

Anti federalist arguments the needed balance



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The year was 1787; delegates were convening at the State House in Philadelphia, the same location where the Declaration of Independence had been signed eleven years earlier. There, 55 representatives came together for four months to frame a Constitution for a federal republic. The reason for their convergence on Philadelphia was to revise the Articles of Confederation. Since 1781 the Articles hindered the needed progress of the thirteen United States. Rather than a united confederation, states were autonomous causing compromise and cooperation to be in short supply. The Articles left most of the power with the state governments as a response to fears of re-creating a centralized power similar to Britain. The burgeoning responsibilities of states were being impeded by several Articles, one being the lack of a revenue stream. Under the Articles, Congress lacked authority to levy taxes. It could request the states to contribute a share to the common treasury, but the amounts gained through this mode of collection were not sufficient. To remedy this particular defect, Congress proposed an amendment that applied to the states for power to lay duties and secure the public debts. The amendment was agreed to by twelve out of thirteen states, with only Rhode Island refusing its consent, thereby defeating the proposal. Articles 3 and 13 both required all thirteen states to agree in order to pass any legislation. To overcome the necessity of thirteen states, early in the deliberations delegates voted that only nine states would be required to ratify the constitution. This change made a difference to the process of ratification. No longer could Rhode Island or any other state keep the whole from collective progress by one abstaining vote. The Constitutional Convention in Philadelphia proceeded with men from every state but Rhode Island, as they deliberated over the necessary amendments to the Articles of

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Confederation they all agreed that unfortunately, the Articles were not worth amending or saving. Amid great secrecy they begin to write or “ frame” a new constitution.

As the delegates analyzed the Articles of Confederation, they noted many points that were to be part of the new document. One was an executive branch; in affect the Articles disallowed an executive branch to enforce the laws, nor a national court system to interpret them. The question arose in 1689, a hundred years earlier, by social philosophers such as John Locke, who were arguing the need for an executive to have the power to enforce laws that are enacted by the people. Under the Articles of Confederation in 1787, Congress was the sole organ of the national government without the ability to force the states to do anything against their will. Congress could in theory declare war and call for an army to be raised, but it could not force any state to provide its assigned quota for troops or arms or the equipment needed to support them. Due to their autonomy, the states were impervious to the threat of force or punishment, leaving Congress at a loss for the income needed to finance its activities. Should a state or states not chose to participate Congress could not punish them for not contributing their share of the federal budget. In relation to finance and monetary controls, the states controlled taxation and tariffs within their state, and each state could issue its own legal tender. To this point, the states were more likened to European countries with disputes over borders, different currency and differing governments. Such significant differences caused disputes to arise between the states. Undoubtedly there were many unsettled quarrels over state boundaries and currency issues in regard to trade. In the end, the only

role that Congress could play was of mediator and judge without the force needed to require states to accept its decisions. With so many contradictory Articles governing the country, a secure future seemed lost due to the many factors that would from past experience, never come together. For the most part, the nation's government, under the Articles of Confederation, seemed like a body without arms and legs.

From May to September 1787 a completely new and improved articles of confederation were written and called the Constitution. The proposed Constitution was the tool that would presumably lay the foundation for future generations in governance of America. The purpose and job of the Constitution was to correct the faulty Articles of Confederation and ensure greater central government strength and allow states to proceed as before with greater security and ability. This was the hope but, the message was not received with the same understanding by the people. Each state sized up its own unique situation and by calling their own ratification conventions, discussed the issues to determine if the proposed constitution would guarantee existing rights and benefit the state as a whole and not just portions of it. After the work was completed the " framers' came to an agreement on a final draft of the Constitution on September 17, 1787, after which they signed and prepared to send it to the people for ratification.

American people were now faced with a daunting task. The whole of the nation had arrived at an important moment of their existence as a union. Each state had matured at its own rate and grown into its geographical area by putting to use the natural resources each had to work with. In doing so, they created and built an infrastructure and their own economic stability.

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The American states were asked to enter into a federal covenant that would guide and by law regulate the country's population in trade, commerce, security, and foreign relations. This question became America's first political argument and one of the most important. When the final draft was ready for public discourse and ratification - not all thirteen states agreed with the entire document. Smaller states found, what they believed were flaws that withdrew power from the individual states and gave it to the central government, which too many was against the American ideology of independence.

