

Alexander Hamilton on the Roles and Responsibilities of the Federal Employee

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Abstract

The *Federalist* has been called the most important work of political science ever written in America by Americans. Although written in the language of the 18th century, it represents the most authoritative commentary on the Constitution of the United States and, as such, serves as a primer for those sworn to uphold and defend that Constitution. For federal employees of the Executive Branch, it is particularly important to read and understand Alexander Hamilton's essays on the roles and responsibilities of the President and his or her executors.

As a retired Marine, coming to work for the Marine Corps in a civilian capacity seemed a natural fit. "It's just another way to serve" I reckoned. My experience with civilian employees of the Marine Corps had always been positive and the organization simply couldn't run without them (us). As I filled out the final papers required of all federal employees, a rather unenthusiastic gentleman stepped to the podium of the classroom in which all of us "new hires" had been gathered. "I've got to swear you in first," he muttered. Perhaps my expectations were tainted by my initial oath of enlistment or my commissioning oath sworn years later. Perhaps I just assumed the solemnity of any occasion upon which an oath is sworn. What I received was anything but solemn. What I received in the form of the oath was little more than a perfunctory "check-in-the-block" that was neither explained nor appreciated—by anyone, least of all the presiding official. My immediate thought was "how can we, as Civilian Marines, think of ourselves as part of a privileged calling when we're entering this much the same as anyone taking a job at Circuit City or Sam's Club?" There's more to this...isn't there?

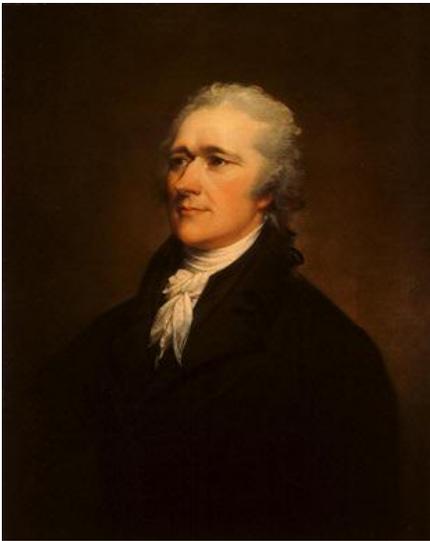
For employees of the federal government, the single source of duty is expressed in the US Constitution. An enduring, adaptive document, the Constitution embodies all of the rights and responsibilities of the government and its citizens. It serves, as a byproduct, as a blueprint of service for federal employees. The Constitution is at once amazingly complex and remarkably straightforward. However, as an instruction manual it is incomplete. Article II of the Constitution requires an oath of the President to "preserve, protect, and defend the Constitution of the United States" and Article VI requires federal officials and members of the military to confirm their allegiance via a similar oath. The earliest oaths sworn by federal employees were informal and varied although most referred simply to an obligation to "support and defend the Constitution."

I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

5 U.S.C. §3331

The above oath, which traces its roots to the 1862 Ironclad Test Oath administered to ensure allegiance to the Union, is still taken by all new federal employees.¹ It is drawn from chapter 33 of title 5, United States Code and is virtually unchanged since 1884. To better understand the political philosophy that undergirds the US Constitution it may be best to review the most famous defense of it by its most ardent and articulate supporter.²

The Political Philosophy of Alexander Hamilton



Among our founding fathers, perhaps the most influential, prescient, and controversial was Alexander Hamilton of New York. For employees of the US Federal Government, Hamilton's ideas, enumerated primarily in the *Federalist Papers*, serve as a roadmap for action. The *Papers* were a series of 85 separate articles, co-published with John Jay and James Madison in the *New York Packet* and *The Independent Journal* in

¹ Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877*, (New York: Harper and Row, 1988).

² An entertaining and informative interpretation of the birth of the US Constitution is Carol Berkin's *A Brilliant Solution: Inventing the American Constitution*, (New York: Harcourt, Inc., 2002).

1787-1788 under the pen name “Publius”—for co-founder of the Roman Republic and leader of the Roman Revolution of 509 BC Publius Valerius Publicola. While Jay went on to become the first Chief Justice of the US Supreme Court and Madison became our fourth President, Hamilton is perhaps best known today for being killed in a duel with then-Vice President Aaron Burr. This is doubly unfortunate given Hamilton’s status as a great patriot, warrior, constitutional lawyer, and economist. Most important to employees of the Executive Branch, Hamilton’s ideas in *Federalist* No. 67 through No. 77 written between March 11 and April 2, 1788 are particularly insightful and instructive.

