

## New Model Federalist No. 2 – On Federalism

That a federal structure of government best preserves liberty in a large republic – That the United States today need decentralized and limited government – That the federal government ought to be vigorous in the exercise of its enumerated powers – That federalism encourages compromise and can alleviate the tyranny of the majority – That the multitude of States allows policy to be proven with minimal costs – That the partial sovereignty of the several States allows laws to match local values and conditions – That decentralization can give more political power to the individual citizen – That federalism checks tyrants and curbs excesses – That decentralization reduces bureaucracy – That a federal republic is more formidable in war and peace than a central one – That the enumerated powers granted to the federal government ought to be interpreted with restraint – That the several States ought to decentralize some power to their local governments

*The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. —Tenth Amendment to the U.S. Constitution, ratified December 15<sup>th</sup>, 1791.*

In the previous essay, we explained how the rights provided for in the First Amendment to the U.S. Constitution are fundamental to free government, and called for their staunch defense against the encroachment of ‘illiberal democracy,’ which is not free. Now we shall argue that the best structure for sustaining free government in a large republic, such as these United States, is a federal one; that the United States was founded as a Union of partly-sovereign States; that nine decades of relentless centralization have strained that Union; and that to preserve our Republic, what is now necessary is limited, decentralized, but also vigorous government at all levels.

We must first dwell momentarily on language, not only because doing so shall make this essay clearer, but because language shapes our perceptions. Today, the word “federal” and all its forms is often confused with the word “central,” but ought not to be; a federal political system is a union of partly sovereign states, whereas a centralized political system vests all sovereignty in the central government. Perhaps consequently, the full name of the United States of America is now often truncated: the “United States” are dropped, and we are left only with “America.” Similarly, “Union” has been all but lost from common use; it has been replaced by “Nation.”

These semantics are significant, because the present usage misleads our perception of the great Union that we the people possess. The United States of America is a country conceived not as a uniform entity but as a federal Union of States, each subordinate to the whole but retaining certain sovereign powers. Among those are the authority of each State to raise its own revenue, to maintain its own militia, and to make its own laws, so far as those laws do not assume powers forbidden to the States by the U.S. Constitution or enumerated by the same for the federal head. The vast majority of day-to-day governing is thus meant to be done by the several States, which are closer to the people and therefore more responsive to their wants and needs. Even the most ardent of the classical Federalist advocates of strong Union saw this division of power as the best solution to the challenge of governing a vast, continental Republic while also preserving liberty; so did the philosophers who inspired them.<sup>1</sup>

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<sup>1</sup> “I speak of the federal republic. This form of government is an agreement, by which many political bodies consent to become citizens of the larger state they want to form. It is a society of societies that make a new one, which can be enlarged by new associates that unite with it. ...This sort of republic, able to withstand external force, can be

Yet, as the old idea of “Union” was replaced with the singular “Nation,” the federal government encroached far upon the intended powers of the States. Departing from the balance carefully struck by Theodore Roosevelt and his fellow reformers at the turn of the 20<sup>th</sup> century, the administration of Franklin Roosevelt, in response to grave national crises, greatly expanded the federal government’s scope. To overcome a World War and a Great Depression, he charged it with new duties in areas of governance, such as the provision of welfare and pensions, that had been left previously to the several States.<sup>2</sup> And even as memories of those trying times faded, Lyndon Johnson and subsequent presidents of both parties continued relentlessly to centralize power, such that the people now look to the administration in Washington, D.C. to provide for all of their wants and to redress all of their grievances. This state of affairs has polarized society and paralyzed government. It is our sincere desire to restore the Union to its proper balance.

Our stance may, at first glance, be viewed by some as a contradiction: the old Federalists, they might claim, pressed for a strong federal government to guard against encroachments by the States. Our response is that times have changed, but the desired end has not. Federalism is not centralism. In its early days, the Republic needed a more expansive and vigorous federal head in order to function properly as the federal Union that those Founders envisioned. Today, that very same end requires that the federal government exercise considerable restraint. Nor do limitation and restraint need translate into weakness, nor should they; rather, the federal government ought to be energetic and supreme in exercising those powers that are clearly enumerated to it by the Constitution; and by focusing on those few prerogatives, rather than by perpetuating its current diffuse and grasping sprawl, the federal government shall, in practice, be rendered more potent.<sup>3</sup>

We ought first to answer why a federal system is necessary for the preservation of liberty in these United States. It is to ensure that the leaders of a large republic, such as ours, govern in the interests of the people; that the rights and interests of any part of the people are not injured by the majority; and that control over the country cannot pass into the hands of a tyrant.