As a reaction to the many questions and concerns the American people were expressing a trio of men came together. They were physically only 30 years old yet; they were indeed older through the acquisition of political experience, knowledge, and power. For example, Alexander Hamilton served as a captain and as Washington's aide-de-camp during the Revolution, he distinguished himself at the bar after victory, and by 1787 was already a prominent figure in the creation of the infant nation. The next man James Madison, by contrast, was more the pensive philosopher than the bold statesman. A lifelong student of philosophy, history, and law, particularly the law of nations, Madison would, despite his shyness, be a commanding presence and driving force at the constitutional convention. However, it was John Jay who was the most experienced of all three by the time the Constitutional Convention was called. Aside from having served the fledgling republic as a masterful negotiator, a diplomat, and even, for a time, as its president, Jay was the only one to have had direct experience in

Europe. And so by 1787, all three gentlemen were indeed old with experience, well prepared to meet the challenges of the task at hand.

Taking the lead in pushing for ratification, in 1787 these three politicians decided that in order for the new Constitution to be ratified there would have to be a saturation of the issues at hand in the newspapers. They, along with other men, wrote their arguments for the Constitution and came to be known as the Federalists. In the same spirit as the Federalists' emerged their counterparts, the anti-Federalists. Both sides published statements, essays, and their opinions on why the proposed constitution should or should not be accepted and ratified. Each group of men was driven by their beliefs and together they fought for what they thought was important for their country. The anti-Federalist later went by the name of Republican and the Democratic Republican, they spoke for many of the smaller states and their constituents, who had fought and sacrificed along with American forces for the victory over Britain. They had foresight in their convictions which continue to serve the country today.

The Federalists were influential intellectuals who believed in the Constitution, and believed that it was the perfect model of government to achieve a just society. Under the proposed Constitution, the American people could enjoy their right to life, liberty, and the pursuit of happiness. Generally, Federalists were wealthy citizens, highly educated professionals, who in most cases were lawyers and their supporters followed suit by being " Propertied and educated people." In their arguments for the provisions of the Constitution, Federalists stated that if the Constitution had sections or certain language

that did not work, amendments could be made. Their arguments were decidedly their strongest weapon in their pursuit to educate the public.

Alexander Hamilton was first to publish the Federalists first argument for ratification of the Constitution. His opening words grabbed his audience:

AFTER an unequivocal experience of the inefficiency of the subsisting federal government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks 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 respects the most interesting in the world.

Hamilton had offered the perfect statement on the weight of the matter before them as a country, during this most august period of American history. Of this there was no argument. Yet, as the essays by Alexander Hamilton, John Madison, and John Jay began filtering throughout the states there came responses from their counterparts, the anti-Federalists. They were somewhat less organized than the Federalists, not owing to any financial benefice and served to represent the strong opposition to the idea of state's loss of power to a federal government. The response given to the Federalists' essays began with an author known as " A FEDERALIST":

I am pleased to see a spirit of inquiry burst the band of constraint upon the subject of the NEW PLAN for consolidating the governments of the United States, as recommended by the late Convention. If it is suitable to the GENIUS and HABITS of the citizens of these states, it will bear the strictest scrutiny. The PEOPLE are the grand inquest who have a RIGHT to judge of its

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merits. The hideous daemon of Aristocracy has hitherto had so much influence as to bar the channels of investigation, preclude the people from inquiry and extinguish every spark of liberal information of its qualities.

Thus the war of words had commenced, a thought at that moment might have been, shall we as a public agree to the Constitution as written or shall we, for all future generations, dissect and analyze the document before placing our hand in agreement? The American people read the essays, listened at town hall meetings, and fueled public dialogue to full head by complete dissemination of the issues at hand offered by both groups of authors. Their writings were strong, psychological, emotional, and called to the heart of the population to come together for the benefit of the whole and not the one.

The anti-Federalists included some very impressive notables such as Patrick Henry, James Winthrop, Robert Yates, George Clinton, James Monroe, and Thomas Jefferson. Not all contributed to the essays. Those who did, rather than using their own names, took their cue from the Federalists and used pseudonyms. The anti-Federalist writers shared a considerably wider range of views. Common concerns were expressed by authors known as “ Brutus” and “ A Federal Farmer”. Robert Yates was known to be “ Brutus” but, the identity of “ A Federal Farmer” was never confirmed. One of the key points these two men made regarded the “ necessary and proper clause”. The Necessary and Proper Clause, also referred to as the Elastic, Basket, and the Sweeping Clause is the provision in Article One of the United States Constitution, section 8, clause 18:

The Congress shall have Power - To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

