
ON THE IMPERATIVE OF CIVIL DISCOURSE: LESSONS FROM ALEXANDER HAMILTON AND *FEDERALIST NO. 1*

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INTRODUCTION

There is great fragility in the maintenance of civil discourse. History tells us that it can, and will, fracture, counseling vigilance in its defense. And, that commitment requires revisiting from time to time valuable insights from great minds of the past who have pondered why civil discourse is so vital to productive political debate and healthy social growth. This Essay takes on that charge, exploring one source of such wisdom—the thoughts of Alexander Hamilton in *Federalist No. 1*,¹ published on October 27, 1787, as the first essay in what would become known as *The Federalist Papers*. It is an especially relevant source to revisit when so much of the polarized debate in today’s society involves topics discussed in other parts of *The Federalist Papers*, leading to invocation of those very papers in many current debates. The collected essays are getting new readers as politicians and citizens more regularly invoke them as authoritative sources on the meanings of impeachment, high crimes and misdemeanors, emoluments, separation of powers, and other constitutional concepts of resurging importance.

Quite often, political and legal discussions risk falling prey to tribal positioning and highly polarized rhetoric. While these bugs have undoubtedly infected discourse and poisoned civility since the beginning of time, some see them as more intense and rising in recent years. Precisely

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1. THE FEDERALIST NO. 1 (Alexander Hamilton). An electronic version of Federalist No. 1 is available as part of The Avalon Project at Yale Law School at https://avalon.law.yale.edu/18th_century/fe01.asp [<https://perma.cc/NK4Z-QHYT>].

because the loss of civility and the risk of non-serious discourse are not new threats to reasoned debate and social cohesion, it makes sense to search for wisdom from the past to provide a window to help us weather the winds of the present.

Although less than 1600 words, Hamilton's *Federalist No. 1* packs a powerful anti-polarization punch. In it, Hamilton offers profound lessons on civil discourse as an imperative to serious debate, the importance of respect for the opinions of others, the necessity of adopting a presumption of good faith on the part of others, and generally what I will call an "avoidance of demonization" principle that should guide our characterization of the views of others.

This Essay is not designed to rehash or resolve the questions regarding whether we are polarized or less civil in our discourse than in times past, nor is it intended to propose specific solutions. Instead, it is designed to add Alexander Hamilton to the discussion and to remind readers about the lessons he had when polarized politics surrounding the discussion on the necessity and framing of the U.S. Constitution risked uncivil discourse at the Founding.

I. A BRIEF CANVASS OF THE STATE OF CIVIL DISCOURSE AND POLARIZATION IN TODAY'S POLITICAL AND LEGAL DEBATES

Although a deep dive into the literature on civility and polarization is outside the scope of this Essay, a brief survey is nonetheless helpful. Thus, before we get to some of the specifics of Hamilton's essay, taking a picture of the present state of civil discourse can help us understand why Hamilton's words are relevant and could be deployed effectively to advance civility today.

A widely-cited October 2019 Pew Research Center study reported the results of an intense survey of attitudes on politics and partisanship, titled *Partisan Antipathy: More Intense, More Personal*.² Among its findings, Pew reports that "[t]hree years ago, Pew Research Center found that the 2016 presidential campaign was 'unfolding against a backdrop of intense partisan division and animosity.' Today, the level of division and animosity—including negative sentiments among partisans toward the members of the opposing party—has only deepened."³

2. PEW RESEARCH CTR., PARTISAN ANTIPATHY: MORE INTENSE, MORE PERSONAL (Oct. 10, 2019), https://www.people-press.org/2019/10/10/partisan-antipathy-more-intense-more-personal/?utm_source=link_news9&utm_campaign=item_268982&utm_medium=copy [<https://perma.cc/3LFU-K6JB>].

