

Publishing the *Federalist Papers*: From Text to Ur-Text

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The *Federalist Papers* have been reprinted in scores of editions and in numerous languages over the more than two centuries since they first appeared as newspaper screeds in support of the plan of the Convention of 1787. What accounts for the *Federalist Papers* publishing popularity is the compelling manner in which they explained and defended the proposed Constitution. For that reason, the *Federalist Papers* have come to assume an important place among the nation's fundamental documents; they are routinely ranked third in order of significance behind the Declaration of Independence and the Constitution. This ranking is as much a result of the *Federalist Papers* publication history as it is of their analysis of the Constitution, a publication history that helped to elevate the *Federalist Papers* from a text supporting ratification of the Constitution to an Ur-text for interpreting it.¹

That the *Federalist Papers* have come to be ranked third among the nation's fundamental documents is somewhat ironic. Although they made a compelling case for ratification, their impact on that debate was ultimately less than is commonly assumed. It was in fact the Anti-Federalist opposition that had the most substantive impact on the ratification debate. Yet, for most of the nation's history the Anti-Federalist side of that debate was largely ignored. Indeed, it has only been since Cecelia Kenyon published her seminal article "Men of Little Faith: The Anti-Federalist on the Nature of Representation," and her edition of a collection of Anti-Federalists writings that the Anti-Federalists' side of the debate has been given sustained attention.²

The Anti-Federalists were ignored because they ended up on the losing side of the ratification debate, a result their fear that the federal structure adumbrated in the Constitution posed an unacceptable risk to the people's liberties.³ The authors of the *Federalist Papers* embraced the political federation detailed in the plan of the convention and offered a lucid, comprehensive explication of it and sought to convince readers that as enshrined in the Constitution it accorded with the "genius of the American people."⁴ Thus, when the Constitution went into effect and was perceived as operating on the federal premise detailed in the *Federalist*, the political federalism ascribed to the Constitution quickly became the touchstone of the nation's revolutionary legacy that has imposed a specific coherence on our constitutional thought.

Because the *Federalist Papers* argued so compellingly that federalism accorded with the genius of the American people, the essays instantly struck a responsive cord among the plan's supporters. Seeking perhaps to turn interest in the *Federalist* to their financial advantage, printers John and Archibald McLean, in whose newspaper, *The Independent Journal*, the essays were appearing, announced on January 2, 1788 they

intended to publish a collection of the essays.⁵ Noting that of the writings “on the subject of the *Federal* Government, none have attracted the public attention more than that intitled the FEDERALIST,” and observing the “*avidity* with which this writer’s pieces have been sought after by politicians and *persons* of every description, and the particular attention the different printers throughout the United States have shewn them by regular insertion in their papers,” John McLean informed his readers that he was accepting subscriptions for a work “In the Press and speedily will be published” under the title “The FEDERALIST, A Collection of Essays, Written in Favour of the New Constitution, By a Citizen of New York.”⁶ As McLean’s advertisement stated: “[t]he several matters which are contained in these Papers, are immediately interwoven with the very existence of this new Empire, and ought to be well understood by every Citizen of America.” “The Editor,” he continued, “entertains no doubts that they will be thought by the judicious reader, the cheapest as well as most valuable publication ever offered to the American Public”⁷

Judicious readers did indeed perceive the *Federalist* as a valuable publication. As early as February 5, 1788, George Washington in a postscript to a letter to Henry Knox inquired about the author “or authors of Publius?”⁸ That same day Washington wrote to Madison, unaware that Madison was one of its authors: “Perceiving that the *Fœderalist*, under the signature of Publius, is about to be republished, I would thank you for forwarding to me three or four Copies; one of which to be neatly bound, and inform me of the cost.”⁹ Favorably impressed by Publius’ argument Washington wrote John Armstrong on April 25, 1788, conceding that opposition to the Constitution was “productive of more good than evil” because, he stated, it has called forth defenses of the Constitution that have “Thrown new lights upon the science of Government,” “particularly the pieces under the signature of Publius.”¹⁰ In August, Washington, now aware who the authors were, expressed to Alexander Hamilton his admiration for the *Federalist*. “As the perusal of the political papers under the signature of Publius has afforded me great satisfaction,” Washington wrote Hamilton, “I shall certainly consider them as claiming a most distinguished place in my library.” “When the transient circumstances & fugitive performances which attend this crisis shall have disappeared,” Washington prophesized, “that work will merit the notice of Posterity; because in it are candidly discussed the principles of freedom & the topics of government, which will be always interesting to mankind so long as they shall be connected in Civil society.”¹¹

