

employs as little of movement, of forces, of wheels as is possible. The state subsists independently of love of the fatherland, of desire for true glory, of self-renunciation, of sacrifice of one's dearest interests, and of all those heroic virtues which we find in the ancients and know only from hearing them spoken of.⁴⁵

If, in his estimation, virtue was unnecessary, it was because in a monarchy honor took "the place" it had occupied in the martial republics of classical antiquity. The honor that Montesquieu had in mind was artificial: it was, he said, a "false honor," which demanded artificial "preferences and distinctions" and was grounded in "the prejudice of each person and condition." The consequence of this all-pervasive "prejudice" was paradoxical but undeniable. "In well-regulated monarchies," Montesquieu contended, "everyone will be something like a good citizen while one will rarely find someone who is a good man." He compared monarchy to Newton's

system of the universe, where there is a force which ceaselessly repels all bodies from the center and a force of gravity which draws them to it. Honor makes all the parts of the body politic move, it binds them by its own actions, and it happens that each pursues the common good while believing that he is pursuing his own particular interests.⁴⁶

In short, monarchies were ruled by something akin to Adam Smith's "invisible hand."

This particular discussion had a profound impact on the framers of the American constitution, and they put Montesquieu's observation to a use that challenged his attempts to belittle the character of the honor involved. In discussing the separation of powers in *The Federalist*, Madison observed that the elected official's "pride and vanity" would "attach him to a form of government which favors his pretensions, and gives him a share in its honors and distinctions" (*Fed.* 57, 386). Because he and his colleagues represented "the dignity of their country in the eyes of other nations," they would "be

particularly sensible to every prospect of public danger, or of a dishonorable stagnation in public affairs" (*Fed.* 58, 395). The congressmen, the senators, the president, and the federal judges would not always be men of virtue, but the exalted character of their separate and distinct stations would have on them the effect which Montesquieu had attributed to the articulation of a monarchy into its various, graded orders and ranks: it would inspire in them a passion for what the French *philosophe* resolutely refused to dignify as more than "false honor," and this artificially induced longing would tend to summon forth from these officials something in its effects indistinguishable from public-spiritedness. In most cases, their sense of their own stature would be a spur adequate to insure the proper performance of their duties, and it would nearly always be a sufficient deterrent to the sacrifice of their rightful prerogatives to the ambitions and material interests of their rivals. Within each branch of government a collegial spirit would develop: each branch could be trusted to exercise a jealous oversight with regard to the others.⁴⁷

FACTION

WEEK 2

There was one additional problem that troubled the authors of *The Federalist*. Montesquieu had argued that, in extended republics, the common good was often neglected, and men tended to pursue their particular interests. He had also observed that political liberty "is not present except where there is no abuse of power, and it is an eternal experience that every man who has power is drawn to abuse it; he proceeds until he finds the limits."⁴⁸ The consequences Hamilton and Madison had themselves observed in the states, for it was this propensity that accounted for the multiplicity, mutability, injustice, and impotence of the laws adopted therein. It was in reflecting on the challenge this posed to "the fundamental principle of republican Government, that the majority who rule in such Governments, are the safest Guardians both of public Good and of private rights," that they turned to yet another eighteenth-century political analyst rarely studied today: This man's name was David Hume.

Today, Hume is best known for *A Treatise of Human Nature*, which he completed in 1738, when he reached the ripe old age of twenty-eight. To his great dismay, however, that philosophical tome failed to find a large and sympathetic audience. In his own lifetime, he achieved much greater renown for the essays he began publishing at haphazard intervals six years later and for his *History of England*, which appeared in six volumes, one by one, in the years stretching from 1754 to 1762. No one doubted his literary achievement or his penetration, but, from the outset, the skeptical posture Hume assumed was controversial. The devout were put off by his critique of miracles and his evident disdain for religious faith. Englishmen partial to partisan Whig historiography disliked his debunking of their conviction that the Revolution Settlement of 1689 was little more than a reaffirmation of England's ancient constitution.