This clause gave Congress the power to make laws which were necessary to execute all powers vested in the Constitution. The anti-Federalists argued that the Constitution only had the power to do what it states it can, and that nothing should be presupposed by the government. In other words, the government should never use the necessary and proper clause as “ a blanket grant of power”. Anti-Federalist were men who understood from their recent involvement with the Revolution that giving too much power to a national government could foster tyrannical desires for more power. The aristocratic elite and moneyed men would govern for their own states and personal benefit without any concern for the smaller states needs. Further, the anti-Federalist felt Americans had been given empty promises and after fighting for independence their own independence and ability to provide for their families would become extinct if the Constitution was ratified as it was written. The primary fear was that while a republican government was desirable in order to defend liberty, it was not possible over a large geographic area, such as the United States, because it had never been accomplished before. The fall of the Roman Empire was an implosion, a reaction to inadequate governing of an area too vast to control. The other major pitfall of republics had been class war, something that the Founding Fathers had seen in the recent Shay's Rebellion.

From 1781 to 1787 there was much consternation within the borders of the United States. From an extract of a letter from James Madison to George Washington, Feb. 3, 1788, we can read sentiments received from Boston from a member of the convention there:

Never was there an assembly in this state in possession of greater ability and information than the present convention, yet I am in doubt whether they will approve the constitution. There are, unhappily, three parties opposed to it. First: All men who are in favor of paper money and tender laws. Those are more or less in every part of the state. Second: All the late insurgents and their abettors. In the three great western counties they are very numerous. We have in the convention eighteen or twenty who were actually in Shays' army.

Shay's Rebellion was an example of the small farmers and independents who had their land and homes threatened to be taken from them. An armed uprising in central and western Massachusetts, centering in Springfield from 1786 to 1787, Shay's rebellion represented the poor compatriots farmers angered by what they felt to be crushing debt and taxes. Failure to repay such debts often resulted in imprisonment in debtor's prisons or the claiming of property by the County. The leader of the Rebellion, Daniel Shays, was himself a veteran of the American Revolution who found himself engulfed in the issue and fought for a way out. The rebellion was still fresh on the minds of many, causing the mood among the last states to ratify to be thick with opposition and strong sentiments against the contents of the constitution.

The last states to accept the proposed constitution were New York, North Carolina, Virginia, and Rhode Island. New York presented the problem in its simplest form, the entire mass of interior counties, from Ulster to Columbia, were solidly anti-Federal, encompassing the agricultural portion of the state, the last arrived and settled, and the most thinly populated. Governor George Clinton of New York wrote on one of the important issues among the anti-Federalists. From the following extract of a letter from New York, July 20, 1788, George Clinton was quoted as saying, " if they ratify the constitution, they must by heavy taxes support their government, which is now wholly done by the impost, etc. This with the Mynheers is a weighty argument." George Clinton went on to write, " In Opposition to Destruction of States' Rights", the following:

The... premises on which the new form of government is erected, declares a consolidation or union of all thirteen parts... into one great whole, under the firm of the United States... But whoever seriously considers the immense extent of territory comprehended within the limits of the United States...the dissimilitude of interests, morals, and politics in almost every one, will receive it as an intuitive truth, that a consolidated republican form of government therein, can never form a perfect union, establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty to you and your posterity...this unkindred legislature therefore, composed of interests opposite and dissimilar in nature, will in its exercise, emphatically be like a house divided against itself...

Clinton continued that from his prospective there were no promises that could be made secure " on the score of consolidation of the United States

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into one government.” Impracticability, risk, ambitious, and aggrandizement, oppression, intricate and perplexed became words to describe the proposed constitution. Clinton ended by saying that the proposed constitution was “ too mysterious for you to understand and observe; and by which you are to be conducted into a monarchy, either limited or despotic...” Interpretation and understanding by the common man was an important factor for the anti-Federalist arguments against the Constitution.

Writing on states’ rights, Federalist No. 6 author stated, “ A great danger exists in the competition between states themselves if they are left entirely to their own sovereignty, with no unifying government. Men are by their nature ambitious, and independent states will naturally compete with one another for love of power, control of commerce and domination of territory.” The response from anti-Federalist explained that a strong state government was better than a strong central government. To them if the central government was too strong then it would threaten the people’s liberties and right to life, liberty and the pursuit of happiness. What rights did the people have under the proposed Constitution? This issue was the next mountain to cross towards ratification.