The material advantages of a large republic are readily apparent: a large country has more might to repel foreign aggressors, and more resources to devote to peacetime progress, than does a small country. Yet in a large republic, those who govern at the national level become distant from the governed; and this is not necessarily due to arrogance or neglect on the part of those leaders, but simply a result of numbers: it is impossible for any one of them to become intimately familiar with the particular concerns of three-hundred-and-twenty-million of their countrymen.<sup>4</sup> It is easier, relatively, for the governor and legislators of a small republic – in our case, the States

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maintained at its size without internal corruption; the form of this society curbs every drawback.” Montesquieu, *Spirit of the Laws*, Bk. 9, Ch. 1. In *Federalist No. 9*, Hamilton explains how the United States fits this description of government, and how a federal system not only eases the burdens of governing a large and varied territory, but safeguards liberty by reducing the field for demagoguery and limiting the scope for the exercise of tyranny.

<sup>2</sup> Such as the direct provision of economic welfare to citizens under the New Deal. We elaborate in later essays.

<sup>3</sup> “Two very distinct kinds of centralization exist... To concentrate the power to direct the [interests common to all parts of the nation] in the same place or in the same hand is to found what I shall call governmental centralization. To concentrate the power to direct the [interests special to certain parts of the nation] in the same manner is to found what I shall name administrative centralization. ... in the United States administrative centralization does not exist. ...But in the United States governmental centralization exists to the highest point.” Tocqueville, *Democracy in America*, Vol. 1, Part 1, Ch. 5. Tocqueville observed our Republic when our federal system functioned well.

<sup>4</sup> “A central power, however enlightened, however learned one imagines it, cannot gather to itself alone all the details of the life of a great people. It cannot do it because such a work exceeds human strength.” Alexis de Tocqueville, *Democracy in America*, Vol. 1, Part 1, Ch. 5.

– to know and understand the needs of their people; and it is easier by far for a mayor or city councilperson to comprehend the needs of theirs. Thus, the more power is vested in governments that sit closer to the people, the more shall governance accord with the interests of the people.

Furthermore, that the passage of laws in a republic is done by the will of the majority is a just and acknowledged fact, for there exists no better way to obtain the consent of the governed. In every majority decision reached, however, there is a minority that has dissented from it, and that dissenting minority must nonetheless obey the law that is passed in such manner against its will, for the vote of the majority renders the law legitimate. Logically, there is some small loss of individual liberty therein on the part of the dissenters, as they are obligated to live with laws that they themselves did not assent to. This small cost to liberty is unavoidable in any system of government, and is far less egregious in democracy than under any other type of rule; but in a well-ordered federal republic it may be mitigated even further.

The smaller the dissenting minority in any political decision – in other words, the closer a vote comes to unanimity – the more closely the laws reflect the will of the entire people, and thus incur less loss to individual liberty. Unanimity, though rarely achieved, may be approached by means of compromise. Compromise in a large republic, possessed of a vast and diverse territory and population, is in the best of times a difficult feat. When, as now, the sheer number of citizens, in the hundreds of millions, reduces nearly all people to anonymity in the eyes of their fellow countrymen, compromise becomes harder still. It is in human nature to be reluctant to harm one's close acquaintances, yet it is easy, without thinking, to reject out of hand the needs of strangers. At the local and state levels of government, kinship, neighborliness, or at least a basic familiarity acquired by living in close proximity tend to give one's fellow citizens a human face; it follows that political decisions, if made in neighborhoods, towns, counties, cities, and states, ought to be likelier to result in compromise than if those decisions were made at the federal level.

In addition, a large republic has distinct regions, each of which by nature requires certain necessities for its inhabitants' well-being. Citizens living within a particular region thus usually hold at least some common interests, which derive from the common needs of life in that area. Compromise and a semblance of unanimity are thus likelier to result from decisions made within regions than across them.<sup>5</sup> And, in the last case, a dissenting minority that results from a regional decision will nonetheless, in most instances, have had its concerns heard and considered more by the regional government, which is close, than by the national government, which is distant.

