New Model Federalist No. 6 – On Entitlements

That a high amount of federal taxation constrains the partial sovereignty of the States – That all governments owe a minimum of social welfare to their citizens – That the dependence of citizens on government ought to be inversely proportionate to the government's coercive power – That a government's relevance in the eyes of the people depends on the services it provides – That the federal government is a better referee of state debts than of its own – That the federal entitlement system ought to be devolved to the States – That there ought to be federal support to some States for healthcare benefits – That the federal government ought to facilitate movement between States – That pork barrel spending is acceptable within limits – That federal income tax ought to be reduced and a federal sales tax established – That the federal tax code ought to be simplified

Indeed the idea of any government existing, in any respect, as an independent one, without any means of support on their own hands, is an absurdity. If therefore, this constitution has in view, what many of its framers and advocates say it has, to secure and guarantee to the separate states the exercise of certain powers of government, it certainly ought to have left in their hands some sources of revenue. ***—'Brutus,' Letter No. 5, December 13th, 1787.***

In our previous essay, we examined the benefits and perils of the national debt; we also established certain priorities for spending among the items accounted for in the 'discretionary' portion of the federal budget. In this essay, we shall fix our attention upon the great matters of taxation and welfare which attend the vast social programs contained within the 'mandatory' portion of the federal budget. This system of entitlements, which includes such programs as Social Security, Medicare, and Medicaid, today comprises the lion's share of the federal budget, but it is in urgent need of reform. Not only is it poised, as the Baby Boomer generation ages, to sink our Republic into the depths of public debt; it also erodes the federal structure of our Union. The taxation required to fund it denies revenue to the States and renders them reliant on federal aid; it overshadows state governments' efforts to provide for citizens' needs, consigning them to irrelevance in the eyes of their residents; and it renders citizens dangerously dependent upon the federal government for the essentials of life. We seek to offer reforms that reinforce the federal character of these United States and promote their future prosperity and might, while continuing to hold in high regard the obligations of a just government to the welfare of its citizens.

We begin with the principle that federal taxation constrains state taxation. As there exists a natural limit to how much tax may be collected from citizens before economic growth becomes so stunted and evasion so prevalent that revenues decrease,[1] an increase in federal tax necessarily reduces the amount that state and local governments can tax. As federal tax grows, state taxes must correspondingly shrink; state governments are thereby starved of revenue, and then either fall into irrelevance or become dependent upon federal aid, as is the present unfortunate condition of our Union.[2] Thus, a reduction in federal tax is a boon first to the States, which may

[1] Montesquieu saw this; Laffer formalized it. "…the lord and those who levy the revenues for the prince, each in his turn, will harass the [serf] and will, one after the other, collect from him until he perishes from poverty or flees into the woods." "Liberty has produced excessive taxes, but the effect of these excessive taxes is to produce servitude in their turn, and the effect of servitude is to produce a decrease in taxes." *Spirit of the Laws*, Bk. 13, Ch. 5, 15.

[2] This danger was a concern of the Anti-Federalists, including 'Brutus' quoted above, who objected to the power of the federal government to tax citizens directly. The Federalists refuted this charge, with good reason: the system of requisitions under the Articles of Confederation had failed then, and would fail again today. But the principle has nonetheless been shown to be valid since the introduction of the large federal programs of the 20th century.

increase their taxes to fund their own projects. If state legislatures decline to do so, or if they raise their taxes by a lesser amount than that which the federal government has cut, the same opportunity is then passed to local governments; if municipalities similarly decline to raise their taxes, only then does it become a tax cut for businesses or for individual citizens.

Federal spending drives federal taxation; excessive federal spending thereby degrades the partial sovereignty of the several States. It follows that federal spending ought to be moderated. This end is achieved when Congress restrains itself to funding only those functions that are both necessary and proper for the federal government to perform in fulfillment of its enumerated powers. The objects which we identified in our previous essay as deserving of priority in federal spending meet that twofold standard. They are proper because they are either explicitly enumerated in the Constitution to the federal government, or else they fit within the spirit of that founding document; and they are necessary because they cannot be provided for by the States alone. Other functions of government which do not satisfy that standard ought instead to be designed, controlled, and funded by the States, or by the municipal governments below them.