Anti-Federalist Patrick Henry, who wrote “ Need for a Bill of Rights” felt:

this proposal of altering our federal government is of a most alarming nature!.... You ought to be watchful, jealous of your liberty; for, instead of securing your rights, you may lose them forever...a wrong step made now

will plunge us into misery, and our republic will be lost, and tyranny must and will arise...

The argument over the Bill of Rights was arguably the most important issue for the ratification of the constitution. Their necessity appeared to be of greater importance in order to calm the states. Patrick Henry added these words in his observation of the matter, " We are told that all powers not given are reserved. I am sorry to bring forth hackneyed observations. But, Sir, important truths lose nothing of their validity or weight, by frequency of repetition." Rather than infer the rights of the people, " all rights not expressly and unequivocally reserved to the people are impliedly and incidentally relinquished to rulers, as necessarily inseparable from the delegated powers... if implication be allowed, you are ousted of those rights," they would be declared. This argument was one of the turning points for the final state's ratification of the Constitution. Henry continued his essay on the essential need for the bill of rights by explaining:

Without a Bill of Rights, you will exhibit the most absurd thing to mankind that ever the world saw a government ... that has abandoned all its powers the powers of taxation, the sword, and the purse. You have disposed of them to Congress, without a Bill of Rights without check, limitation, or control... You have Bill of Rights to defend against a state government, which is bereaved of all its power, and yet you have none against Congress, thought in full and exclusive possession of all power!

The Bill of Rights was important to the American people and by promising to make amendments and provide a draft of a Bill of Rights the delegates

began to revisit their stance toward acceptance of the proposed constitution. The “ Bill” was demanded by the anti-Federalists in New York, Massachusetts, and Rhode Island where the battle for ratification was not clear. In these states the voting was a lot closer than in the states that first decided to ratify.

The Federalists however had strong opposition to a Bill of Rights. Robert Yates, writing under the pseudonym Brutus, articulated this view point in the Anti-Federalist No. 84, asserting that a government unrestrained by such a bill could easily devolve into tyranny. Other supporters of the Bill argued that a list of rights would not, should not, and could not be interpreted as exhaustive; these rights were examples of important rights people had, along with other rights as well. Many concerned with the final interpretation of the Bill of Rights were confident that the judiciary would construe these rights in a liberal fashion. Fortunately, the Ninth Amendment would clarify the matter by addressing the rights of the people that are not specifically enumerated in the Constitution.

The arguments were just getting started, representation was of extreme importance to the smaller states who felt their position and voices would be extinguished if their representation was not equal to the larger states, who by virtue of their size may attempt to dominate on issues against those states with less representation. The fear was understandable. The Deep South would go to war over such issues as representation. Melancton Smith, a New York representative at the Convention, wrote his views on the issue of representation for the anti-Federalists stating:

When we speak of representatives... they resemble those they represent. They should be a true picture of the people, possess a knowledge of their circumstances and their wants, sympathize in all their distresses, and be disposed to seek their true interests.

Smith believed that the “ knowledge necessary” for the true representative of a free people should include a comprehension of:

extensive political and commercial information, such as is acquired by men of refined education, who have leisure to attain to high degrees of improvement, but it should also comprehend that kind of acquaintance with the common concerns and occupations of the people, which men of the middling class of life are, in general, more competent to than those of a superior class.

In order to represent a state, its inner structure must be understood. The true commercial interests of a country are not the only requirement for representation but also, and most importantly, “ a knowledge of the productions of your own country, and their value, what your soil is capable of producing, the nature of your manufactures, the capacity of the country to increase both.” In the area of laying taxes, duties, and exercises with discretion requires knowledge of the system of finance.

A representative should also know about the people of his country, their circumstances and a general understanding of their economic commerce and ability. They should also understand, “ how the burdens imposed will bear upon the different classes.” Representatives should be from all walks and levels, not just elite citizens but, those of the “ middling class of life.” Smith, <https://assignbuster.com/anti-federalist-arguments-the-needed-balance/>

as well as others, had a real concern that most bodies of the government were composed of the first class in the community and by distinguishing them by class, it would appear that the government would fall into the hands of the “ few and the great.” In order to relieve the delegates of unrelenting concern Smith offered the following insight on representation:

This will be a government of oppression...A system of corruption is known to be the system of government in Europe... it will be attempted among us. The most effectual as well as natural security against this is a strong democratic branch in the legislature, frequently chosen, including in it a number of the substantial, sensible, yeomanry of the country. Does the House of Representatives answer this description? I confess, to me they hardly wear the complexion of a democratic branch; they appear the mere shadow of representation.