In North America, where the same misgivings were sometimes voiced, Hume was nonetheless widely read and appreciated in and after the 1760s, and the sympathy he evinced in 1775 for the American cause won him respect.⁴⁹ The authors of *The Federalist* were among those intimately familiar with his political and historical works. Although John Witherspoon considered Hume "an infidel" and disliked his moral philosophy, he urged his students at Princeton to read the essays of his fellow Scot, and we can be confident that James Madison, who stayed on for some months after his graduation to study further with Witherspoon, did so.⁵⁰ Alexander Hamilton was, from the outset, a pronounced admirer of Hume. In a pamphlet he published in support of the Patriot cause in 1775, when he was eighteen or twenty years in age, he first singled out the Scot as "a celebrated author." Then he quoted at length the first two paragraphs of the essay "Of the Independency of Parliament," in which Hume unpacked a famous claim first advanced by Machiavelli, writing,

Political writers . . . have established it as a maxim, that, in contriving any system of government and fixing the several checks and controuls of the constitution, *every man* ought to be supposed a

knave, and to have no other end in all his actions, but *private interest*. By this interest, we must govern him, and by means of it, *make him co-operate* to public good, notwithstanding his insatiable avarice and ambition. Without this, we shall in vain boast of the advantages of *any constitution*, and shall find in the end, that we have no security for our liberties and possessions, except the *good will* of our rulers; that is, we should have *no security at all*.

It is therefore a just *political* maxim, that *every man must be supposed a knave*. Though, at the same time, it appears somewhat strange, that a maxim should be true in politics, which is false in fact. But to satisfy us on this head, we may consider that men are generally more honest in a private than in a public capacity; and will go greater lengths to serve a party, than when their own private interest is alone concerned. Honour is a great check upon mankind. But, where a considerable body of men act together, this check is in a great measure removed; since a man is sure to be approved by his own party, for what promotes the common interest, and he soon learns to despise the clamours of adversaries. To this we may add that every court, or senate, is determined by the greater number of voices; so that if self-interest influences only the majority, (as it will always do) the whole senate follows the allurements of this separate interest and acts as if it contained not one member, who had any regard to public interest and liberty.⁵¹

Twelve years later, when James Madison began drafting "Vices of the Political System of the United States" and the time came for him to ponder the propensity of the states for the adoption of unjust laws, he turned for enlightenment to this same passage from Hume and drew as well on the analysis of interest, principle, and affection as sources of faction articulated in the Scot's essay "Of Parties in General."⁵²

"All civilized societies are divided into different interests and factions," Madison observed, echoing Hume,

as they happen to be creditors or debtors – Rich or poor – husbandmen, merchants or manufacturers – members of different

religious sects – followers of different political leaders – inhabitants of different districts – owners of different kinds of property &c., &c. In republican Government the majority however composed, ultimately give the law. Whenever therefore an apparent interest or common passion unites a majority what is to restrain them from unjust violations of the right and interest of the minority, or of individuals?

He did not think that “a prudent regard to their own good as involved in the general and permanent good of the Community” would suffice as a restraint. Peoples and even individuals tended to forget that “honesty is the best policy.” Nor did Madison think “respect for character” sufficient, and it was here that he most clearly echoed Hume. “In a multitude,” he observed, the “efficacy” of character “is diminished in proportion to the number which is to share the praise or the blame. Besides, as it has reference to public opinion, which within a particular Society, is the opinion of the majority, the standard is fixed by those whose conduct is to be measured by it.” For similar reasons, Madison doubted the effectiveness of religion as a check: “The conduct of every popular assembly acting on oath, the strongest of religious ties, proves that individuals join without remorse in acts, against which their consciences would revolt if proposed to them under the like sanction, separately in their closets.” Moreover, he suspected that, even “in its coolest state,” religion “may become a motive to oppression as well as a restraint from injustice.”⁵³