We reject the notion, sometimes presented as libertarian, that social welfare, broadly defined as pensions, healthcare, and aid to the poor, ought not to be provided by government in any manner. To take such a line would be to violate the social contract upon which all republics are founded, including our own. All citizens owe something to their government; at a minimum, they may be called to military or civil service in the event of a national crisis. Logically, then, all governments owe something back to their citizens; at a minimum, security, which means a continuous effort to protect the natural lives of citizens. A government that allows its citizens to starve fails to provide security. Thus, the most basic level of welfare – the guarantee of food and other life essentials – is inseparable from even the most limited of just governments. It is also implausible to argue that provision of welfare by the federal government is strictly unconstitutional: Article 1, Section 8 permits Congress to provide for the "general Welfare of the United States," under which clause the present concept of welfare may certainly be classified. The poor, the sick, and the elderly may not simply be abandoned to their fate.

However, the question herein is whether primary responsibility for welfare is appropriate at the federal level of the United States in accordance with the spirit of the Constitution. To this, we answer broadly in the negative. Rather, our Union ought to apply the principles of federalism to its system of entitlements by devolving its control and funding to the lowest practical level of government, which in most cases is the States; and the States, when practical, should delegate portions of their welfare plans to local governments. This determination rests on three principles.

First, in a republic, citizens' dependence on government ought to be in inverse proportion to the coercive force wielded by that government. Government is itself a necessary but fearsome institution.[3] Because mankind is fallible, no government, however well-designed, can be relied upon to remain benign forever; thus at various points in human history it becomes necessary for citizens to resist their government in order to maintain their liberty.[4] Should it become corrupted,

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[3] As in the 18th-century proverb that "fire is a good servant but a cruel master." The use of that metaphor in relation to government has been attributed to George Washington; whether or not he said it, the comparison is appropriate.

[4] "Whosoever uses forces without right, as everyone does in society, who does it without law, puts himself into a state of war with those against whom he so uses it; and in that state all former ties are cancelled, all other rights cease, and everyone has a right to defend himself, and to resist the aggressor." John Locke, *Second Treatise of Government*, Ch. 19, Para. 232. As goes the Declaration of Independence: "When, in the Course of human events..."

the federal government of the United States, whose powerful forces can strike down its enemies even in the remotest regions of the world, cannot be resisted but by the united and determined efforts of a large part of its citizenry. But such popular mobilization in defense of liberty, already difficult in itself, becomes impossible when the people depend upon that government for their basic needs. A citizen, who otherwise loves liberty, will hesitate to raise his voice, or her hand, against a tyrant who controls his family's access to food or medical care.

A state government, by contrast, possessing militia and police but no formidable army, and moreover being checked, should it become corrupted, by the federal government – which is bound by the Constitution to ensure a republican form of government in all the States[5] – is less threatening to the liberty of its citizens, and opposing it requires less fortitude among them. It is therefore a safer entity for citizens to depend on for subsistence; local governments are safer still.

Second, the federal government's assumption of responsibility for welfare diminishes the relevance of the several States, thereby undermining the constitutional structure of the Republic. For a federal system of government to function well, state and local governments must be seen by their residents to hold important powers and to make decisions that matter to those citizens' lives. If this perception fades, apathy toward local government sets in, and over-centralization begins – which, in republics, is the first step towards tyranny. If such basic needs as food, pensions, and medical care are provided to citizens by the federal government, there appears to the people no need to mind the governance of their cities and States.

Furthermore, a welfare system requires much taxation; and if that system is enacted at the federal level, it requires much federal taxation. High federal taxation, discussed above, constrains the ability of the States to raise their own revenue, and thus hinders their ability to function as partly-sovereign governments. If the several States are given responsibility for the design and support of such systems, however, they shall be reinvigorated with greater purpose and funds.