Although not as fulsome in his praise as Washington, Thomas Jefferson was also impressed with the *Federalist* argument. As soon as McLean’s volumes appeared Edward Carrington had rushed copies to Jefferson, who was then in France.¹² Responding in November 1788 to a letter Madison had written to him the previous August informing him of how the essays had come to be written and who were the authors, Jefferson remarked with critical discernment: “With respect to the *Federalist*, the three authors had been named to me. I read it with care, pleasure and improvement, and was satisfied there was nothing in it by one of those hands, and not a great deal by the second. It does the highest honor to the third as being, in my opinion, the best commentary on the principles of government which ever was written. In some parts it is

discoverable that the author means only to say what may be best said in defence of opinions in which he did not concur. But in general it established firmly the plan of government.”¹³ And in 1790, when he came to give his son-in-law, Thomas Mann Randolph, advice about books to read in his study of the law, Jefferson counseled: “Locke’s little book on government is perfect as far as its goes. Descending from theory to practice there is no better book than the *Federalist*.”¹⁴

With his publication of an edition of the *Federalist* McLean established an enduring tradition. Numerous editors have followed his example and published editions, notwithstanding the denseness of the text. (In a just world McLean would be accorded more than a passing footnote in our constitutional history. But, alas, we do not live in a just world.) In 1792, scarcely four years after McLean published his collection, the *Federalist* was translated and published in France, and was reprinted in that country several times over the course of that decade.¹⁵ The next American edition appeared in New York in 1799.¹⁶ And over the course of the nineteenth century some thirty-two editions or reprints of the *Federalist* issued from the nation’s presses.¹⁷

Publication of the *Federalist* during the first half of the nineteenth century was out of deference to the genius of the founders and the federal system they had constructed. Of the editions of the *Federalist* published before the 1860s, the Williams’ & Whiting’s 1810 and the Jacob Gideon’s 1818 editions have generally been accorded special attention because they incorporated emendations approved by Hamilton and Madison respectively, to reflected in as perfect a form as possible their argument and because they were the first editions to assign authors to the essays.¹⁸ Incorporating those emendations, the editor of the 1826 Hallowell, Maine edition, claimed in his preface that his “edition of the *Federalist* contains all the numbers of that work as revised by their authors, and it is the only one to which the remark will apply.” “Former editions,” the editor noted, “had the advantage of a revisal from Mr. Hamilton and Mr. Jay, but the numbers written by Mr. Madison still remained in the state in which they originally issued from the press.” “The publisher of this volume has been so fortunate as to procure from Mr. Madison the copy of the work ... with corrections of the papers, of which he is the author, in his own hand.” “The publication of the *Federalist*,” the editor enthused, “may be considered, in this instance, as perfect,” and thus it was “confidently presented to the public as a standard edition.”¹⁹

The editor of the Hallowell, Maine edition of the *Federalist*, which was the standard text until the 1860s, like those before him, was less interested in the *Federalist* as a substantive text than as a testament to the “sagacity, wisdom and patriotism” of its authors.²⁰ Before the 1860s editors never engaged in textural analysis of the essays. Nor, for that matter, did nineteenth century historians.²¹ Over the course of the century, only two authors made substantive use of the *Federalist*. Referencing the works he relied on in writing his *Commentaries of the Constitution of the United States*, Joseph Story, Dane Professor of Law at Harvard University and Associate Justice of the Supreme Court, gave prominence to “two great sources:” “The *Federalist*, an incomparable commentary of the greatest statesmen of their age, and the extraordinary Judgments of Mr. Chief Justice Marshall upon the constitutional law.”²² In a footnote in

Democracy in America Alexis De Tocqueville forthrightly stated “I shall often have occasion to quote from The Federalist in this work,” which De Tocqueville considered “an excellent book, which ought to be familiar to the statesmen of all countries, though it specially concerns America.”²³

What most concerned nineteenth century editors was attribution of authorship of eighteen essays claimed by both Hamilton and Madison. In a hastily scribbled note left in a book in an attorney’s office shortly before his fatal encounter with Aaron Burr on the field of honor, Hamilton attributed authorship of five essays to Jay, fourteen to Madison, three to himself and Madison jointly, and all the rest, sixty-three in number, to himself.²⁴ On the basis of this note names were assigned to the essays for the first time in the Williams & Whiting 1810 edition of the *Federalist*. When a biographical sketch of Alexander Hamilton appeared in 1816 in Joseph Delaplaine’s *Repository of the Lives and Portraits of Distinguished Americans* asserting Hamilton’s contributions based on Hamilton’s note controversy ensued.²⁵ Thus, in 1818 Madison sanctioned publication of the Jacob Gideon’s edition of the *Federalist* in which Madison assigned to himself authorship of all the disputed essays, an attribution that was reflected in all subsequent editions published prior to the 1860s.