Although quite controversial at the time, Hamilton’s position on a strong central government, capable of defending itself and its interests, and vested with powers of tariffs and taxes to accomplish meaningful governance, have formed the foundation of our modern system. *Federalist* No. 1 describes the advantages of the proposed Constitutional system over the one in existence at that time and the remainder of his writings fall along certain fundamental issues:

1. That the very purpose of establishing and maintaining a government is to make its citizens *prosperous* and that a prosperous citizenry will be, ultimately, more happy.
2. That the existing confederation was too weak and fractured to preserve the young country as a whole. In *Federalist* No. 6 he further predicts “frequent and violent contests” between the states if a strong central government is not enacted.

3. That a strong central government, built upon a construct of laws, is the best possible means to ensure the “experiment” of American democracy can survive.
4. That the Constitution and constitutional government that would result are the only means to achieve the high republican principles outlined in our Declaration of Independence.
5. That the individual states had already ratified constitutions of their own and it is only natural for the central government to possess a binding system of laws.
6. That a Federal Constitution is the best guarantor of the rights and ability of the states to preserve their own liberty, not to mention the liberty and prosperity of their citizens.

In *Federalist* Nos. 7-9 Hamilton expands upon the urgency of these needs by explaining exactly how a disunited America will fall prey to all those political and military ailments that plagued Europe throughout her history. In *Federalist* Nos. 23-29 he makes a strong case for a consolidated military and the ability to regulate militias. In No. 36 Hamilton concludes his views on the utility of taxation with a statement on the very purpose of government to defend civic tranquility against enemies foreign and domestic: “I acknowledge my aversion to every project that is calculated to disarm the government of a single weapon which in any possible contingency might be usefully employed for the general defense and security.”³

In these ways Hamilton made a clear case for the purpose of government—and how it could best serve the needs of its citizens and protect them from both external threat

³ Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*, (New York: Mentor, 1961). No. 37, p. 228.

and domestic chaos. His immediate appeal was to the voters of New York who held the power of ratification of the Constitution. Hamilton and his *Federalist* co-authors set about to persuade a citizenry unsure of the best method of governance and, in the process, succeeded in defining the nature of the needs, rights, and responsibilities of man.⁴

The Executive Department and its Responsibilities

Federalist No. 67 begins with a strong justification of executive privilege and responsibility. Principal among these privileges is the power of appointment. Hamilton's vigorous defense of the "second clause of the second section of the second article"⁵ of the US Constitution, which grants the President the ability to "appoint public ministers...and other officers of the United States," is grounded in the belief that a duly elected Executive is empowered to set the agenda for government. These political appointees were envisioned to be the "energetic federal service" intended by the framers of the Constitution.⁶ For the better part of American history since 1787, political appointees have had mixed results in their impact on the administration of government. Political patronage⁷, irrespective of qualification, determined postings for centuries. With the contemporary focus on government accountability this dynamic has changed considerably—although not completely. The cost in under-qualified political appointees is generally outweighed by the benefit of energetic, outside perspective. The balance

⁴ An excellent reflection on the value of the Federalist Papers to the founding of our Constitutional system is Charles R. Kesler's *Saving the Revolution: The Federalist Papers and the American Founding*, (New York: Free Press, 1987).

⁵ Hamilton, *Federalist*, No. 67, p. 409.

⁶ Paul C. Light, "A Government Ill Executed: The Depletion of Federal Service" *Public Administration Review*, May/June 2008, p. 413.

⁷ Patronage, the practice of rewarding political supporters with lucrative positions in government, has a long history in the US. The Pendleton Civil Service Reform Act of 1883 and the Civil Service Commission that it created remedied the situation only in part. Political appointees are governed only by the good sense of the appointing authority.

between competence and loyalty is different with each administration and each individual appointee.

Federalist No. 67 and the following 10 papers serve, in a sense, as a counterweight to the brilliantly written *Federalist* Nos. 10 and 51 by James Madison. Those two are, undoubtedly, the most widely read today. In Madison's first contribution to *Federalist*, he speaks of the very nature of man as self-interested and inclined to band together for action—even when those actions are “adverse to the rights of other citizens, or to the permanent and aggregate interest of the community.”⁸ The liberty that we enjoy in a representative democracy serves to exacerbate the problem of factionalism. However, eliminating the root cause of friction would be detrimental to those freedoms the framers sought to ensure.⁹ The resulting solution to this tension is the republican democracy we enjoy today. Madison, Hamilton, and most of the framers of the Constitution believed the large size and growing population of the United States made representative democracy a near-perfect means to ensure the protection of minorities and prevention of tyranny. History has adjudged their estimate correct. Civil servants, like elected public officials, bear the responsibility to manage and govern as direct representatives of the American people. The fundamental difference in duty is that elected officials see a more direct responsibility to their immediate constituents, while federal employees serve the “common good” or general interests of the American public. Federal guidelines ensure civil servants remain free of the taint of factionalism and the deleterious effect it has on the service of the common good.¹⁰

⁸ Madison, *Federalist*, No. 10, p. 79.