The anti-Federalists were important to the final outcome of the ratification process because they poised questions that made the American people stop and think about what they were agreeing to and what they may lose or gain as a consequence of the proposed Constitutions acceptance.

Thomas Jefferson, third president of the U. S., from his own beliefs regarding the ratification of the Constitution, feared it would grant too much power to the U. S. government. Jefferson thought it should be up to the states to govern themselves with a “ hands-off” approach and strictly limited interference of the national government. The funny thing about Jefferson, figurehead of the anti-Federalists was for a long time he would not choose sides between the Federalists and the anti-Federalists, because of his anti-

political party sentiment. He found both sides arguments compelling, he was for a strong central government, which was more of a Federalist's view. But, the argument that brought Thomas Jefferson to the anti-Federalist side was Alexander Hamilton's "implied powers". Implied powers were powers which were not stated directly in the Constitution, in other words powers that were assumed by the government. Jefferson was totally against this, he believed that the Constitution could do the things which the Constitution states it can and nothing should be assumed, strict construction. This disagreement would become a great feud between Hamilton and Jefferson, evolving into the first real battle of political parties for election in office. It should be noted that there were conflicting personalities among the "framers" and their anti-Federalist opposition.

When comparing and contrasting anti-Federalist views on the ratification of the United States Constitution with those of the Federalists, one must also consider the inherent relationship that represents their respective views upon principles, problems and solutions, ultimately surmising which side best reflects or departs from the original principles set forth for the Declaration. It can be argued that the two sides are quite contrary in their individual perceptions, with each faction believing its own views are of primary integrity. One of the major beliefs of the Federalists as pointed out at the Philadelphia convention was that a state should vote according to its population. This later became another big issue with the anti-Federalists and people from the smaller states.

By comparison of the elite Federalist camp, the anti-Federalists were made up of anyone who was poor and not a big landowner, anyone tired of being

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controlled, anyone who wanted the people's votes to directly count and anyone who wanted to protect their rights. The anti-Federalists were made up of all different types of people, who represented the United States population as a whole, far better than did the Federalists. The anti-Federalists wanted their power in the legislature, mainly the lower house where every state has one vote; and the terms of office to be shorter, with limits on how many terms you could serve. These officials were not to be elected by representatives but directly by the vote of the people of the United States. Finally, the only way the anti-Federalists would ever consider helping to ratify the Constitution was if it contained a Bill of Rights, which was believed "essential for preserving the individual liberties" of the people. It was the consensus of anti-Federalist everywhere that without this document the government could control every aspect of a person's life. To them the Constitution without the Bill of Rights was just a weapon of the elite upper class over the poor. Individualism was the strongest element of opposition; the necessity, or at least the desirability, of a bill of rights was almost universally felt, and the anti-Federalists were able to play on these feelings in the ratification convention in Massachusetts in 1788. By this stage, five of the states had ratified the Constitution with relative ease; the Massachusetts convention however, was hostile and argumentative.

In the fight for ratification of the proposed United States Constitution between Federalists and anti-Federalists propaganda played a large role on both sides. Patrick Henry even saw the constitution as a revolutionary document much like America's separation from Britain, he said "I need not take much pains to show, that the principles of this system, are extremely

pernicious, impolitic, and dangerous. Here is a revolution as radical as that which separated us from Great Britain." Despite the fact the Federalists and the anti-Federalists had opposing views regarding the constitution; both were headed for a common goal of forming a government that could run the country. Many anti-Federalists believed that the Constitution, " as drafted would open the way to tyranny by the central government." States' rights, the Bill of Rights, and representation were all heated subjects during the ratification phase. The Bill added a comfort zone for the states; they needed security from the fear that the federal government could control them under a tyranny. States felt they would retain their rights through the freedoms afforded through the Bill of Rights. These freedoms include freedom of speech, the right to bear arms, the right to deny refuge to soldiers, the right to privacy from search, trial by jury, innocent until proven guilty, the right to representation and to a speedy trial, no cruel and unusual punishment, the right to always have rights, and the right for states to rule on things not mentioned in the Constitution. None of this was possible under British rule; power was transferred from the center to the people. If the Constitution was ratified without the Bill of Rights, the central government could parlay its strength denying people these basic rights.

As states made their decision through their own ratification conventions the nine states needed for ratification began voting. The first state that ratified the Constitution, although its convention was not the first to assemble, was Delaware, followed by Pennsylvania, New Jersey, Georgia, and Connecticut. Ratification of the Constitution was four states away