Being concerned with the question of authorship editors did not begin treating the *Federalist* as an historical document until the 1860s. The first editor to so treat it was Henry B. Dawson, who, in his 1863 edition of the *Federalist* also viewed it from the perspective of national sovereignty by emphasizing Alexander Hamilton’s staunch support of federal dominion, giving a national cast to the notion of federalism. Hamilton, Dawson maintained, instigated the *Federalist* as a response to the “States’-Right, or anti-constitutional party” of anti-Federalist “in their well-digested opposition to ‘the new system.’”²⁶ In undertaking the *Federalist*, Hamilton, according to Dawson, sought to counter “the charge which had been brought against the friends of the proposed Constitution, of a latent desire to dissolve the Union and to consolidate the thirteen Peoples of which it was constituted into one Nation, under a single Government, by a bold and unequivocal defense of that union, *per se*, and by a countercharge on his opponents, of the existence *among them* of a secret purpose to dissolve that union.”²⁷ To appreciate fully that fact the *Federalist* needed to be viewed historically, as they had appeared in McLean’s two volumes. Thus, Dawson’s edition, as he stated in his introduction, differed “in its text from all others except the *originals*.”²⁸ Treating the *Federalist* as an historical text also required addressing the controversy regarding authorship of the disputed essays, a matter to which Dawson devoted a great of attention in his introduction.²⁹

In 1864, John Church Hamilton, Alexander Hamilton’s son, issued his long anticipated edition of the *Federalist*.³⁰ John Church Hamilton saw his primary task not only as that of vindicating the ideal of union but also of asserting his father’s authorship of the disputed essays, which he attempted to do in an introduction of over a hundred pages of many questionable assertions.³¹ Over the next two decade Dawson’s and John C. Hamilton’s editions of the *Federalist* were reprinted, generally shorn of their lengthy introductions.

The next significant edition of the essays was the centennial edition edited by Henry Cabot Lodge. Befitting Harvard's first Ph.D. in political science, Lodge evinced a scholarly as well as an historical approach to his publication of the *Federalist*.³² Following Dawson, Lodge privileged McLean's 1788 text, noting that "The essays of the 'Federalist' were written at a special time for a special purpose." "They formed an elaborate argument," Lodge stressed, "intended to convince the people of the country of the value and usefulness of the proposed Constitution, and it is, therefore, historically essential that we should have them in the precise form in which they did their work." "The 'Federalist' furthermore," Lodge continued, "was the first exposition of the Constitution and the first step in the long process of development which has given life, meaning, and importance to the clauses agreed upon at Philadelphia. It has acquired all the weight and sanction of a judicial decision, and has been constantly used as an authority in the settlement of constitutional questions. The essays of Publius are undoubtedly a great work upon the general subject of political federation, and if they were nothing else, textual changes and improvements would be at least defensible, if not wholly desirable. But changes cease to be permissible when the writings in question are not only essays on the general subject of political federation and government under a written constitution, but are also arguments intended to serve a specific purpose at a particular time, which have assumed the weight and sanctity of judicial interpretation."³³

Lodge also transformed the controversy over authorship of the disputed essays into a scholarly debate. Based on his analysis of the evidence, Lodge concluded that he could "come to no confident conclusion" regarding their authorship.³⁴ Therefore, in his edition of the *Federalist*, Lodge hedged his bet and assigned authorship of the disputed essays to Hamilton or Madison.³⁵ In response to Lodge's assignment of authorship of the disputed essays to "Hamilton or Madison," Edward Gaylord Bourne published an article in volume two of the *American Historical Review* (1896-1897), in which he argued from textual analysis that Madison could, either decisively or convincingly or confirmatory, be shown to have authored all of the disputed essays. In response to Bourne's claim, Paul Leicester Ford in an article in a later number of the same volume countered that some of the disputed essays were written by Madison and the others were written by Hamilton. Previous assignments had attributed all of the disputed essays to one or the other, and in the unique case of Lodge to Hamilton or Madison.³⁶ In this confused state over authorship, publication of the *Federalist* entered the twentieth century, where because of the uses to which the essays were put the question of authorship increasingly mattered.