3. *Id.* at 5. See also Chris Cillizza, *14 Key Political Trends from the 2018 Exit Polls*, CNN (Nov. 14, 2018), <https://edition.cnn.com/2018/11/13/politics/2018-exit-polls/index.html>

A broad array of academic literature also supports these survey findings. In a lengthy *New York Times* opinion piece in March 2018, Thomas Edsall, a journalist and former professor at the Columbia Graduate School of Journalism, provided a quick but useful survey of that literature, leading to his conclusion that “[h]ostility to the opposition party and its candidates has now reached a level where loathing motivates voters more than loyalty.”⁴

Among the literature, Stanford political scientists Shanto Iyengar and Masha Krupenkin published a study in February 2018 with their findings summarized as follows:

Partisanship continues to divide Americans. Using data from the American National Election Studies (ANES), we find that partisans not only feel more negatively about the opposing party, but also that this negativity has become more consistent and has a greater impact on their political participation. We find that while partisan animus began to rise in the 1980s, it has grown dramatically over the past two decades. As partisan affect has intensified, it is also more structured; ingroup favoritism is increasingly associated with outgroup animus. Finally, hostility toward the opposing party has eclipsed positive affect for ones’ [sic] own party as a motive for political participation.⁵

And, there are claims that the declining state of civil discourse and the risks of paralyzing polarization is not limited to the United States. Thomas Carothers, senior vice president for studies at the Carnegie Endowment for International Peace and director of its Democracy, Conflict, and Governance Program, as well as the author of *Democracies Divided*, has described polarization as a global illness, and he has opined that “[p]erhaps most fundamentally, polarization shatters informal but crucial norms of tolerance and moderation . . . that keep political competition within bounds.”⁶ And, the

[<https://perma.cc/EN4L-4DW3>] (reporting that the exit polls in the November 2018 election revealed that “one place where most people (76[percent]) agree is that the country is growing more divided. Just 9[percent] said we were getting more united . . . and 13[percent] said we aren’t changing in any meaningful way when it comes to partisanship”); Frank Newport, *The Impact of Increased Political Polarization*, GALLUP (Dec. 5, 2019), <https://news.gallup.com/opinion/polling-matters/268982/impact-increased-political-polarization.aspx> [<https://perma.cc/G2EG-4H2G>] (reporting by Gallup senior scientist on the October 2019 Pew study, concluding that “deep partisanship [is] one of the defining aspects of our American society today”).

4. Thomas B. Edsall, *What Motivates Voters More Than Loyalty? Loathing*, N.Y. TIMES (Mar. 1, 2018), <https://www.nytimes.com/2018/03/01/opinion/negative-partisanship-democrats-republicans.html?auth=login-email&login=email> [<https://perma.cc/B9LZ-X2SB>].

5. Shanto Iyengar & Masha Krupenkin, *The Strengthening of Partisan Affect*, 39 ADVANCES IN POL. PSYCHOL. 201 (2018), <https://onlinelibrary.wiley.com/doi/abs/10.1111/pops.12487> [<https://perma.cc/D9BF-7XXG>].

6. Thomas Carothers & Andrew O’Donohue, *How to Understand the Global Spread of Political Polarization* CARNEGIE ENDOWMENT FOR INT’L PEACE (Oct. 1, 2019), <https://carnegieendowment.org/2019/10/01/how-to-understand-global-spread-of-political-polarization-pub-79893> [<https://perma.cc/U234-3JEB>].

effects bleed beyond politics. “Polarization also reverberates throughout the society as whole, poisoning everyday interactions and relationships.”⁷

Even a very quick research effort will reveal that there is no shortage of academic or expert work from a variety of disciplines studying the state of discourse today and across history. That alone is a strong signal that we take very seriously the health of our discourse in society. Anecdotally too, many participants in, or observers of, our ongoing debates on political and legal issues have opinions on the state of civil discourse. And, looking around popular media and other sources, it is not hard to find people bemoaning the state of affairs in civil discourse and decrying the risks of a polarized populous.⁸ Consider, for example, recent commentary claiming that, “[t]oo often, calls for civility are shelved in the heat of battle, occasionally with the defense that passionate engagement or authenticity requires *incivility*.”⁹

These opinions not only come from pundits or policy wonks, but you can find alarms raised on the state of civil discourse from several U.S. Supreme Court Justices, traditionally reserved in their commentary on the social or political climate. For example, on February 7, 2020, just after the U.S. Senate voted to acquit President Donald Trump in his impeachment trial, when questioned regarding threats to the rule of law at an event held by the World Jurist Association and the World Law Foundation, Justice Ruth Bader Ginsburg pointed to “a loss of the willingness to listen to people with views other than one’s own” as an example and also acknowledged “the problems of indifference, of tribal-like loyalties, lack of observance of the golden rule, ‘Do unto others,’ ” as contributing to political intolerance.¹⁰ Justice Ginsburg continued to explain that echo chambers are in part to blame, positing that this unwillingness to listen “is facilitated by electronic means, to associate with only one’s—you could call it one’s own home crowd, and to tune out other voices.”¹¹ Nonetheless, Justice Ginsburg explained she is hopeful that “people of goodwill in both of our parties will say, ‘We have had enough of dysfunction. Let’s work together for the good of all of the people who compose the nation.’ ”