Third, taxation ultimately funds all systems of welfare, and those systems are established by majority vote. Majority decisions, as we described in previous essays, at times weigh upon those who form the minority in relation to a given vote. This is particularly so for the imposition of taxes. When federal taxes are imposed, all within these United States are bound to accept their burden; but when they are excessive, those persons and firms who pay the most tax are tempted to remove themselves or their assets from the country, causing a loss of revenue to the whole.[6]

Within a single State, however, fewer individuals and interests are involved in legislative decisions, and those which are exist closer to each other, enlarging the possibility of compromise acceptable to a wide section of the population. Moreover, if given discretion, the States will each establish welfare systems of varying generosity and cost, based upon the needs, character, and resources of each State. Citizens who dissent from the scheme adopted by their State may, if they

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[5] *U.S. Constitution*, Article 4, Section 4.

[6] "When, by different taxes upon the necessaries and conveniences of life, the owners and employers of capital stock find, that whatever revenue they derive from it, will not, in a particular country, purchase the same quantity of those necessaries and conveniences which an equal revenue would in almost any other, they will be disposed to remove to some other. And when, in order to raise those taxes, all or the greater part of merchants and manufacturers, that is, all or the greater part of employers of great capitals, come to be continually exposed to the mortifying and vexatious visits of the tax-gatherers, this disposition to remove will soon be changed into an actual removal." Adam Smith, *The Wealth of Nations*, Bk. 5, Ch. 3

find their situation so intolerable that it outweighs the cost of relocation, move to a different State whose system they find more suitable to their needs or inclinations, yet remain within the Union. Competition between States for business and residents, thus engendered, further increases the incentive of state legislatures to seek compromise and to design an efficient welfare system.

There are also practical benefits to a reform of entitlements that gives control to States. First, state governments are better able to adapt their systems to local needs. If, for instance, Michigan suffered the closing of a major automotive factory, it could adjust its welfare scheme so as to provide specific benefits to workers who lost their livelihoods as a result of that event. The federal government, presiding over a large and diverse territory, cannot react flexibly to particular occurrences. Similarly, state governments, by virtue of having smaller bureaucracies to supervise, can more easily detect and rectify fraud and waste than can the vast federal agencies.

Second, such a devolution would allow the federal government to focus its resources and attention more closely upon those purposes more clearly enumerated to it by the Constitution, in particular those which the federal government alone is able to effectively direct. These purposes, which we outlined in our previous essay, include defense, diplomacy, space exploration, and the halting of global warming. We shall elaborate further on each of those topics in later essays.

Third, if properly implemented, such a reform might serve to moderate the national debt. We base this claim on the premise that the federal government is a more effective referee of the several States than it is of itself. Having long failed to persistently adhere to its own plans for moderating the public debt, Congress may find more lasting success by passing legislation which limits the proportion of debt that state governments may take on to fund their welfare schemes. We believe that such a law could be justified on the precedent, established in 1790 by Alexander Hamilton, of the federal government assuming responsibility for state debts.[7] Such supervision, though it constrains the fiscal autonomy of each State, is a worthy exchange for devolution to the States of the greater power to manage their own entitlement systems. Moreover, any limit on state debt enacted by the federal government might prove unobtrusive. The state governments, by and large, have been better stewards of public funds than their federal counterpart. They do not ordinarily issue bonds except to fund infrastructure, which is likely to provide a return on investment; and all but one have statutes that mandate a balanced budget in some form.[8]

We propose, therefore, that federal entitlement programs which subsidize ordinary costs of living, such as Social Security, food stamps, disability benefits, and direct welfare payments to the poor, be reformed so as to gradually transfer full control of their structure and operation, as well as full responsibility for their funding, to the several States. The funds necessary to achieve this end would be made available to the States through a general reduction of federal tax, which, in keeping with the principle described on the first page of this essay, shall enable the States to increase their own taxation by a corresponding amount.

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[7] "The Secretary, after mature reflection on this point, entertains a full conviction, that an assumption of the debts of the particular states by the union, and a like provision for them, as for those of the union, will be a measure of sound policy and substantial justice." Alexander Hamilton, *First Report on Public Credit*. If the federal government may be liable to assume the States' debts, it is logical that it ought also to be empowered to set limits on them.

[8] Vermont is the exception. As those statutes take different forms, and because costs are often difficult to predict, not all state budgets are balanced in the final reckoning. The attempt nonetheless produces results in the aggregate: the Census Bureau estimated, in its 2016 State & Local Government Finance Survey, that state debts combined were $3 trillion, roughly a sixth of the $20 trillion federal debt recorded by the Treasury Department at the time.