By the turn of the twentieth century the excesses of corporate capitalism compelled a new assessment of the *Federalist*, foreshadowed in the scholarship of J. Allen Smith but given definitive formulation by Charles A. Beard in his classic *An Economic Interpretation of the Constitution of the United States*. After Beard, assessments of the *Federalist* shifted from viewing it as a manifestation of the wisdom of the Founders to regarding it as an expression of the anti-democratic values that supposedly lay behind the drafting of the Constitution. Through his analysis of the *Federalist*, Beard revealed what he regarded as the economic bias of the drafters'

plan.³⁷ “The true inwardness of the Constitution,” Beard informed his readers, “is not revealed by an examination of its provisions as simple propositions of law.” Rather, the true meaning of the Constitution was to be derived from the contemporaneous writings of the period, Beard asserted, “particularly, *The Federalist*.”³⁸ Beard used the *Federalist* to prove to his satisfaction that economic concerns were the motivating factor behind the drafting of the Constitution.

Beard not only offered a new perspective from which to consider the *Federalist*; he also pioneered a new approach to analyzing the essays that was a departure from what had been the case in the nineteenth century. With the exceptions of John Quincy Adams and William C. Rives, Beard was the first scholars to focus attention on specific essays, most famously on essay number 10, establishing an approach to the study of the *Federalist* that became typical in the twentieth century.³⁹ Following Beard other scholars began singling out particular essays for detailed analysis resulting in the publication of numerous scholarly articles and books on as well as abridgement of the *Federalist*.⁴⁰

But complete editions based of the McLean 1788 text continued to be published. The Modern Library in 1937 issued a sesquicentennial edition of the *Federalist Papers*, edited by Edward Mead Earle, professor of history at Princeton University.⁴¹ In his edition, Earle followed Lodge in attributing to “Hamilton or Madison authorship of the disputed papers.”⁴² But it was the crisis of the 1930s that most influenced Earle’s view of the essays. In his introduction Earle referenced “the critical period of American history” during which the Constitution was drafted to echo his sensitivity to that critical decade of the 1930s.⁴³ Within that context Earle regarded the *Federalist* as a yardstick by which the operations of the government should be measured. The *Federalist*, Earle asserted, “was and still is a masterly analysis and interpretation of the Constitution and of the fundamental principles upon which the government of the United States was established.”⁴⁴ Embracing Beard’s analysis of *Federalist* number ten, Earle asserted that the Constitution was concerned as much with property rights as with political liberty. “This whole paper,” Earle stressed, deserved “the thoughtful attention of every student of American government;” “it was the studied conclusion of Madison and the other authors of *The Federalist* that the reconciliation of conflicting economic interest could be effected by a republican government founded upon the representative principle.”⁴⁵ By representative principle Madison did not mean a simple democracy, according to Earle. “[D]emocracy in 1787” Earle noted, “was regarded as a radical creed where it was entertained at all.”⁴⁶ Earle saw judicial review as a counter to democracy. Nowhere had judicial review been “better expounded than in No 78 of *The Federalist*, which,” Earle argued, “should be read with care by every student of American politics.”⁴⁷ In focusing attention on *Federalist* number 78 Earle was perhaps reacting to the court-packing scheme that that man in the White House, as his detracted referred to him, attempted in 1937.

The literary scholar Carl Van Doren published the next edition of the *Federalist* in 1945. Between Earle’s sesquicentennial and Van Doren’s 1945 editions, a new analysis of the authorship of the disputed essays was published. In 1944 Douglass Adair, after

careful examination, published an article in the *William and Mary Quarterly* which allotted all of the disputed essays to Madison. Hence, in his introduction Van Doren could state that his was the first edition since the issue of authorship was examined by Henry Cabot Lodge to attribute all of the disputed essays to Madison.⁴⁸ However, Van Doren's reason for issuing a new edition of the *Federalist* was not primary for the purpose of attributing authorship. Rather, it was to draw attention to "the remarkable parallel between its arguments in favor of the United States and the arguments lately brought forward in favor of the United Nations." "We live today in an age as much concerned with the international future as the age which produced *The Federalist* was concerned with the national future," Van Doren wrote.⁴⁹