If it was Hume who had most effectively identified and analyzed the challenge posed by faction within free states, in Madison’s opinion, it was he who had also done the most to outline how the challenge might be met. Montesquieu had suggested that, in England, liberty was well served by the spirit of jealousy generated within the larger public by the tension between the legislative and the executive power. Hume agreed. In an essay inspired by James Harrington’s tract *Oceana*, entitled “Idea of a Perfect Commonwealth,” he acknowledged that “the chief support of the BRITISH government is the

opposition of interests.” Then he added that “though in the main serviceable,” this opposition “breeds endless factions”; and he suggested an elaborate constitutional “plan” by means of which the conflict might do “all the good without any of the harm.” In the process, he conceded that it would be “more difficult to form a republican government in an extensive country than in a city.” Then he suggested a conclusion contrary to the position taken by Montesquieu, arguing that “there is more facility, once” such a republic “is formed, of preserving it steady and uniform, without tumult and faction.” As he explained,

In a large government, which is modelled with masterly skill, there is compass and room enough to refine the democracy, from the lower people, who may be admitted into the first elections or first concoction of the commonwealth, to the higher magistrates, who direct all the movements. At the same time, the parts are so distant and remote, that it is very difficult, either by intrigue, prejudice, or passion, to hurry them into any measures against the public interest.⁵⁴

In the memorandum he composed for his own use in 1787 in anticipation of the Federal Convention, Madison seized on both parts of Hume’s argument. In one passage, he wrote,

An auxiliary desideratum for the melioration of the Republican form is such a process of elections as will most certainly extract from the mass of the Society the purest and noblest characters which it contains; such as will at once feel most strongly the proper motives to pursue the end of their appointment, and be most capable to devise the proper means of attaining it.

In another, he argued that “an enlargement of the sphere” might actually “lessen the insecurity of private rights,” explaining that this would not occur “because the impulse of a common interest or passion is less predominant in this case with the majority, but because a common interest or passion is less apt to be felt and the requisite

combinations less easy to be formed by a great than by a small number." Then, to the claim, echoing Hume, that "those who may feel a common sentiment have less opportunity of communication and concert," Madison added an observation of profound importance not found in the Scot's text, writing, "The Society becomes broken into a greater variety of interests, of pursuits, of passions, which check each other." It was on the basis of these three assertions – which he later restated at greater length on the floor of the Federal Convention, in a letter to Thomas Jefferson, and in the tenth *Federalist* – that the Virginian concluded that "the inconveniences of popular States contrary to the prevailing Theory, are in proportion not to the extent, but to the narrowness of their limits."⁵⁵

The last, most original, and perhaps most important of these three observations seems to have derived from Madison's experience in Virginia, where he shepherded Thomas Jefferson's Statute of Religious Freedom through the legislature.⁵⁶ David Hume favored religious toleration but vigorously opposed disestablishment. He thought it "vain to think that any free government will ever have security or stability" in the absence of a "dependence of the clergy on the civil magistrates." In his *History of England*, he argued that the "interested diligence of the clergy is what every wise legislator will study to prevent," that zeal gives rise to "superstition, folly, and delusion," and that "each ghostly practitioner, in order to render himself more precious and sacred in the eyes of his retainers, will inspire them with the most violent abhorrence of all other sects" – and there he concluded that "the most decent and advantageous composition" that the authorities could make "with the spiritual guides is to bribe their indolence, by assigning stated salaries to their profession."⁵⁷

In *The Wealth of Nations*, which was published in 1776 and widely read in North America in the years that followed,⁵⁸ Hume's close friend Adam Smith took a difference stance. In his *Letter Concerning Toleration*, John Locke had made the wry observation that, where religious sects "have not the power to carry on persecution and to become masters, there they desire to live upon fair terms, and

preach up toleration." Smith built on this observation. First, he quoted at length Hume's discussion of the theologico-political problem. He readily acknowledged that "the interested and active zeal of religious teachers can be dangerous and troublesome," but he contended that this condition would obtain "only where there is, either but one sect tolerated in the society, or where the whole of a large society is divided into two or three great sects."

