office and Powers* (New York: New York University Press, 1957), p. 87.

<sup>33</sup> White, *The Federalists*, pp. 286-8.

desire for honor and Hamilton knew that honor is satisfying only for him who believes himself deserving of it. As we read Hamilton's own writing and things said about him it is tempting to conclude that Hamilton's confidence in the political reliability of the love of honor was rooted in his familiarity with the strength of that passion in his own heart. From this point of view it could be said by way of summarizing his political thought that the whole of it was an attempt to arrange political institutions so as to liberate that "ruling passion" as far as possible and to allow it to seek its own end.

### CONCLUSION

Alexander Hamilton's ideas about the role of the executive and the bureaucracy in the American system of government contributed importantly to the ability of the new national government to assume its broad authority. Today, in view of the shift of our politics in the direction of a more democratic form of republicanism, his thought may still remain more right than wrong, but important qualifications must be added. Contemporary political scientists generally concede, some reluctantly and some with enthusiasm, that Congress cannot govern and that only the president can. The democratic element of our tradition has not dismantled the monarchical element of the Constitution; it has even made uneasy peace with it based on the recognition of the president's advantages in pursuing progressive reforms. We remain perhaps closer to a constitutional monarchy than it is comfortable for a democracy to admit. Still, it would be wrong to say that Hamilton's constitutional philosophy has won a stealthy victory beneath appearances. In point of fact, our presidents may not serve more than two terms. Washington himself, much to Hamilton's dismay, established that critically important precedent long before the 22nd Amendment made it an explicit part of the Constitution. Moreover, the changes in American politics wrought by Jefferson and Jackson have rendered it all but impossible for an administration to govern the nation in the name of a fitness of character beyond all partisan interest.

What is the reason for the limited success of Hamilton's constitutional philosophy? Is it that Hamilton failed to gauge the strength of popular jealousy of executive government? Hamilton does seem to have thought that his government would be accepted if it could demonstrate its *competence* and its *convenience*. Did he, as one perceptive commentator argues,<sup>34</sup> fail to appreci-

<sup>34</sup> Stourzh, *Alexander Hamilton and Representative Government*, pp. 120-122.



ate those irrational collective emotions that sometimes cause men to act against their own advantage out of devotion to abstract ideas about popular rule? He was, of course, not unaware of such emotions. Towards the end of his short life Hamilton's thoughts were much preoccupied with the growth of egalitarian idolatry. He feared that the effects of the Revolution in France would have disastrous effects on the prospects for freedom and order even in America. But Hamilton never seems able to view the collective emotions that raged in France except with a mixture of contempt and horror. If he became more doubtful that a regime might persist if it proved its competence and convenience to the citizens' pursuit of their own self-interest, he did not imagine any other legitimate means by which a regime might win the support of its people.

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### **[Footnotes]**

<sup>25</sup> **The Presidential Monopoly of Foreign Relations**

Raoul Berger

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