The attentive and critical reader shall here jump to point out that this reform, along with several of our previous proposals tending toward greater political responsibility and fiscal self-reliance for the States, shall have the consequence of exposing economic inequalities between them. The welfare services provided by the government of Alabama, for instance, might be more constrained by budgetary necessity than those of the government of California.

That charge is true. An inescapable consequence of full devolution to the States is that not all state governments will be able to provide their residents benefits equal to those enjoyed in other States, since the several States have varying economic capacities. In response, we say first that these differences in the economic fortunes of states are an unavoidable part of a federal system, which occur naturally and persist whether or not they are papered over by the national government. The federal government, moreover, possessing at present a vast and unresponsive bureaucracy, does a poor job at papering them. That bureaucracy already sets the amounts it pays for Social Security and other benefits by region, supposedly in accordance with circumstances in those areas, but it makes adjustments slowly and not always accurately. Devolving responsibility to the States shall make that process automatic and more aligned with economic reality.

Second, the natural divergence in fortunes between States does no injustice to individual citizens in the case of pensions and the other benefits above, because those entitlements serve to subsidize the cost of living, and the cost of living varies by State. Oklahoma, for instance, may not be able to provide its residents with a pension equal, in dollar terms, to that provided by New York; but that fact does no harm to Oklahomans' livelihoods, because the price of rent in Tulsa is only a fraction of what it is in New York City.

Programs providing medical assistance, such as Medicare and Medicaid, present a different set of considerations and thus a somewhat different solution. The cost of healthcare varies less by region than does the ordinary cost of living, for the industry that supplies drugs and medical equipment serves a national market and does not have an independent presence in every State. A full devolution of existing federal healthcare benefits would thus result in the residents of some States being less able to afford care than residents of other States, or it might result in a lower quality of care being available to citizens who rely on government benefits in those States. Such inequality between States, in providing for the health of citizens who cannot provide for themselves, may be considered a failure to provide equally for those citizens' security; it thus ought not to be ignored by a Union that guarantees to its citizens the inalienable rights of life and equality before the law. We thus propose only a partial devolution of federal healthcare schemes to the States, which shall give the several States discretion over those systems' design, but in which the federal government shall also disperse grants to supplement the funds of States whose per capita income is below the Union's median.[9]

Some will decry our proposed reforms of welfare and healthcare as disrupting the lives of those who, at the moment, depend on the existing federal benefits, or as upending the fortunes of those who, for their entire lives, expected to receive Social Security pensions and planned their finances accordingly. It is not our intent for those citizens to be left stranded by a change in legislation. The shift must therefore occur over a time period sufficient for individual citizens to adjust their plans in accordance with it; the federal government must not relinquish control until

[9] In essence, a furtherance of the existing system by which the States may avail themselves of additional federal funds for Medicaid. In our envisioned reform, States would have a greater say in designing their Medicaid schemes.

the various state plans have been resolved upon and enacted; and as regards pensions, those who have already paid taxes into the current scheme ought to retain benefits in proportion to the amount they have already contributed.[10] Such safeguards, we trust, shall satisfy the sensible majority who understand the necessity of reform, yet must also provide for themselves and their families during the period of transition.

Others will assert that firms and individuals will take advantage of reform. Firms, they fear, will move assets to those States which have the least generous welfare systems and thus the lowest rate of taxation, thereby forcing other States to reduce their welfare systems as well. Yet such an effect, even were it to occur, seems preferable to the prevailing one, in which firms move their assets abroad and leave the federal government with a welfare system that it cannot sustain. Nor, at any rate, would it be a permanent effect: if enough firms flee to a low-tax State, the wealth and population of that State will grow until it, too, demands more for its people. Even that effect is likely to be small, however. Many firms linger in high-tax States today, for reasons such as proximity to cities and infrastructure, which will remain considerations tomorrow.