Nonetheless, it is true, sometimes disputes arise in towns and cities that are as vicious and unyielding as those that arise in nations; sometimes the hatreds such disputes produce can lead to violence and oppression as severe at the local level as at the national. Yet even in these worst of instances, when neighbor sets upon neighbor, a well-functioning federal system can mitigate the harm. When a city or state, facing a controversial decision, is consumed by hostile passions that flow from it, the federal head may intervene to ensure the rights of citizens.<sup>6</sup> A central system offers no such succor: as few decisions are left to towns and regions, the bitterest controversies necessarily become national; few things but civil war or foreign intervention may resolve them.

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<sup>5</sup> “In a large republic, the common good is sacrificed to a thousand considerations; it is subordinated to exceptions; it depends upon accidents. In a small one, the public good is better felt, better known, lies nearer to each citizen; abuses are less extensive there and consequently less protected.” Montesquieu, *Spirit of the Laws*, Bk. 8, Ch. 16.

<sup>6</sup> “If some abuses are introduced somewhere, they are corrected by the healthy parts.” Montesquieu, Bk. 9, Ch. 1.

Moreover, federalism is the last and strongest check against the establishment of tyranny. All governments, even those elected by the people, are corruptible, because all governments are the work of mankind, and mankind is corruptible. For that reason, our Republic's Founders instituted a separation of powers between the executive, legislative, and judicial branches of the federal government, and devised checks and balances among them. Rather than trust only in mankind's virtue, they contrived that no man or woman could acquire unchallenged power over the Union. They did so skillfully. A would-be tyrant in these United States faces a daunting task: he, or she, must first deceive a majority of the people to be elected to high office; he must then dominate the Congress; then suborn the courts; and then bend to his will all fifty of the States.<sup>7</sup>

That final task, of subjugating the States, is for the tyrant the most difficult of all. The Congress and the courts wield the power of the law; but when a chief executive holds the law in contempt, the legislative and judicial branches do not themselves have the means to prevent him from enacting his despotic designs. Yet the state governments, by withholding their cooperation, may render his unlawful demands impotent. The several States, for instance, each hold authority over the police forces, without which no act of oppression can effectively be carried out. Moreover, States may, through appeals in the courts, lend their resources to the re-establishment of the law. That they shall indeed act in such a way is likely, for in federal republics such as ours, history has shown that some states are always governed by the opposition party; those states, at least, would be willing to resist tyranny in a time of need.<sup>8</sup>

It can thus be said that, in a well-functioning federal republic, the states comprise the last separation of power, after the division of the federal executive, legislature, and judiciary.<sup>9</sup> But if that federal system should fail – if, by the creeping encroachment of central authority over the powers reserved to the several States, those States are rendered fully dependent on whomever controls the government of the Union – then the tyrant's hardest work will have already been done for him, and establishing his dominion over every part of the Republic shall be made easy.

Thus does a federal structure of government, in conjunction with the rights enshrined within the First Amendment and elsewhere in the Constitution that are guaranteed to all citizens by the federal government, soften the tyranny of the majority and thereby preserve liberty.

We shall now endeavor to describe some of the practical benefits of true federalism – of reserving sufficient powers to the States – to the Union as a whole, though we shall not attempt

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<sup>7</sup> "...you [France] had all that combination, and all that opposition of interests, you had that action and counteraction which, in the natural and in the political world, from the reciprocal struggle of discordant powers, draws out the harmony of the universe. These opposed and conflicting interests... interpose a salutary check to all precipitate resolutions; They render deliberation a matter not of choice, but of necessity; they make all change a subject of compromise, which naturally begets moderation; they produce temperaments, preventing the sore evil of harsh, crude, unqualified reformations; and rendering all the headlong exertions of arbitrary power, in the few or in the many, for ever impracticable." Edmund Burke, *Reflections on the Revolution in France*.

<sup>8</sup> "One who might want to usurp could scarcely have equal credit in all the federated states." Montesquieu, *Spirit of the Laws*, Bk. 9, Ch. 1.