That zeal must be altogether innocent where the society is divided into two or three hundred, or perhaps into as many [as a] thousand sects, of which no one could be considerable enough to disturb the publick tranquillity. The teachers of each sect, seeing themselves surrounded on all sides with more adversaries than friends, would be obliged to learn that candour and moderation which is so seldom to be found among the teachers of those great sects, whose tenets being supported by the civil magistrate, are held in veneration by almost all the inhabitants of extensive kingdoms and empires, and who therefore see nothing round them but followers, disciples, and humble admirers.

To support his argument, Smith pointed to Pennsylvania, where the establishment of full religious freedom had been "productive of this philosophical good temper and moderation."⁵⁹

James Madison had read both Locke and Smith. He had observed in Pennsylvania and Virginia the ethos of religious moderation they had described; and in pondering the advantages attendant on geographical extension, he had applied their analysis of the consequences of diversity for religious factions to factions based on interest as well.⁶⁰ In a letter sent to Thomas Jefferson in late October 1787, which restated the argument outlined in his "Vices of the Political System of the United States," Madison wrote, "The same security seems requisite for the civil as for the religious rights of individuals. If the same sect form a majority and have the power, other sects will be sure to be depressed. Divide et impera, the reprobated axiom of tyranny, is under certain qualifications, the only policy, by which a republic can be administered

on just principles."⁶¹ In *The Federalist* he laid out this argument in even clearer terms:

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. In a free government, the security for civil rights must be the same as 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.

(*Fed.* 51, 351-52)

Madison's solution was not so much an extension of the territory encompassed by the republic as a multiplication of the factions composing it. If, as he hoped, the new federal government could be made a dispassionate and impartial umpire, it was, paradoxically, in part because of the great number and variety of petty parties and factions clamoring for its favor and maneuvering to gain political leverage.⁶²

THE AFTERMATH

His contributions to *The Federalist* were not James Madison's last words on the extended republic. In the early 1790s he revisited Montesquieu's argument concerning republics and the extent of territory suitable to them; and, at a time when the nation's territory was much smaller than it is now, and its population was roughly one hundredth of what it is today, he began to worry that the extent of territory encompassed by the United States and the size of its population might be too great. This he did in response to the legislative program proposed by George Washington's secretary of the Treasury, Alexander Hamilton, which he interpreted as a scheme, likely to eventuate in despotism, aimed at subverting federalism and effecting "a consolidation of the States into one government."

In analyzing the likely consequences of such a consolidation, Madison argued that the "incompetency of one Legislature to regulate all the various objects belonging to the local governments, would evidently force a transfer of many of" those objects "to the executive department." Then, he contended that, if the state and local governments were made subject to the federal government, the sheer size of the country "would prevent that control" on the federal Congress, "which is essential to a faithful discharge of its trust, [since] neither the voice nor the sense of ten or twenty millions of people, spread through so many latitudes as are comprehended within the United States, could ever be combined or called into effect, if deprived of those local organs, through which both can now be conveyed." In such circumstances, Madison warned, "the impossibility of acting together, might be succeeded by the inefficacy of partial expressions of the public mind, and this at length, by a universal silence and insensibility, leaving the whole government to that *self-directed course*, which, it must be owned, is the natural propensity of every government."⁶³

In time, Madison would drop this argument. In time, he would himself come to favor many of the particulars contained within Hamilton's program, and he does not then appear to have supposed that a general consolidation would result. But the argument that he presented in the early 1790s gained purchase in the course of the last century as just such a consolidation took place and as the legislative power was delegated to an ever-greater degree to regulatory agencies under the direction of the executive, and there are those today who fear that, in consequence, the American government is step by step being abandoned to "that *self-directed course*, which, it must be owned, is the natural propensity of every government."⁶⁴

NOTES

- 1 James Madison, "Vices of the Political System of the United States," in *PJM*, IX, 345-58, with Niccolò Machiavelli, *Discorsi sopra la prima deca*