Perhaps Justice Ginsburg’s optimism is fueled by her own positive

7. *Id.*

8. Charles J. Sykes & Carolyn J. Lukensmeyer, *Civility Is Now a Foreign Concept in Americans Politics. How Did We Get Here — and How Do We Fix It?*, NBC NEWS (May 11, 2018, 11:26 AM), <https://www.nbcnews.com/think/opinion/civility-now-foreign-concept-americans-politics-how-did-we-get-ncna873491> [<https://perma.cc/5KP5-Q5V5>].

9. *Id.* (emphasis added).

10. Caroline Kelly, *Ruth Bader Ginsburg: Senate Exemplifies Trend of Sticking with ‘One’s Own Home Crowd’*, CNN (Feb. 7, 2020), <https://www.cnn.com/2020/02/07/politics/ruth-bader-ginsburg-senate-partisan-polarization/index.html> [<https://perma.cc/E4ND-TJYY>].

11. *Id.*

experiences respecting the views of others and having her views respected in return. One well-publicized example of her experiences with reciprocal respect comes from her friendship with Justice Antonin Scalia, with whom she regularly disagreed on questions of law, judicial philosophy, and politics. The relationship between Justices Scalia and Ginsburg provides a valuable lesson on how open exchange is possible among opposites while maintaining a separate level of friendship and respect not dependent on philosophical agreement or alignment.¹² As Professor JoAnn Koob recounts, “Justice Scalia famously said, ‘I don’t attack people. I attack ideas.’”¹³ That anti-personalization philosophy made it possible for what Koob describes as “a long friendship” with Justice Ginsburg that lasted “not because they agreed on most cases, but because they respected each other, relished robust debates, and enjoyed each other’s humor,”¹⁴ and because they spent humanizing time together.

In May 2019 remarks while accepting the American Law Institute’s Friendly Medal in honor of Second Circuit Judge Henry Friendly, retired Justice Anthony Kennedy warned that “[c]ivility . . . has never been needed more than it is today,”¹⁵ in crucial part because “[d]emocracy presumes that there will be a consensus based on thoughtful debate.”¹⁶ This was not the first or last time that Justice Kennedy has addressed the topic.¹⁷ For example, at a 2017 summit on civic education in California schools, he remarked that, “[i]n recent years, our civic discourse has all too often become intemperate, irrational, hostile, divisive, insulting, unprincipled.”¹⁸ Consequently, Kennedy explained that we must find ways to combat this state of affairs, because “[w]e have a duty to show that democracy works through a discourse that’s exciting and admirable, that’s inspiring.”¹⁹

12. The relationship is recounted in the news story from George Mason University’s Antonin Scalia Law School: JoAnn Koob, *The Need for Civil Discourse Is Greater than Ever*, GEO. MASON U.: ANTONIN SCALIA SCH. OF L., https://www.law.gmu.edu/news/2020/the_need_for_civil_discourse_is_gr eater_than_ever [https://perma.cc/PKB6-ZGMN].

13. *Id.*

14. *Id.*

15. *Speaker Videos—Friendly Medal Presentation: Anthony M. Kennedy*, AM. L. INST., 18:10, <https://www.ali.org/annual-meeting-2019/videos-speakers> [https://perma.cc/JK5J-8T7C].

16. *Id.* at 19:24.

17. *See, e.g.*, Kathleen Ronayne, *Kennedy Warns of Dangers to Democracy, Won’t Talk Kavanaugh*, ASSOCIATED PRESS (Sept. 28, 2018), <https://apnews.com/c9c39fedd46f4b00bb642ef8c7b34624/Kennedy-warns-of-dangers-to-democracy,-won-t-talk-Kavanaugh> [https://perma.cc/WAH4-JNG7] (reporting on comments by Justice Kennedy that, when we were working to export democracy around the world over the past several decades that “Perhaps we didn’t do too good a job teaching the importance of preserving democracy by an enlightened civic discourse”).