<sup>9</sup> "In a single republic, all the power surrendered by the people, is submitted to the administration of a single government; and usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people, is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will controul each other; at the same time that each will be controuled by itself." James Madison, *Federalist No. 51*.

to restate all of the arguments made in 1787 by the classical Federalists and their rivals. Rather, we shall focus on what is today most overlooked: that the diversity of state laws and governing systems in these United States, fifty at the present, is far more a strength than it is a hindrance.

First, the federal structure of the United States provides a multitude of testing grounds for new policies, the effects of which are unknown until somewhere put into practice. Should some previously untested policy fail in one State, the effects of its failure will be limited: they will be largely confined to that State, rather than unleashed upon the Union as a whole. The other States, observing that failure, might then not be tempted to attempt the same policy, thus sparing their residents from its disastrous effects. Conversely, if a new policy should succeed brilliantly in one State, the others might then be inspired to mimic it, thus sharing its benefits as effectively as if it had been imposed all at once by the federal head, but without the danger of the latter method.

Second, the partial sovereignty of the several States allows for legislation to be adapted to local conditions. When Congress passes a law for the whole Republic, it is nearly unavoidable that certain provisions of it shall neglect the regional interests of some parts of the Union. Such omissions may occur even if the intention of the federal legislators is benevolent, because it is nearly impossible to make even a small adjustment to a large and complex republic without disrupting some part of it. If, instead, the governments of the parts – the States – decide the matter with separate legislation, they are less likely to neglect the unique interests of their residents. That is, a law that brings benefit to the citizens of New Jersey might bring ruin if adopted in Oklahoma; thus, unless it is both necessary and constitutional that the law be imposed upon the entire Union, it is far better that one law be adopted in New Jersey and that a different law be adopted in Oklahoma, so that each State may therefore prosper in its own manner.

Third, a decentralized approach to social issues ought to alleviate the “culture wars” that have so damagingly polarized our country. Such controversies, as they are closely tied to the personal convictions of citizens, inflame the passions of many; for that reason, they do not lend themselves easily to compromise. The fear that the federal government might decide those affairs in one party’s favor has produced only the result of making each national election into a vicious struggle for domination, in which the loser sees no recourse. Thus do factional divisions harden.

Take, by way of example, two of the bitterest disputes in our Republic today: those over regulation of firearms and abortions. The many whose passions are ignited by those matters often suspect that their fellow citizens are plotting to restrict their personal liberties, and so they view their own countrymen as enemies. We posit that a majority of Texans may breathe easier if they need not fear imposition of New York’s gun-control laws in their own State, whereas a majority of New Yorkers may be more at ease if they do not fear that Texans are scheming to impose their laws regulating abortion upon New York. Such limitation of federal authority over those affairs, although the rhetoric of both major parties makes it appear outlandish, is in fact the status quo. The Constitution, in the first instance, and Supreme Court precedent, in the second, allow for a similar interpretation on arms and abortion: that States may regulate each, but prohibit neither.<sup>10</sup>

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<sup>10</sup> The 2<sup>nd</sup> Amendment invokes “a well-regulated militia,” implying that firearm regulation short of prohibition is constitutional; Congress and the States share responsibility for governing the militia, but the other uses of arms such as hunting or self-defense mostly fall under the powers reserved to the States to govern. *Roe v. Wade* forbids States from outlawing abortion, but allows them to regulate it. Some citizens consider abortion murder, and so believe that precedent erroneous; but laws concerning murder, too, are passed by the States, and their violation is tried in state courts. Federal jurisdiction is limited to certain crimes: see Art. 1, Sec. 8 and Art 2, Sec 2-3 of the *U.S. Constitution*.

Were the national parties to cease their efforts to legislate or adjudicate such social affairs at the federal level, it may be argued, those controversies would nonetheless burn with the same intensity in the several States. That is true, but some of their ill-effects shall be mitigated. Those dissenters who lose the majority vote within each individual State may, as citizens of the United States, move to and become resident in another State with laws more to their preference. If they prefer instead to remain and press for change, they shall at least do so amongst their neighbors, rather than strangers with whom empathy is less easily felt. In either instance, they need not have enmity towards people of another State who do not share their cultural preferences. The residents of Maryland and of Wyoming can both be proud Americans and consider the other also to be so; though each live in a different manner, each may be trusted not to interfere in the manner of the other. When the federal government takes social affairs into its own hands, such harmony cannot exist. Better, then, to regulate them in state legislatures, to whom the Constitution reserves such power, so that when change comes, the people know and feel that they themselves decided it.