A similar concern spurred Charles A. Beard in 1948 to issue an abridged edition of the essays under the title, *The Enduring Federalist*. In his introduction Beard attempted to answer the question "Why Study *The Federalist* Now?"⁵⁰ Beard was perplexed by the paradox that "the essential feature of American Union"—federalism—was being exalted as a means of establishing lasting world peace but at the same time it was being criticized and imperiled in the United States.⁵¹ Federalism, Beard noted, "is now offered as the best pledge that mankind, tormented by wars for countless generations, may at last establish tranquility throughout the earth."⁵² But at home federalism was being criticized because "it is alleged that the federal system violates the first principles of democracy"—it "stands challenged at the bar of history."⁵³ On the issue of federalism, Beard sought to convince the reader, that the *Federalist*, although written in a "'horse-and-buggy age' of agriculture and handicrafts," was profoundly instructive.⁵⁴

After 1948 no new editions of the *Federalist* were published for over a decade. During the interregnum of the 1950s scholars busied themselves anthologizing and analyzing specific numbers of the essays, from which emerged a new respect for the *Federalist*. Of the interpretative articles on the *Federalist* published during that decade, three are of particular note. One was by Alpheus T. Mason who diagnosed the *Federalist* as having a split personality. The other two were by Douglass Adair: one challenging Beard's analysis of *Federalist* number ten and the other asserting the theoretical basis of that essay at a time when in the ideological struggle between the "free" and communist world Americans was supposed to be non-theoretical.⁵⁵ Adair sought to draw a distinction in Madison's political analysis in essay number ten between the "'good' non-philosophical American Revolution" and the "fuzzy-minded and dangerous social theorist" that associated philosophers "with the guillotine, atheism, the reign of terror."⁵⁶ Such analysis of the essays in the nineteen-fifties helped to transform the *Federalist* into a consensual political symbol with almost universal appeal.⁵⁷

That consensus was reflected in nineteen sixty-one in the publication of four new editions of the *Federalist*. Benjamin Fletcher Wright, Jacob E. Cooke, and Clinton Rossiter, each published complete editions of the *Federalist* and Roy P. Fairfield of Ohio University published an abridgement. Reflecting the consensus and conflict synthesis of the time, which sought to distinguish America from the communist world, Wright described "*The Federalist* as a work of men who accepted such ideas as liberty, republicanism, representative democracy, and government based on the people, not as

the effort of men who were attempting to abolish democracy in favor of a government that would protect upper-class economic interest,” as Beard had contended.⁵⁸ Jacob Cooke’s edition of the essays provided what for most historians at least has become the definitive version of the *Federalist*. As Robert Brown noted in a review of Cooke’s edition, Cooke provided “An accurate annotated edition of the essays based on original publication in the newspapers with notes indicating alterations that were made in the collected papers, published shortly after they originally appeared in newspapers.”⁵⁹ The third complete version of the essays was a paper back edition directed at the popular reader edited by Clinton Rossiter, a scholar of American conservatism. Asserting that “*The Federalist* is the most important work in political science that has ever been written, or is likely ever to be written, in the United States,” Rossiter averred that the essays have evolved from being merely “a clever defense of a particular charter” into “an exposition of certain timeless truths about constitutional government.”⁶⁰ The message of the *Federalist*, according to Rossiter, reads: “no happiness without liberty, no liberty without self-government, no self-government without constitutionalism, no constitutionalism without morality—and,” reflecting his conservative bent, “none of these great goods without stability and order.”⁶¹ What these editions seemed to have heralded was not only a greater familiarity with the *Federalist* but also an increase acceptance of political federation as fundamental to an understanding of our constitutional jurisprudence.

Since the 1960s, publication of the *Federalist* has become a veritable scholarly industry. Concomitantly, there has been a striking increase in reliance on the *Federalist* in our constitutional jurisprudence. That the *Federalist* would be cited in our constitutional jurisprudence is not surprising. Since the early days of the republic the *Federalist* has been regarded as a unique source on the Constitution. It was referenced by the Supreme Court in expounding the Constitution as early as 1798, in its opinion in *Calder v. Bull*.⁶² During the nineteenth century it was cited in numerous high profile cases.⁶³ The *Federalist* continued to be cited by the Supreme Court at a steady rate in between two and three percent of its cases per decade over the first three quarters of the twentieth century. Then beginning about the 1980s citation of the *Federalist* in Supreme Court opinions began dramatically to increase.⁶⁴

What has given rise to increased citations of the *Federalist* is the emergence of a fundamental divide in our constitutional jurisprudence. That divide is the result of two conflicting approaches to interpreting the Constitution, between activism—the approach that supposedly finds within the penumbra of the Constitution means of extending its interpretative reach—and originalism—the theory that interpretation of the Constitution should reflect the founders’ intent. This divide is not necessarily ideologically specific. Jurists of a liberal as well as a conservative temperament can be found of either side of the divide. Because of this state of affairs interpretation of the Constitution in certain areas of our constitutional jurisprudence has increasingly assumed a binary character. As a result the *Federalist* has become the Ur-text to which jurists of all ideological stripes resort to bolster their interpretation of the Constitution.⁶⁵ Thus, the newspaper screeds

that had been written to explain the Constitution has become an Ur-text for interpreting it. That has been made possible in part by the *Federalist* publication history.