18. Alexei Koseff, *Anthony Kennedy Worries that Civic Discourse Has Become Too ‘Hostile’ and ‘Divisive’*, SACRAMENTO BEE (Feb. 14, 2017), <https://www.sacbee.com/news/politics-government/capitol-alert/article132765559.html> [https://perma.cc/7NQL-TYBA].

19. *Id.*

In his 2019 book, *A Republic, If You Can Keep It*, Justice Neil Gorsuch sounded a similar alarm. Gorsuch stated that he “worr[ies] that, just as we face a civics crisis in this country today, we face a civility crisis too.”²⁰ Similarly, during a speech at the October 2019 National Conference on Civic Education and the Federal Courts, Justice Gorsuch remarked that “I think we are facing a crisis,” because “[w]e have lost the art of how to talk to one another.”²¹

In his book, Justice Gorsuch explained that, “[a]ccording to a study called *Civility in America*, nearly 70 percent of Americans believe the country has a ‘major civility problem.’”²² Moreover, “[n]early 60 percent say they pay less attention to politics today because of its incivility More than half think civility in our country is likely to decline even further.”²³ Justice Gorsuch observed that “[those] figures should concern us all. Without civility, the bonds of friendship in our communities dissolve, tolerance dissipates, and the pressure to impose order and uniformity through public and private coercion mounts.”²⁴ Gorsuch’s view is based on his recognition that civil discourse where we respect even those with whom “we vigorously disagree”²⁵ enriches the quality of discussion and ensures that the debates over crucial civic issues will have the robustness that true democratic deliberation requires.²⁶

While some say that polarization is the worst it has ever been, others question whether we can rely on the data some use to support those claims. At least one group of political scientists believe, for example, that some of the regularly invoked survey results are less indicative of polarization than they are reflective of a general distaste for political discussion entirely.²⁷

20. JUSTICE NEIL M. GORSUCH, *A REPUBLIC, IF YOU CAN KEEP IT* 31 (2019).

21. Tom McParland, *Gorsuch, Sotomayor Boost 2nd Circuit Efforts to Engage Communities, Revive Civic Education*, LAW.COM (Oct. 31, 2019, 5:44PM), <https://www.law.com/newyorklawjournal/2019/10/31/gorsuch-sotomayor-boost-2nd-circuit-efforts-to-engage-communities-revive-civic-education> [<https://perma.cc/Y5PM-5ALG>].

22. GORSUCH, *supra* note 20, at 31.

23. *Id.*

24. *Id.*

25. *Id.*

26. See Adam J. White, *A Republic, If We Can Keep It*, ATLANTIC (Feb. 4, 2020), <https://www.theatlantic.com/ideas/archive/2020/02/a-republic-if-we-can-keep-it/605887> [<https://perma.cc/H6K7-A7GT>] (“For Gorsuch, civic virtue requires civility. . . . Gorsuch’s book calls for civility not to stifle disagreements on public matters, but to facilitate them.”).

27. See, e.g., Sumara Klar et al., *Is America Hopelessly Polarized, or Just Allergic to Politics?*, N.Y. TIMES (Apr. 12, 2019) <https://www.nytimes.com/2019/04/12/opinion/polarization-politics-democrats-republicans.html> [<https://perma.cc/V46W-P2LR>] (arguing evidence shows commenters may be “overstating the divide” because it “might not be with polarization. It might just be that most people really don’t like politics. Americans are open to people with all sorts of political and partisan opinions, our research shows — as long as they keep those opinions to themselves.”).

Perhaps polarization is truly more intense and civil discourse is in decline. Perhaps not. Whatever the case, neither polarization nor threats to civility are new.

II. ALEXANDER HAMILTON AND *FEDERALIST NO. 1* ON CIVIL DISCOURSE, MUTUAL RESPECT, AND AVOIDANCE OF DEMONIZATION OF OPPOSING VIEWS

Can Alexander Hamilton's words on civil discourse in *Federalist No. 1*,²⁸ published on October 27, 1787, help us raise the level of discursive civility in the highly polarized and tribal politics of 2020? It is worth revisiting Hamilton's thoughts to give his wisdom a modern audience.