Moving, moreover, is not the domain of the rich alone, nor ought it to be. A fundamental advantage to this proposed reform is that it provides a spur for ordinary citizens to move to areas of growing economic productivity, where they may find gainful employment, rather than eke out a bare living on federal subsidies in areas whose economic capacity is not expanding fast enough to employ them. The Constitution grants all citizens of the United States the right to move freely between the several States and hold all the privileges of citizenship in each.[11] Citizens who are unsatisfied with their economic situation in the State where they reside have a free choice: they may remain, inspired by love of home to forego opportunities or services they might obtain by moving; or they may move, and so follow the enterprising spirit of their forebears who first left the Old World for the New. Yet this advantage is only realized if citizens can afford the cost of relocation. We thus propose that the federal government offer a benefit, which may be claimed a few times in each citizen's life, to reimburse a move between States.[12]

Movement of citizens between States shall rebalance the population of each in proportion to its resources: in a State with few resources, those who remain are left with a greater share. The prospect of gaining or losing population shall also spur competition among States, and inspire compromises within them, to provide public services and economic opportunities for residents. Such a contest, properly regulated by the federal government under its authority to supervise commerce between States, tends toward the prosperity of the Union. Thus, over time, stripping away the thin screen of federal subsidies might increase the per capita wealth of all the States.

Individuals, our critics will say, may abuse their freedom of movement by living in States with low welfare when they are young and working, then moving to States with high welfare on retirement, or if injured, despite having not contributed to those States' revenues before. Such

[10] I.e., a gentleman of sixty years of age at the time of this writing, who has paid tax for Social Security over the course of his working life and who is soon to retire, would still receive nearly the entire federal benefit as it now stands; a lady of forty would receive when she retires somewhat less in proportion of the federal benefit, and the remaining proportion in accordance with the plan of her State; and a boy of fourteen, who has not yet begun to work or pay tax, would receive upon his eventual retirement only that benefit which his State has determined.
[11] "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." *U.S. Constitution*, Article 4, Section 2.
[12] This may be done by expanding the existing tax credit for moves, or by a more direct means.

fear is also exaggerated, especially in this disruptive economic era: as forces such as automation make an unbroken career more difficult to attain, even the young and vigorous might see wisdom in residing in a State that offers adequate welfare provisions. Yet state and federal action can also discourage gamesmanship. Those States that maintain generous pensions could introduce laws, in which the benefit a resident receives is in proportion to length of residency and contribution made to the state revenue; and the federal government could oversee the transfer and conversion of a citizen's paid, but yet unused benefits from one State to another upon that citizen's move.

Finally, some will charge that our proposed reform will lose some measure of economic efficiency derived from a welfare system of federal scale. We accept that charge; we believe that it will be mitigated in part by gains from interstate competition; and we at any rate consider it to be well worth the value the reform shall bring by strengthening our Republic's federal structure.

We must also briefly discuss the method of taxation that shall make such reform possible. Limiting the amount of federal tax is not itself sufficient to assure revenue to the States; it is best for the federal and state governments to collect taxes in different ways, so as not to exhaust the same source of revenue.[13] In the early years of Union, the federal government drew revenue from duties and imposts, particularly on non-essential goods, whereas the States taxed income.[14] After the 16th Amendment authorized the federal income tax in 1913, methods shifted: the federal government now collects revenue principally from income, whereas many state governments rely upon sales taxes. We do not propose that the 16th Amendment be repealed, as events might arise which require the federal government to draw from that source of revenue.[15] We do propose that, commensurate to our proposed welfare reform, these modes be rebalanced in practice: that States tax a greater share of income, whereas federal income tax rates are correspondingly reduced; and that Congress enact a federal sales tax, which shall supersede the various state sales taxes, on a variety of items not necessary for the sustenance of life.

There are four arguments for such a reform. First, in purely practical terms, income taxes generate the most revenue compared to other forms of taxation. If the States are to take on the burden of entitlements, which comprise the largest share of federal spending at present, it is logical that they ought to increase their share of the most productive form of taxation. Second, the use of the revenue would fit the means of collecting it. Welfare systems are meant to ease the hardships of citizens who are unable to support themselves; as those citizens are the recipient, they cannot also in any substantial manner be the provider. Income taxes are generally of a progressive nature, in which those who have more wealth pay more tax than those who have less; they are thus a fitting means of providing for entitlements. The objects we propose to leave to the federal government, such as defense, affect all equally and thus are the equal responsibility of all. Sales tax is undiscerning of wealth, and thus fit for these purposes; all pay an equal rate.