⁹ *Ibid.*, p.81.

¹⁰ Principal among these are the Hatch Act of 1939, otherwise known as the Act to Prevent Pernicious Political Activities.

The title of *Federalist* No. 51 is "The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments" and its purpose is to formalize a system in which "Ambition must be made to counteract ambition."¹¹ These checks and balances not only serve to prevent the consolidation of power—potentially leading to tyranny—but to refine the role of the Executive and his or her functions. In times of great pressure, such as war, the relatively equal distribution of power between the branches of government flexes. Just as a balloon flexes when uneven pressure is exerted upon it and a bulge appears in one portion, war and other such calamities apply uneven pressure on the government creating a bulge in power, specifically in the direction of the Executive, given his dual role as Commander-in-Chief. Retaining this flexibility is essential to the common good. Great care must be taken on the part of the President and his or her executors to ensure that only those actions that speed the Nation through the calamity most effectively and efficiently are taken. In times of peace and tranquility the state of the government should be allowed to return to its normal state of tri-partite balance. In this manner, federal employees of the Executive Branch, must themselves be flexible enough to surge their efforts in time of crisis and wise enough to comprehend the limitations of their power.¹²

More Food for Thought for Today's Federal Employee

There are a number of direct lessons for contemporary federal employees *implied* in Hamilton's writing.¹³ While it is not known that he left us with any direct instructions

¹¹ Madison, *Federalist*, No. 51, p. 325.

¹² A thorough accounting of actual examples of individuals, from all parts of the federal government, who did not understand the limitations of their authority/responsibility can be found at the Office of General Council's website: http://www.dod.mil/dodgc/defense_ethics/

¹³ Paul Light, "A Government Ill Executed," p. 414.

for executing our responsibilities as federal employees, we can draw some conclusions as to what would have met Hamilton’s lofty expectations of public service:

1. That a Presidential appointment to lead an agency or department is a serious responsibility rather than a privilege of political patronage. Incumbent with that responsibility is the requirement to express the will of the people and their democratically elected representative. Politics, or as Hamilton may have termed it *factionalism*, must be suppressed in the interest of the common good. The selection of priorities and application of resources must be firmly fixed on the common good.
2. That government’s—and most particularly the Executive Branch and its agencies—very existence is owed to the need to serve and protect the citizenry. This mission is of the highest stakes imaginable. Therefore those civil servants charged with this mission must commit their attention, efforts, and even ardor to their tasks. “Slacking” is unacceptable in the private sector; it is simply inexcusable in the public sector.
3. As a proponent of mission-specific education, Hamilton would surely have believed in the continuous training and education of the workforce. He undoubtedly would have demanded it be made available to all and include a “broad, liberal education” as well as narrow technical skills required in day-to-day functions. This liberal education surely would include leadership development, effective communications, management technique, and resource stewardship—not to mention grounding in the mission and ethos of public service.

4. That the “tenure” granted to federal employees protects them and enables their long term service. This fact has many positive influences on the workforce and on government itself. Perhaps the greatest positive influence is the prevention of a constant shifting of priorities of effort to act upon those great ideas new supervisors and employees bring to their position. That it takes time and careful scrutiny to modify the “administration of government” is a very good thing.¹⁴

Hamilton’s influence, along with that of Madison and the framers of the US Constitution, calls out to us today. They exhort us to good judgment, wise stewardship of public resources, and our full measure of dedication. From the point we swear (or affirm) the oath to uphold and defend the Constitution, to the point at which we depart her service, we are obliged to further the common good. No oath or body of 18th century rhetoric can ensure our compliance. Federal employees must remain firmly fixed on their duty to serve and labor to sharpen the implements of that service. Alexander Hamilton would expect nothing less.

¹⁴ Hamilton, *Federalist* No 72.

We the People

of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article 1.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and including Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such Enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies. The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years, and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Clases. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Course of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall choose their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office and disqualification to hold and enjoy any Office of Honor, Trust or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business, but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any Question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three Days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of this Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same, and for any Speech or Debate in either House; they shall not be questioned in any other Place.

No Senator or Representative shall, during the Term for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments thereof shall have been increased during such Term; nor shall he hold any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed both Houses, shall before it become a Law, be presented to the President of the United States; and if he approve, he shall sign it, and if not he shall withhold his Signature, and if the Congress be in Session, he shall return it with his Objections to that Body, which may by a two thirds Majority of each House, override his Veto, and he shall sign the same.

Section 8. The President shall have the Power to fill up all Vacancies that may happen during the recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

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