With *Federalist No. 1*, writing under the pseudonym Publius that he would share with John Jay and James Madison across the next several months, Hamilton launched their project to defend the structure and purposes of the proposed new U.S. Constitution. *Federalist No. 1* was an essay heralding a true time for choosing. Hamilton argued that the new Constitution was "the safest course for your liberty, your dignity, and your happiness"²⁹ and he proposed to discuss the particulars of why "in a series of papers" we now know as *The Federalist Papers*.³⁰

Although *The Federalist Papers* are most often read for its lessons on constitutional interpretation, *Federalist No. 1* actually had an additional purpose. Hamilton wanted his readers to understand the imperative of civility in discourse, a presumption of good faith applied to one's political opponents, and the importance of respecting different opinions when engaging in the most important, often contentious, conversations of the day. Reading the passages of Hamilton set forth below, one can expect that he would likely agree with Justice Gorsuch's commentary that "a government of and by the people rests on the belief that the people should and can govern themselves—and do so in peace, with mutual respect. . . . We must, as well, be able to talk to one another respectfully; debate and compromise; and strive to live together tolerantly."³¹

To Hamilton, serious times called for serious thought. As Hamilton wrote in *Federalist No. 1* of the decision whether to adopt the new Constitution, "[t]he subject seeks its own importance; comprehending in its consequences nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire in many

28. THE FEDERALIST NO. 1, at 3–7 (Alexander Hamilton) (Jacob E. Cooke ed., 1961).

29. *Id.* at 6.

30. *Id.*

31. GORSUCH, *supra* note 20, at 20.

respects the most interesting in the world.”³²

Today, there are similar warnings that present day polarization could keep us from effectively dealing with the serious matters that confront society. For example, Frank Newport, senior scientist at Gallup, opined in a December 2019 article after reviewing these multiple sources of evidence that polarization and incivility risk problem-solving paralysis. He described “the sociological impact of polarization and increasing disapprobation of one’s political opposites” which risks leading to “skeptical views of institutions and social structures [that] skew us toward distrust, anger and internal infighting—not actionable efforts to fix problems and address threats.”³³

Hamilton warned that deliberation over the new Constitution would be heated and that the country needed to understand the risks from the fiery debate that was certain to follow. Presaging debates to come, Hamilton warned readers that he who is loudest is not necessarily he who is right. Hamilton warned again in that first *Federalist* paper that some “mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations and the bitterness of their invectives.”³⁴

Perhaps one of the most important lessons in *Federalist No. 1* was Hamilton’s caution against appeals to extremes. These will often not be appeals to reason upon which even wise persons may differ. Instead, these are appeals to emotion. For example, Hamilton contemplated that “a dangerous ambition . . . often lurks behind the specious mask of zeal for the rights of the people,”³⁵ and advised that “[h]istory will teach us” that those making zealous appeals to populist themes “has been found a much more certain road to the introduction of despotism . . . and that of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing Demagogues, and ending Tyrants.”³⁶

Hamilton worried the debate on the Constitution that was about to consume the young nation in 1787 would “let loose” a “torrent of angry and malignant passions,” where “opposite parties” would undoubtedly believe they could win their argument and “increase the number of their converts by the loudness of their declamations and the bitterness of their invectives”

32. THE FEDERALIST NO. 1, *supra* note 28, at 3.

33. Newport, *supra* note 3.

34. THE FEDERALIST NO. 1, *supra* note 28, at 6.

35. *Id.*

36. *Id.*

rather than through reasoned debate.³⁷ Unfortunately, the “illjudged” and “intolerant spirit which has, at all times, characterised political parties”³⁸ that Hamilton warned about in *Federalist No. 1* has only increased these tendencies and helped drive our immoderation of thought in even everyday politics today.

Consequently, Hamilton called for civility in debate and warned that we must not cast off opposing views with mean-spirited attacks. Understanding the context within which Hamilton was offering this imperative—contested constitutional times—is especially important, because it is often observed today that the most important debates are the ones that evoke the greatest communicative hostilities and usher forth the greatest losses of adherence to civility.³⁹

Hamilton’s rules for civil discourse described in *Federalist No. 1* advised that all serious positions be taken seriously, opposing opinions be respected and considered before receiving a response, and debate be used as a means of testing arguments thereby allowing the best ideas to rise to the top in a marketplace of thought. For example, Hamilton called for “establishing good government from reflection and choice.”⁴⁰ Key aims involved searching for truth and the public good by respecting the purposes of debate and moving beyond bias and spin. In Hamilton’s words, “[h]appy will it be if our choice should be directed by a judicious estimate of our true interests, unperplexed and unbiased by considerations not connected with the public good.”⁴¹

