The broad purpose of Professor Frisch's paper is to explain, as being cogent, Martin Diamond's understanding of *The Federalist Papers* as at least the closest approximation to a genuine political philosophy that exists within the broader category of American political thought. To this end, Frisch attempts to show that Diamond's understanding is sounder than that of Douglass Adair, whose broad and thorough scholarship was nevertheless limited by a reading of the liberal philosophy of Hobbes and Locke that was less sophisticated than Diamond's. Adair was either less aware or less impressed by the profound agreement between Hamilton and Madison regarding the fundamental nature of political society and the basic problem to which government was understood by them to be the solution. As a result, where Adair saw divergence and even opposition between Hamilton and Madison, Diamond saw rather a division of labor and a certain difference in stress but not amounting to grounds for contradictory recommendations.

Thanks to Professor Frisch, we are able to see very clearly what is the really fresh and valuable vein of Diamond's work. Diamond did help us see how the practical sense of any of Hamilton's or Madison's recommendations depends on their understanding of classical liberalism, including its problems. Nevertheless, it seems to me that even as we rethink the recommendations of Hamilton and Madison through to this common root, it is still possible to see differences, even disagreements, between them that are larger than Diamond or Frisch acknowledge. Even after reading Professor Frisch's paper, I continue to think that the subsequent opposition between Hamilton and Madison is already perceivable in the text of
The Federalist, and that the language Professor Adair employs to describe the difference remains salient.

To be sure, Adair does oversimplify and overstate the difference between “republicanism” and “monarchism” as the basis of a tension or contradiction between Hamilton and Madison. In fact, Hamilton tried very hard and in good faith to establish an executive power that was effective and responsible “on republican principles.” But, it was not easy—it had not ever been done. Would the project require, among other things, a loose or broad meaning to be attributed to the word “republican”? At any rate, I tend to think Frisch goes too far in saying (supra, p. 42) that “it would be altogether misleading to think that the heart of the issue between them prior to the Constitution's ratification was one of monarchism versus republicanism.” Jefferson might be forgiven for holding that Hamilton had all along been justly described as a “monocrat” and “monarchist.” What this could mean is that the governing impulse—the agency in the formation of public policy—would be the executive branch itself and not the people’s branch. In this sense, Jefferson would oppose Hamilton’s monarchism and Madison would concur.

But even if these are not the terms to describe Hamilton versus Madison most accurately, I am not inclined to agree with Frisch and Diamond in holding that Hamilton and Madison did not have substantially divergent, even contradictory views which, with the benefit of hindsight, we can see as latent already in The Federalist. I will try to put my remarks most sharply by asking three questions of the text of Frisch’s paper.

1) Frisch asserts, “Although his narrower understanding of the necessary and proper clause than Hamilton’s would surely place some limitations on national power, a far more significant limitation would be equal representation for the states in the Senate and to this he had been radically opposed in the Convention” (supra, p. 42). I find this a confusing sentence. Was the subsequent break between Hamilton and Madison not implicit in their disagreement over the necessary and proper clause? Frisch says that a far more significant difference would be indicated had Madison endorsed equal representation for the states in the legislature. But in contrast to what he
had tried to do at Philadelphia, does Madison not in fact endorse, or at least make peace with equal representation for the states in the senate, in *Federalist* No. 39?

2) In an earlier passage, Frisch says, "Hamilton defined a limited constitution as one which limits the legislature in certain specified ways, but he preferred to define those limits more in terms of checks and balances (i.e. strong countervailing powers) than in terms of strict written limits" (supra, p. 38). But did Hamilton define limited government as one that limits the legislative power in specified ways but then prefer to define those limits more in terms of checks and balances than strict construction (of the necessary and proper clause)? That is, did the disagreement regarding the means most effective for holding the national government to limits not involve a disagreement of just what those limits would or should be? It seems to me that on this point Madison suggests, already in *The Federalist*, that the states would retain, and guard, powers that the national government might otherwise embrace (*Federalist* No. 51). Whereas Hamilton suggests that the whole issue of an improper accretion of power by the national government at the expense of the states is a red herring (*Federalist* No. 34).

3) Most fundamentally, should we grant to Frisch the assertion that the single philosophical principle of the American Constitution is the separation of powers (i.e. legislative/executive/judicial)? In *Federalist* No. 51, Madison says that this scheme is only a part of the larger system of opposing interest to interest among the population at large, in the large, heterogeneous political society; and he reiterates there the famous argument staked out in *Federalist* No. 10. But, in Madison's mind that whole idea of government by non-factional majorities, majorities made up temporarily of minority factions, depends in turn on his understanding of representation. Representation for him has to be a sort of compromise between virtual and actual representation; it has to be actual enough to allow the representatives of the minority factions to be in the legislature, and virtual enough for them to be compromised. Madison is clear that this in turn means that the regime, albeit larger than the opponents of the constitution preferred, still not get too large. And in *Federalist*
No. 14 Madison explicitly connects this thought to his understanding of the formal limits of national power vis-à-vis the states. This understanding reappears somewhat more strongly, in No. 39. Is there any evidence that Hamilton bought into this argument? To me it seems that the evidence is to the contrary, beginning with Hamilton's rather different explanation of representation in *Federalist* No. 35, where he ridicules the very idea of actual representation and asserts that the merchants will be the "natural representatives" in the new regime. In Hamilton's mind, then, there is no reason to be concerned lest the national government get too large—nor does he share Madison's reasons for holding the national government to strictly limited powers.

If you ask Hamilton and Madison to explain their opposition in later years, Madison tells us that Hamilton had abandoned his federalism and Hamilton would complain that Madison had abandoned his nationalism. But already in *The Federalist* Madison holds that American nationalism means something that is an aspect of a political union that is partly national and partly federal, a new experiment in regime politics for which the old words are no longer strictly accurate, but formal limitation of the central government's powers would have to be an ongoing, vital ingredient. For his part, Hamilton says in *Federalist* No. 9 that even the word confederacy can be rightly applied to any system "where the separate organization of the members exists, ...though it should be in perfect subordination to the general authority of the union." A Hamiltonian executive could be expected to cause American "confederacy" to mean just that—Madison's protests notwithstanding.

John Koritansky
Hiram College