

# Restraining democracy the threat of the constituti



The fundamental point of contention between the Federalists and anti-Federalists in their debates over ratification of the Constitution surrounded the question of what powers were necessary in order to insure the security of the nation as a whole. The federalists, of course, believed that a strong central government was necessary, for reasons of national security and economic prosperity. The anti-Federalists were strongly opposed to the centralization of power, rather, they were concerned with retaining the sovereignty of the states and, in turn, their secured political freedom. Three issues were the cause of great apprehension to the anti-Federalists upon reading the proposed Constitution - the size of the new nation, the problem of political representation and the disconcerting concentration of governmental powers. In interpreting the Constitution, the anti-Federalists believed that because of these key issues and how they were dealt with in the new government, their freedom was seriously at risk. Their fear and distrust of the new government was focused on the relatively few individuals who, under the new government, would hold the political reins of the nation. To the opponents of the Constitution, many warning signs of potential despotism were visible in the proposed government - the sole power of taxation, the lack of protection of freedoms, the formation of a large military force, the dissolving of states' powers, and above all, the concentration of powers in the hands of a few. It is this last issue that seemed to be of greatest concern to the anti-Federalists, and logically so, because all other powers and laws prescribed by the Constitution were to be interpreted and executed by these men. Throughout the anti-Federalist writings, one of the recurring themes was the fear that because of the centralization of power, it was inevitable that an oppressive form of government, rather than a popular,

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democratic one, was soon to follow. One such believer in this potential outcome, the anti-Federalist calling himself “ Federalist Farmer,” offers his interpretation of the positions of power under the new Constitution, comparing them to the English monarchy and Parliament, saying that the new government consists of “ three different branches, namely, king, lords, and commons or, in the American language, President, Senate and Representatives .” This feeling is echoed in most of the anti-Federalist writings, that political officials are, as one writer put it, no more than an “ elective monarchy .” The correlation between the potential abuse of power and the rich, intellectual and aristocratic class of Americans was a great reason behind the suspicious perception of government on the part of the anti-Federalists. This air of distrust was especially strong since the memories of the oppressive reign of England and the revolutionary spirit were still fresh in the minds and hearts of Americans. The anti-Federalists had a great deal to be concerned with in light of the proposed Constitution, as the political power and democratic rights of the majority were seemingly tossed aside, leaving them helpless subjects, rather than active political participants in the new government. For the most part, their concerns about the potential abuses of power were not unfounded, paranoid delusions; they were based in the reality that the Constitution allowed a few, generally rich, men to control the lives of the majority of men. The anti-Federalists’ claim that the new Constitution will not secure a popular form of government, rather, it “ will commence in a moderate aristocracy...produce a monarchy, or a corrupt oppressive aristocracy (Kammen 258),” is supported by evidence in the document itself. The Framers’ intent to limit the power of the people in the new government is realized through the delegation of powers in the first

three articles of the Constitution. One need only observe where the power lies in the different branches, as well as how these positions of power are filled, to see that the anti-Federalists were not crying wolf, and that the new government, as proposed, was inherently undemocratic and representative in both its structure and in its underlying principles. Looking to the various powers assigned in the Constitution, Article I created a bicameral Congress that possessed “ All legislative powers;” it also allowed Congress to “ make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” These two facts alone point to a political body that seems to hold absolute and unrestrained power over the people, able to create laws that serve the interests of the government, without the consent of even the state legislatures, let alone individuals. These statements exemplify the fundamental difference between the anti-Federalists and Federalists regarding the amount of power necessary for properly governing. The Federalists believed that whatever power was necessary and proper could be used to secure the union, whereas, the anti-Federalists believed in the democratic principle of the consent of the governed. It is clear from the language of the Constitution that laws and power need not pass through the will and consent of the people. In addition, other powers given to Congress in Article I, section 8, including the sole ability to tax, declare war (as well as form a standing army) and print money, demonstrated to the anti-Federalists how subservient they were to the powers of the new government. Whatever power individuals once possessed under their state governments was to be wrested from them as per Article I, section 10 which stated that no state could enact certain laws without the consent of Congress.