Hamilton warned of the risks that advocates and opponents alike would be self-interested in their opinions and called for the People to interrogate the arguments of all with that risk of bias in mind. He framed the purposes of his warnings toward the end of the essay, stating: “I have had an eye, my fellow-citizens, to putting you upon your guard against all attempts, from whatever quarter, to influence your decision in a matter of the utmost moment to your welfare, by any impressions other than those which may result from the evidence of truth.”⁴²

Hamilton requested that we use “candor” to admit that those with differing views really “may be actuated by upright intentions” and opposing views may “spring from sources, blameless at least, if not respectable.”⁴³

37. *Id.* at 5.

38. *Id.*

39. *See, e.g.*, Sykes & Lukensmeyer, *supra* note 8.

40. THE FEDERALIST NO. 1, *supra* note 28, at 3.

41. *Id.* at 3–4.

42. *Id.* at 6.

43. *Id.* at 4.

Couldn't we start with a presumption that our opponents are sincere in their beliefs, yet they could just be committing what Hamilton described as "honest errors of minds led astray"?⁴⁴

Today, we so often ascribe ill motives or character flaws in those who adopt different political beliefs. As one commentator explained in 2019, "interpersonal intolerance is metastasizing into something much darker: A 2019 study found that just over 42[percent] of both parties [in the United States] view the opposition as not just mistaken but 'downright evil.'"⁴⁵ That statistic reflects the observations of others, for example that "[t]oo many Americans refuse to entertain the possibility that an opponent might be a decent human being despite being wrong about an issue. So instead of conversations that might change minds, we reduce our debates to toxic confrontations."⁴⁶

Even if we believe others with whom we disagree are in error, flawed ideas do not make one's opponents flawed people. Hamilton asked that we separate an individual's ideas from judgment about that individual's character. We should not assume improper motives or evil intentions by those with whom we disagree.⁴⁷ For one thing, he explained that, "it would be disingenuous to resolve indiscriminately the opposition of any set of men . . . into interested or ambitious views."⁴⁸ And, perhaps most importantly, good men and good women can differ. For discourse to be civil, for respect to flourish, and for knowledge to advance, we must adopt in practice and principle the avoidance of demonization.

On this point, Hamilton reminded us of an important lesson that should prove equally true in all times of political debate. Hamilton called for a principle of mutual respect for the opinions of others and for avoiding ascribing bad motives to others, instructing that, "[s]o numerous indeed and so powerful are the causes which serve to give a false bias to the judgment, that we, upon many occasions, see wise and good men on the wrong as well as on the right side of questions of the first magnitude to society."⁴⁹

44. *Id.*

45. John Avlon, *Polarization Is Poisoning America. Here's an Antidote*, CNN (Nov. 1, 2019) <https://www.cnn.com/2019/10/30/opinions/fractured-states-of-america-polarization-is-killing-us-avlon/index.html> [<https://perma.cc/EMK5-GAB8>]; *see also* Carothers & O'Donohue, *supra* note 6 ("Partisan conflict takes a heavy toll on civil society as well, often leading to the demonization of activists and human rights defenders.").

46. Sykes & Lukensmeyer, *supra* note 8 ("Civility also means having empathy for your fellow Americans.").

47. GORSUCH, *supra* note 20, at 37 ("[D]emocracy depends on our willingness, each one of us, to hear and respect even those with whom we disagree strongly.")

48. THE FEDERALIST NO. 1, *supra* note 28, at 4.

49. *Id.*; *see also* GORSUCH, *supra* note 20, at 31 (explaining importance of "tolerating those who don't agree with us, or whose ideas upset us; giving others the benefit of the doubt about their motives;

Furthermore, if we accept this fact that exogenous factors make all humans capable of error, shouldn't we have greater skepticism and humility about the correctness of our own beliefs rather than so quickly become entrenched in our ideological camps? As Hamilton counsels again, recognizing the risks of our own intellectual fallibility should "furnish a lesson of moderation to those who are ever so much persuaded of their being in the right in any controversy."⁵⁰

In fact, each of us might take responsibility to carefully evaluate our own beliefs about "truth," because we too are prone to biases as much as our opponents, as our those who agree with us. Here too Hamilton understood the human condition. He explained that, "[a]mbition, avarice, personal animosity, party opposition, and many other motives not more laudable than these, are apt to operate as well upon those who support as those who oppose the right side of a question."⁵¹

Today, we live in a world with a lot of noise and too little adherence to these lessons about the necessity of civility in political discourse embraced in Hamilton's words. If we choose to embrace the noise, all of the merits of all sides of the cacophonous debate get lost, and none get truly tested.