That is not to say that there should not be some common national aspects of culture, but they should be limited to things directly necessary to the preservation of the Union, such as love of liberty and respect for the law. We do say that the government is not, nor ought to be, the prime determiner of culture. Rather, it ought to allow society's healthy and natural development by refraining from regulating cultural matters that have little bearing on high functions of state.

Fourth, the proper reservation of powers to state and local governments enables ordinary citizens to be more engaged in, and able to influence, their own governance. Our Republic works on the principle of one person, one vote. Yet one individual vote out of the two hundred million that comprise the eligible population of the United States will seem to most citizens like a mere raindrop in the ocean. That perception leads the individual to despair of his or her right to have a say in government; that despair tempts many, as we see today, to turn away from enlightened government to the false prophets of 'illiberal democracy.' Yet it is easier for citizens to achieve a political goal in their State; it is even easier in their county; and it is easier still in their town or neighborhood. The more governance is left to those smaller electorates, the more shall individual citizens see their own hand in it, and be content to be governed by republican means.

Fifth, even in times when the Republic is not threatened by a tyrant, the States may act as a check on the excesses of the federal executive when Congress does not, thereby encouraging prudence and moderation in federal policies. For instance, state governments have the standing to challenge a policy in the federal courts, on the question of that policy's adherence to the U.S. Constitution; vigorous States may make constructive use of this ability.

Sixth, decentralized decision-making in government reduces the need for a multiplicity of rules and regulations, thus reducing the paralyzing burden of bureaucracy currently imposed upon our governments and enterprises. Rules are instituted in the place of discretion; when the lower levels of government may exercise greater discretion, fewer rules are needed from the higher levels. We shall discuss this advantage more extensively in another essay.

Seventh, a union composed of several diverse parts is more formidable in war and peace than a centralized nation of similar size, provided that its federal head can mobilize the resources of the union in times of crisis. Should some calamity throw its federal head into disorder, it is able to carry on: states and cities, accustomed already to governing themselves, shall continue to act in the absence of instructions from the center. In the peacetime endeavors of industry and

innovation, an entrepreneur may choose, from a variety of options, the state or city whose unique laws are most suitable for his or her idea to flourish. The flexibility displayed in the latter case builds national strength; the resilience illustrated in the former instance preserves it.

We have thus far discussed why the preservation of a federal structure of government is desirable and why its erosion in the past century is damaging to our Union; what remains is to say how the federal system has been eroded and how might it be restored. We must first note that the steady expansion of central power since the mid-20<sup>th</sup> century is not strictly unconstitutional: many Presidents and leaders of both parties, often with noble intentions, made use of open-ended clauses of the Constitution to put forth their agenda in Congress and defend it before the courts. That practice continues today, contrary to the spirit of the founding document, but not its letter.

The ‘Necessary and Proper’ clause in Article 1, Section 8, the article of the Constitution that enumerates the powers of the federal Congress, was denounced by Anti-Federalists during the ratification debate as a blank check for federal power; but that clause does no more than give Congress the means to legislate in order to achieve the ends that the Constitution already granted it.<sup>11</sup> The true loop-holes are in the vague description of one enumerated power, “to provide for the general Welfare of the United States,” and the broad interpretation of another, “to regulate Commerce among the several States.” Almost any law may be characterized as providing for the general welfare, and the great proportion of laws which in some way affect the national economy may be portrayed as regulation of interstate commerce. Thus are the doors open to an unlimited expansion of federal control over matters reserved to the States, or to the people.