In terms of their relative powers, the Senate (repeatedly accused of representing the wealthy class) undeniably possessed far more power than did the House of Representatives (the only direct link to power for the people), another point of contention for the anti-Federalists. This fact offers an easy counterargument to the claim that the House gives the popular majority power in the new government. First, the length of office between the House (2 years) and the Senate (6 years) left the “people’s” branch less stable than the Senate, in terms of creating and following through with policies. The powers of the Senate far exceeded those of the House, even to the extent of possessing the power to either amend or reject legislative proposals by the House, and in effect, overriding the will of the people. The Senate also possessed the power, described in Article II, section 2, of “advice and consent,” requiring Presidential cabinet positions, Supreme Court nominations and treaties to be ratified by that branch of the Congress. This abundance of power given to the Senate tends to support the anti-Federalists’ idea of a potential oppressive aristocracy. Discussing the overwhelming power of the Congress, specifically the Senate, these comments were made, “This mixture of the legislative and executive moreover highly tends to corruption.” He continues by citing then-revered political philosopher Baron de la Montesquieu, “When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty.” Equally as significant as the powers at the disposal of the Congress, stands the issues of how these officials are selected, and how representative of the interests and will of the people they would be. The fact that there were no popular elections, in terms of representatives to the Senate as well as the President, undermined the

possibility of creating a truly representative government by taking the power of choice away from the people and placing it in the hands of another political body. The problem with representation was of paramount concern to the anti-Federalists, who believed that by uniting the states into a large republic, the rights and power of the people and their beloved democracy would be lost. Another problem with representation were the doubts that representatives would mirror the interests of the people, since they were generally from a moneyed, aristocratic class. Would aristocrats voluntarily abandon their interests for the sake of the unseen masses? This was viewed as highly unlikely by the anti-Federalist, "A Farmer and Planter," as he warned, "Aristocracy...is therein concealed...to entrap a free people... Observe well the rich men who are to be your only rulers, lords and masters in future...Does not riches beget power, and power, oppression and tyranny?" The issue of the size of the new nation, in terms of proper representation, was of prime importance to the anti-Federalists, in their arguments against the undemocratic nature of the Constitution. They believed that by extending the nation, it would make it impracticable for the majority of citizens to assert their political power of direct pressure, simply because of logistical difficulties. Then governor of New York, George Clinton, offers a helpful analogy to describe the lessening of power and representative effectiveness as the political territory spreads. He follows that "These principles are, in their exercise, like a pebble cast on the surface of a river - the circles begin in the center, and are small, active and forcible, but as they depart from that point, they lose their force, and vanish into calmness." Furthermore, because of this great distance between politician and the people, the representative was not as compelled to serve the

interests of the people of his state as he would if his constituents were close in proximity. The anti-Federalist, pen-named " Brutus," offers a historical example of how successful small republics are compared to large ones in matters of maintaining the freedom of its citizens." History furnishes no example of a free republic, anything like the extent of the United States. The Grecian republics were of a small extent; so also was that of the Romans. Both of these, it is true, in process of time, extended their conquests over large territories of country; and the consequence was, that their governments were changed from that of free governments to those of the most tyrannical that ever existed in the world (Kammen 308-9)." If the great republics of the world could not maintain the freedom of its citizens while expanding their territories, why should America be any different? This view is supported Montesquieu, as Brutus cites: " In a large republic, the public good is sacrificed to a thousand views. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen (Kammen 308)." Moving from his historical examples and looking to the " nature of things" surrounding extensive republics, Brutus argues, " In a pure democracy the people are the sovereign...for this purpose they must all come together to deliberate, and decide. This kind of government cannot be exercised, therefore, over a country of any considerable extent (Kammen 309)." Although a pure democracy was not a practical option for such a large nation, the argument for a democratic form of government in terms of representation and consent remains valid. The position that, compared to a small republic, a large republic will not insure the freedom of its citizens, stood in direct opposition to James Madison's rationalization for consolidating the states as expressed in the Federalist paper No. 10. Madison's philosophy

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of how to secure and maintain power in a large republic adds support to the anti-Federalists arguments and fears surrounding the undemocratic nature of the Constitution. Madison was a vigorous opponent of pure democracy who feared that the uneducated masses would tyrannize the minority (a minority of which he was included) with their majority rule if given any significant amount of democratic powers. In his Federalist No. 10, Madison describes the “ dangerous vice” of political factions resulting from a government terrorized by an over-bearing majority (Kammen 145). Although Madison points out that he does not support the taking of liberty, he nonetheless agrees that, “ Liberty is to faction, what air is to fire (Kammen 146).”