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[13] "The particular policy of the national and of the State systems of finance might now and then not exactly coincide, and might require reciprocal forbearances." Alexander Hamilton, *Federalist No. 32*.

[14] "The Secretary conceives, that it will be sound policy, to carry the duties upon articles of this kind [wines and distilled spirits], as high as will be consistent with the practicability of a safe collection. This will lessen the necessity, both of having recourse to direct taxation, and of accumulating duties where they would be more inconvenient to trade, and upon objects, which are more to be regarded as necessaries of life." Alexander Hamilton, *First Report on Public Credit*.

[15] "As revenue is the essential engine by which the means of answering the national exigencies must be procured, the power of procuring that article in its full extent, must necessarily be comprehended in that of providing for those exigencies." Alexander Hamilton, *Federalist No. 31*.

Third, such a reform reinforces the federal structure of our Republic. Citizens are willing to pay tax because they see the benefit that returns from it.[16] If the States assume greater responsibilities affecting the lives of citizens, it is fitting that they collect taxes most directly. Sales taxes, by contrast, are less direct and thus less onerous to citizens.[17] Moreover, if well-crafted, they provide the citizen an element of choice: those who consume more goods pay more tax.[18] It is appropriate for the federal government, whose ends are less tangible to the people, to tax in a less intrusive manner. Fourth, a uniform sales tax is conducive to commerce: firms shall have to calculate only the effect of a single rate when pricing their goods throughout the Union.

In addition, a simplification of federal tax law would nurture federalism, among myriad other boons. The endless scattering of tax incentives and penalties presently in existence enables the federal government to meddle, using financial means, in the decisions of citizens, businesses, and lower levels of government alike. Recent efforts at tax reform, though successful in reducing rates, have failed to reckon fully with these maddening complexities. We therefore propose that Congress once more revise the federal tax code to remove loopholes, incentives, and penalties, and reduce the rate of taxation in proportion to the increase in revenue brought by simplification.

Finally, it is a crucial facet of our Republic's federal structure that any shift in population and revenue between States, the natural occurrence of which might be accelerated by the reforms to taxation and welfare proposed in this essay, shall have its ill effects mitigated by the equal representation of all States in the Senate. This scheme of representation ensures that even those States with sparse populations and small revenues may not be sidelined in the apportionment of such federal resources as are appropriately disbursed. Consequently, efforts by members of Congress to situate federal projects within their States – vilified in the past two decades as 'pork-barrel spending' – ought not to be prohibited. 'Pork-barrel' projects provide a countervailing force to the divergences noted above. Each State ought to derive benefit from membership in the Union; it is natural for representatives to seek benefit for their State; and it is healthy for citizens to see their representatives working on their behalf and to perceive those tangible benefits of Union, so long as the projects concerned are appropriate for federal spending and not injurious to the fiscal position of the Republic.

We venture to assert that these proposed reforms, taken together and unfolded gradually, shall shore up the federal foundation of our Republic, help restore it to fiscal health, and provide choice to citizens while nonetheless honoring their government's obligations to them. Having thus envisioned a federal structure for taxation and spending, we shall now, in our next essay, turn to the strategies that governments at all levels may employ to maintain these United States of America as that which their reputation demands: a land of opportunity.

—U.S. Citizen

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[16] "Taxes can be increased in most republics because the citizen, who believes he is paying to himself, has the will to pay them and ordinarily has the power to do so as a result of the nature of the government." Montesquieu, *Spirit of the Laws,* Bk.13, Ch. 13.

[17] "Duties on commodities are the ones the least felt by the people, because no formal request is made for them." Montesquieu, *Spirit of the Laws*, Bk. 13, Ch. 7.

[18] "Taxes upon such consumable goods as are articles of luxury, are all finally paid by the consumer, and generally in a manner that is very convenient for him. He pays them by little and little, as he has occasion to buy the goods. As he is at liberty too, either to buy, or not to buy, as he pleases, it must be his own fault if he ever suffers any considerable inconveniency from such taxes." Adam Smith, *The Wealth of Nations*, Bk. 5, Ch. 2.