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Notes

- ¹ See Bernard Bailyn, "A Note on *The Federalist* and the Supreme Court," in *Idem, To Begin the World Anew: The Genius and Ambiguities of the American Founder* (New York, 2003), pp. 126-130; Buckner F. Melton, Jr., "the Supreme Court and *The Federalist*: A Citation List and Analysis, 1789-1996," *Kentucky Law Journal* (1996-97), Vol. 85, pp. 243-345; Pamela C. Corley, Robert M. Howard and David C. Nixon, "The Supreme Court and Opinion Content: The Use of the Federalist Papers," *Political Research Quarterly* (2005), Vol. 58, pp. 329-340; William N. Eskridge, Jr., "Should the Supreme Court Read *The Federalist* but Not Statutory Legislative History?" *The George Washington Law Review* (1998), Vol. 66, pp. 1301-1323; Ira C. Lupu, "Time, the Supreme Court, and The Federalist," *The George Washington Law Review* (1998), Vol. 66, pp. 1324-1336.
- ² Cecelia M. Kenyon, "Men of Little Faith: The Anti-Federalists on the Nature of Representation," *The William and Mary Quarterly*, 3rd ser. (1955), Vol. 12, pp. 3-43. *The Anti-Federalists*, ed., by Cecelia M. Kenyon (Boston, Northeastern University Press, reprint. 1985 [1966])
- ³ Bailyn, "The *Federalist* Papers," in *Idem, To Begin the World Anew*, pp. 108-112. See also Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York, 1996), pp. 160-202.
- ⁴ The *Federalist* appeared in the *Independent Journal*, the *Daily Advertiser*, the *New-York Packet* and the *New-York Journal*. See *The Federalist* "introductory note" in *The papers of Alexander Hamilton* edited by Harold C. Syrett (New York, 1962), Vol. 4, p. 289; Albert Furtwangler, *The Authority of Publius: a Reading of the Federalist Papers* (Cornell University Press, 1984), pp. 53, 54.
- ⁵ "Introductory Note," *Papers of Alexander Hamilton*, Vol. 4, p. 288.
- ⁶ *Independent Journal; or, The General Advertiser*, January 2, 1788, p. 2.
- ⁷ *The Independent Journal, or, The General Advertiser*, March 22, 1788, p. [3].
- ⁸ Washington to Henry Knox, 5 February 1788, *The Papers of George Washington, Confederation Series, January-September 1788*, ed. By Dorothy Twohig, et al (Charlottesville, VA. 1977) Vol. 6, p. 88.
- ⁹ Washington to James Madison, 5 February, 1788, *The Papers of George Washington, Confederation Series*, Vol. 6, p. 90.
- ¹⁰ Washington to John Armstrong, 25 April 1788, *The Papers of George Washington, Confederation Series*, Vol. 6, p. 226.
- ¹¹ Washington to Alexander Hamilton, 28 August 1788, *The Papers of George Washington, Confederation Series*, Vol. 6, pp. 480-481.