It might be argued, then, that the Constitution ought to be amended so as to withdraw those two powers from Congress. Yet to do so would be rash and foolish, because situations exist in which it is both entirely appropriate and within the spirit of the Constitution for Congress to legislate on those pretexts. Preventing Congress from regulating interstate commerce would stunt the economy both of the Union and of the several States: witness the tangle of conflicting state regulations across the sea in India, whose government today fights to overcome that discord and unleash the country’s vast potential. There are also some issues that require a national response – that is, they cannot be effectively addressed by the States alone – but that cannot be characterized under any other enumerated power but for the general welfare of the United States. There also ought to be allowances for instances in which a well-crafted federal law can reduce the volume of bureaucracy formed by successive layers of local and state government.<sup>12</sup>

The necessary and proper response to the creep of central power in these United States, therefore, is not to re-write the constitutional rules of government, which at any rate are always open to interpretation and wrangling, but instead to elect officials, at all levels of government, who exercise discretion and restraint in keeping with the spirit of the Constitution, rather than its letter alone; who trust in a federal system, in which the component parts enjoy and may exercise some portion of sovereignty; who take a narrower view on the powers enumerated to the federal government, and a more expansive view on the powers reserved to the States, or to the people; who refrain from supporting bills proposed under the powers of interstate commerce or general welfare, unless those bills be truly necessary to the Union’s well-being, and cannot effectively be

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<sup>11</sup> See *Federalist No. 44*, in which Madison defends the Necessary and Proper Clause.

<sup>12</sup> Yet as noted previously, the best method of reducing bureaucracy in most cases is to increase discretion, which is most effectively done by allowing lower levels of government to exercise the powers reserved to them.

addressed by local or state laws alone; and who are nonetheless committed to full and vigorous exercise of federal authority under powers clearly enumerated to the federal government in letter and in spirit, such as providing for the national defense and managing the national debt.

Some may object that decentralization leads not always to greater compromise but, where certain prejudices exist, to the subjugation of a minority by the local majority. We do not deny that this phenomenon has occurred, in grievous form, at intervals throughout the history of our Republic; our bloodiest war was instigated by the leaders of a rebellion which sought to preserve the evil of slavery behind a thin veneer of “states’ rights.” That Civil War ended, however, with a series of Amendments to the Constitution of the United States that removed all doubt from the founding principle that all Americans are equal before the law. It remains the duty of the federal government to uphold those Amendments, just as it is that government’s duty to uphold the entire Constitution; no federalist creed may justly sanction the denial of constitutional rights.

We shall also note here a most crucial exception to our general theory, which is that the federal government must be able to concentrate power in times of grave crisis, so as to mobilize the resources of the entire Republic to overcome the danger. It is no coincidence that previous broad expansions of federal power occurred during the Civil War, the World Wars, and the Great Depression. Our objection is not that Lincoln and F.D.R. took those actions in the midst of crisis, but that, principally in the latter case, their successors failed to restore the federal balance once those crises had receded, and instead clung to centralization in hope of exercising similar power as their wartime predecessors. In so doing, they drained the long-term strength of our Union.<sup>13</sup>

Finally, the States ought not to demand decentralization from the federal government if they are not willing in turn to offer some decentralization to their own cities and counties; and those cities and counties ought not to demand that their state governments cede powers to them if they are not willing to cede powers to their neighborhoods or municipalities, and so on down to the individual citizen. Thus we call for the election of legislators and officials who are willing to amend and interpret state constitutions and city charters to provide for a more decentralized, federal character; who are, ultimately, willing to trust the citizen with his or her own affairs, recognizing that the people’s ability to govern themselves increases at each level of government that is closer to them, their immediate surroundings, and their day-to-day lives.

Federalism carries risks: some States, cities, towns, or neighborhoods will fail, and thus a wise government has emergency provisions in place, such as laws governing bankruptcy. But it also promotes responsibility and rewards success; like a free market, it relinquishes some central control in exchange for greater dynamism and enterprise. Moreover, it is the structure of government most conducive to the preservation of liberty across a vast population and territory such as that of these United States. It therefore ought to be jealously guarded and perpetuated.

—U.S. Citizen

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<sup>13</sup> “But I think that administrative centralization is fit only to enervate the peoples who submit to it, because it constantly tends to diminish the spirit of the city in them. Administrative centralization, it is true, succeeds in uniting at a given period and in a certain place all the disposable strengths of the nation, but it is harmful to the reproduction of strength. It makes the nation triumph on the day of combat and diminishes its power in the long term. It can therefore contribute admirably to the passing greatness of one man, not to the lasting prosperity of a people.” Tocqueville, *Democracy in America*, Vol. 1, Part 1, Ch. 5. We speak of economic and regulatory affairs; Lincoln’s successors after Grant were grievously wrong to abdicate the upkeep of civil rights, which also weakened the Union.