Madison’s theory was that through uniting the states under a strong central government, the power of destructive political factions would be limited: “ the majority, having such co-existent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression (Kammen 149).” Madison further discusses his theory, stating, “ Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens (Kammen 151).” The natural result of expansion (and this was clear to Madison) was the weakening of the power of the majority and, most importantly, the deterioration of political representation. What the Constitution created was a political order that made it difficult for people to come together through common interests by making communication and concerted action difficult. Madison’s and other founder’s fear of the majority manifested itself in the limiting of the people’s political power in a calculated and underhanded way. It must be noted, however, that while Madison’s rationalization undermines <https://assignbuster.com/restraining-democracy-the-threat-of-the-constituti/>



the political power of the people, the fear of the majority and of political factions was not without practical justification on the part of the Framers. Probably the most important event that broke the camel's back regarding the popular threat to property was Shay's Rebellion in Massachusetts, where farmers, desiring land and protection against hostile Indian tribes, led a bloody rebellion in order to gain property. The lack of an organized military force made it difficult to put down the uprising, thus this event confronted multiple fears on behalf of the Framers - the need for an organized national defense (which required centralized power) and the need to protect property. Both of these issues regarding necessary powers were addressed and settled by the Constitution. When Madison referred to the danger of majority faction, this rebellion was likely heavy argumentative ammunition to support his claims. Nonetheless, Madison's justification for consolidating power because of a military necessity was scoffed at by the anti-Federalists, who saw no such threat that could warrant the creation of so powerful a political body. The other issue of concern for the anti-Federalists in regards to representation was whether politicians could possibly serve the people's interests, due to the fact that they came from a different class of citizen. The Anti-Federalists believed that political representatives needed to act as a mirror of the American people, their values, and their desires. The Framers, on the other hand, saw representation as a refining process of the ideas and sentiments of the general population, and the more politically educated leaders would ultimately decide what was best for the country, not what was necessarily best for the people. The reality of representation as it would be under the new government, was that representatives would be conveniently distanced from their constituents, both in physical distance and in class

difference. What the opponents of the Constitution generally saw, not only in the participants in the Constitutional Convention, but in politics in general, were men from a higher social class, “ aristocratical men...effecting their favourite object (Kammen 266).” Even before pen met parchment, there seemed to exist a shroud of doubt and mistrust over the intentions of those who created the new Constitution. It should not be undervalued that existing prejudices against the wealthy class effected how the general population guardedly viewed those of political power. The anti-Federalists were suspicious of the secrecy surrounding the convention, as well as the fact that they held serious doubts regarding the individual or collective interests that were involved in forming the government. Throughout the anti-Federalist papers, there is a sense of class antagonism between the common man and the rich, aristocratic politicians who were called to represent and serve the country. As the first anti-Federalist paper states, “ The hideous daemon of Aristocracy has hitherto had so much influence as to bar the channels of investigation (here he seems to be referring to the secrecy involved in the proceedings at the Constitutional Convention), preclude the people from inquiry and extinguish every spark of liberal information of its qualities.” The anti-Federalists wanted assurance of proper representation, and the options offered to them in the politicians of the time were seriously in question. What was not included in the Constitution, a bill of rights, possibly held more significance to the critics of the Constitution than what was actually included. The fact that such extensive powers were allocated to the central government created an even greater necessity for a bill of rights, and the absence of such protections of individual freedoms had a disturbing effect on the opponents of the Constitution. Along with the call to create a national

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military force, these two points served as warning signs to the citizens that their freedom was tenuous, and at any time could be taken from them, if necessary, by force. Of course, a bill of rights was added to the Constitution, but the significance lies in the fact that such fundamental protections were absent from the original document, and reluctantly added later by Madison. Parallels between the abuses of power that lead to the Revolution and the potential for the abuse of power under the Constitution were visible to the anti-Federalists; guarding their hard fought political power and liberty against an inevitable despotic government was their mission. Circumstances certainly had an effect on the views of the anti-Federalists. In terms of both their recent experiences under English rule as well as the class differences that existed, the anti-Federalists perceived the Constitution as undemocratic and its drafters as the potential aristocrats and unchecked political leaders that would eventually rule over them. The bottom line, however, that caused such great concern for the anti-Federalists were the underlying philosophical principles within the Constitution. The people wanted democracy, the powers that formed the new government feared democracy. The common man, represented by the anti-Federalists, believed that democracy could work if proper representation was insured. Those holding power and influence, the Federalists, found a pure democracy to be an impracticable and even dangerous form of governing such a large nation. The colonists had experienced the power of democracy in their towns and states, and to take away this recently discovered power was seen as a mortal threat to their liberty. They saw themselves as they were ten years earlier under English rule, subjects to political powers they could not see, and this, they believed, is what would happen again if the Constitution was to be ratified. Political

leaders from an aristocratic class, far distanced from the people, would be dictating what the common man could or could not do. What history told these men, who so passionately wrote against the ratification of the proposed Constitution, was that unchecked power in the hands of a few inevitably leads to a corrupt and oppressive form of government. Kammen, Michael. *The Origins of the American Constitution: A Documentary History*. New York: Penguin Books Inc., 1986.

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