- ¹² Letter, Edward Carrington to TJ, May 14, 1788, *The Papers of Thomas Jefferson*, Julian P. Boyd, editor (PUP, 1950), Vol. 13, p. 157.
- ¹³ Letter, TJ to James Madison, Paris, November 18, 1788, *Papers of Thomas Jefferson*, Vol. 14, p. 188; Letter, James Madison to TJ, August 10, 1788, *Papers of Thomas Jefferson*, Vol. 13, pp. 498-499.
- ¹⁴ Letter, TJ to Thomas Mann Randolph, Jr., May 30, 1790, *Papers of Thomas Jefferson*, Vol. 16, p. 449.
- ¹⁵ *LE FÉDÉRALISTE, ou Collection de quelques Ecrits en faveur de la Constitution proposée aux États-Unis de l'Amérique, par la Convention convoquée en 1787; Publiés dans le États-Unis de l'Amérique par MM. Hamilton, Madisson et Gay, Citoyens de l'État de New-York* (Paris, 1792); "Introduction," *The Fœderalist: A Collection of Essays, Written in Favor of the New Constitution, as agreed upon by the Fœderal Convention ...* Edited by Henry B. Dawson (New York, 1863), pp. lxii-lxvii (hereafter cited as Dawson, *Fœderalist*, 1863); "Introduction," *The Federalist: A Commentary The Constitution of the United States ...* Edited By Henry Cabot Lodge (New York, 1888), p. xxxvi. (Hereafter cited as "Introduction," Lodge, *Federalist*, 1888)
- ¹⁶ This edition of the *Federalist* was printed and sold by John Tiebout at number 358 Pearl-Street. See: *Bibliography of American Imprints to 1901, Main Part* (New York, 1993), Vol. 12, p. 400.
- ¹⁷ *Bibliography of American Imprints*, Vol. 12, pp. 399-401.
- ¹⁸ "Introduction, Lodge, *Federalist*, pp. xxxviii-xxxix.
- ¹⁹ *The Federalist, on the New Constitution, Written in 1788 by Mr. Hamilton, Mr. Madison, and Mr. Jay with An Appendix...* (Hallowell, [Maine]: Glazier, Masters, & Co. 1831). p. 3. (Hereafter cited as Hallowell, *Federalist*, 1831).
- ²⁰ Hallowell, *Federalist 1831*, p. v.
- ²¹ See Richard Hildreth, *The History of the United States* (New York, Harper & Brothers 1849), Vol. 3, p. 535-536; J. A. Doyle, *History of the United States* (New York, Henry Holt and Company, 1876), p. 289; John Fiske, *The Critical Period of American History, 1783-1789* (Houghton, Mifflin & Co., Boston 1897), p. 365; George Bancroft, *History of the Formation of the Constitution on the United States* (2 Vols.; New York, 1883), Vol. 2, pp. 336-337; James Bryce, *The American Commonwealth* (2 Vols.; London, 1888), Vol. I, pp. 27, 187, 193, 195
- ²² *Commentaries on the Constitution of the United States: with a Preliminary Review of the Constitutional History of the Colonies and States before the Adoption of the Constitution by Joseph Story*, edited by Thomas M. Cooley (2 Vols: Boston Little Brown, 1873), Vol. 1. p. vii.
- ²³ *Democracy in America* by Alexis De Tocqueville, Phillips Bradley ed. (2 Vols: New York, Vintage Books, 1945), Vol. 1, p. 119.
- ²⁴ The *Federalist* essays that were the focus of controversy over authorship were essays numbers 18-20, 49-58, 62-62.
- ²⁵ "Introduction," Dawson, *Fœderalist*, 1863, pp. xxv-lv.
- ²⁶ "Introduction," Dawson, *Fœderalist*, 1863, p. xix.
- ²⁷ "Introduction," Dawson, *Fœderalist*, 1863, pp. xix-xx,
- ²⁸ "Introduction," Dawson, *Fœderalist*, 1863, p. lxxxviii.
- ²⁹ "Introduction," Dawson, *Fœderalist*, 1863, pp. xxvi-xlii.
- ³⁰ John C. Hamilton, *History of the Republic of the United States of America as traced in the writings of Alexander Hamilton and of his contemporaries*, (New York, 1859) Vol. 3, p. 369-371.