CONCLUSION

Read as a whole, Hamilton's biggest concern in *Federalist No. 1* seemed to be that human tendencies toward uncivil discourse might have a very damning impact. The biggest risk was that no serious debate would be had at all. Civil discourse is an imperative because it is a prerequisite to the meaningful reasoning that is necessary for progress.

Although the importance of civil discourse seems almost too obvious to justify devoting this entire Essay to it, civility in debate is so often left unrealized that it seems there are still many ears and eyes that are available targets for reminders of the values in it. As already seen here, there are many voices today echoing Alexander Hamilton's teachings, much as Hamilton himself was repeating the teachings of wise forebearers of the wisdom he memorialized in *Federalist No. 1*. For example, when receiving the Liberty Medal from the National Constitution Center in October 2019, Justice Kennedy posited that "[w]e have a duty to show by our civic discourse that we can be a rational, thoughtful, tolerant, decent, kind people."⁵² Justice

listening and engaging with the merits of their ideas rather than dismissing them because of our own preconceptions about the speaker or topic").

50. THE FEDERALIST NO. 1, *supra* note 28, at 4–5.

51. *Id.* at 5.

52. Claudia Vargas, *Liberty Medal Awarded to Former Supreme Court Justice Anthony Kennedy*, PHILA. INQUIRER (Oct. 27, 2019), <https://www.inquirer.com/news/philadelphia/liberty-medal-anthony->

Gorsuch has advised that, “[i]n a government by and for the people, we have to remember that those with whom we disagree, even vehemently, still have the best interests of the country at heart. We have to remember that democracy depends on our ability to reason and work with those who hold very different convictions and beliefs than our own.”⁵³ Finally, commenting on her friendship with Justice Scalia, Justice Ginsburg has written that “[i]f our friendship encourages others to appreciate that some very good people have ideas with which we disagree, and that, despite differences, people of goodwill can pull together for the well-being of the institutions we serve and our country, I will be overjoyed, as I am confident Justice Scalia would be.”⁵⁴ This is consistent with another basic lesson Justice Ginsburg once offered: “‘As long as we live and listen,’ she said, ‘we can learn.’”⁵⁵ Civil discourse is what makes listening possible. Listening is what makes learning possible. And, learning is what makes it all worthwhile.

It is perhaps hopeful that the 2019 Pew Research Center study also found that the majority of people are aware of and uncomfortable with trends away from civil discourse and toward polarization. As the Pew study reports, 78 percent of Americans surveyed said partisan divisions are increasing, and 81 percent said they were “very or somewhat concerned about divisions between Republicans and Democrats, including nearly half (46[percent]) who say they are very concerned about the growing divide.”⁵⁶ Those numbers may reflect public receptivity to calls for greater civility. Indeed, this awareness and concern indicate the public might just be willing to seek the benefits of revisiting Hamilton’s guiding thoughts in *Federalist No. 1*.

kennedy-philadelphia-20191028.html [https://perma.cc/T9GF-248Z].

53. GORSUCH, *supra* note 20, at 37.

54. Justice Ruth Bader Ginsburg, *Foreword to ANTONIN SCALIA, SCALIA SPEAKS* (Christopher J. Scalia & Edward Whelan eds., 2017).

55. Ann E. Marimow, *Justice Ruth Bader Ginsburg Says Congress Is Culpable for Polarizing Judicial Process*, WASH. POST (Oct. 25, 2018), https://www.washingtonpost.com/local/public-safety/justice-ruth-bader-ginsburg-blames-congress-for-the-polarization-of-the-judicial-confirmation-process/2018/10/24/d43122c8-d79d-11e8-83a2-d1c3da28d6b6_story.html [https://perma.cc/GJ69-SVR3].

56. PEW RESEARCH CENTER, *supra* note 2 (“There is a widespread belief in both [Republican and Democrat] parties that partisan divisions in the country are increasing. Among the public overall, 78[percent] say divisions between Republicans and Democrats in this country are increasing, while just 6[percent] say they are decreasing and 16[percent] say they are staying the same.”).