Reading Number 18
from The Federalist 39 and 46
by James Madison
(writing under the pseudonym of Publius)

Professor’s Note: The argument about where the most dominant locus of power in the federalist system of government should reside is the most genuine and consistent debate which takes place between so-called “Conservatives” and “Liberals.”

Highlights:

p. 117, last ¶ – “… we may define a republic to be, or at least may bestow that name on, a government which derives all of its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during the pleasure for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by delegation of their powers, might aspire to the rank of republican and claim for their government the honorable title of republic.”

p. 118, ¶ 2 – “But it was not sufficient,’ say the adversaries of the proposed Constitution, ‘for the convention to adhere to the republican form. They ought with equal care to have preserved the federal form, which regards the Union as a Confederacy of sovereign states; instead of which they have framed a national government, which regards the Union as a consolidation of the States.’ And it is asked by what authority this bold and radical innovation was undertaken?...”

p. 118, last ¶ – “On examining the first relation, it appears… that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority of each state—the authority of the people themselves. The act, therefore, establishing the Constitution will be a national but a federal act.”

p. 120, ¶ 2 – “If we try the Constitution by its last relation to the authority by which the amendments are to be made, we find it neither wholly national nor wholly federal. Were it wholly national, the supreme and ultimate authority would reside in the majority of the people of the Union; an this
authority would be competent at all times…. Were it wholly federal… the concurrence of each State in the Union would be essential to every alteration that would be binding on all.”

**p. 120, ¶ 3** – “The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is… neither a national nor a federal Constitution, but a composition of both.”

**p. 120, ¶ 4** – “The federal and State governments are in fact but different agents and trustees of the people, constituted with different powers and designed for different purposes.”

**p. 121, ¶ 3** – “If … the people should in future become more partial to the federal than to the State governments, the change can only result from manifest and irresistible proofs of a better administration as will overcome all their antecedent propensities. And in that case, the people ought not surely to be precluded from giving most of their confidence where they may discover it to be most due; but even in that case the State governments could have little to apprehend, because it is only within certain sphere that the federal power can, in the nature of things, be advantageously administered.”