- ³¹ *The Federalist: A Commentary on the Constitution. A Collection of Essays, by Alexander Hamilton, Jay and Madison...* (Edited by John C. Hamilton (Philadelphia, 1971 [1864]), pp. lxxxiv-cxxxviii. (Hereafter cited as J. C. Hamilton, *Federalist*, 1864).
- ³² "Lodge, Henry Cabot," *DNB* (New York, 1933), Vol. 7, pp. 346-347.
- ³³ *The Federalist: A commentary on the Constitution of the United States Being a collection of Essays Written in support of the Constitution...* Edited by Henry Cabot Lodge (New York, 1888), p. xliii. (Hereafter cited as Lodge, *Federalist*, 1888).
- ³⁴ "Introduction," Lodge, *Federalist*, 1888, p. xxxiii.
- ³⁵ "Introduction," Lodge, *Federalist*, 1888, *passim*.
- ³⁶ E. G. Bourne, "The Authorship of the Federalist," *The American Historical Review* (1897), Vol. 2, pp 443-460; Paul Leicester Ford; E. G. Bourne "The Authorship of the Federalist," *The American Historical Review* (1897), Vol. 2, pp. 675-687.
- ³⁷ Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (New York, 1913), pp. 1-18, 152-188.
- ³⁸ Beard, *An Economic Interpretation of the Constitution*, p. 152.
- ³⁹ Adams, *An Eulogy of the Life and Character of James Madison*, p. 32; John Quincy Adams, *The Lives of James Madison and James Monroe, Fourth and Fifth President of the United States* (Boston, 1850), p. 42; Rives, *History of the Life and Times of James Madison*, Vol. 2, pp. 488-502.
- ⁴⁰ See *Selections from the Federalist*, edited by William Benner Munro (HUP, 1914); *Selections from the Federalist*, edited by John Spencer Bassett (New York, 1921).
- ⁴¹ *The Federalist: A Commentary on the Constitution of the United States Being a Collection of /essays written in support of the Constitution agreed upon September 17, 1787 by the Federal Convention from the original text of Alexander Hamilton, John Jay James Madison*, Edited by Edward Mead Earle (New York, 1937). (Hereafter cited as Earle, *Federalist*, 1937).
- ⁴² Earle, *Federalist*, 1937, pp. 327-383, 400-416.
- ⁴³ Earle, *Federalist*, 1937, p. vii.
- ⁴⁴ Earle, *Federalist*, 1937, pp. x-xi.
- ⁴⁵ Earle, *Federalist*, 1937, p. xv.
- ⁴⁶ Earle, *Federalist*, 1937, p. xvi.
- ⁴⁷ Earle, *Federalist*, 1937, p. xviii.
- ⁴⁸ *The Federalist or The New Constitution: papers by Alexander Hamilton, James Madison & John Jay...* With an introduction by Carl Van Doren (New York, 1945), pp. v-vi. (Hereafter cited as Van Doren *Federalist*).
- ⁴⁹ Van Doren, *Federalist*, pp. ix-x.
- ⁵⁰ "Introduction," Beard, *Federalist*, p. 1.
- ⁵¹ "Introduction," Beard, *Federalist*, p. 1.
- ⁵² "Introduction," Beard, *Federalist*, p. 4.
- ⁵³ "Introduction," Beard, *Federalist*, p. 5, 8.
- ⁵⁴ "Introduction," Beard, *Federalist*, p. 9. Ironically, Beard dropped from his abridgment the essays in which Hamilton and Madison attempted to show by historical analysis what federalism was not—numbers fifteen through twenty-two inclusive. *Idem*, p. 90.

- ⁵⁵ Alpheus T. Mason, "The Federalist—A split Personality," *The American Historical Review* (1952), Vol. 57, pp. 625-643; Douglass Adair, "The Tenth *Federalist* Revisited," *William and Mary Quarterly*, 3rd ser., (1951), Vol. 8, pp. 48-67; Douglass Adair, "'That Politics May Be Reduced to a Science': David Hume, James Madison, and the Tenth *Federalist*," *Huntington Library Quarterly* (1957), Vol. 20, pp. 343-360.
- ⁵⁶ Adair, "'That Politics May be Reduced to a Science'" p. 344.
- ⁵⁷ Jack N. Rakove, *Original Meanings: Politics and the making of the Constitution* (New York, 1996), p. 367.
- ⁵⁸ Robert E. Brown, "Review: *The Federalist* by Benjamin Fletcher Wright" *The Federalist* by Jacob E. Cooke," *Mississippi Valley Historical Review* (1961), p. 301.
- ⁵⁹ Brown, "Review," p. 301.
- ⁶⁰ "Introduction," *The FEDERALIST Papers: Alexander Hamilton, James Madison, John Jay*, edited by Clinton Rossiter (New York, 1961), p. vii. (Hereafter cited as Rossiter, *Federalist*).
- ⁶¹ "Introduction," Rossiter, *Federalist*, p. xvi.
- ⁶² *Calder v. Bull* 3 U.S. (3 Dall.) 386 (1798), p. 391
- ⁶³ See for example: *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819); *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264 (1821); *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831); *Legal Tender Cases*, 79 U.S. (21 Wall.) (1870); *Pollock, v. Farmers Loan & Trust Co.*, 158 U.S. 601 (1895).
- ⁶⁴ Melton, "The Supreme Court and The Federalist." p. 339.
- ⁶⁵ See Melton, "The Supreme Court and The Federalist," pp. 338-339.