

# THE BATTLE OVER RATIFICATION

My discussion of the differences between Anti-Federalist and Federalist is taken from Bernard Bailyn's *Ideological Origins of the American Revolution*, 336-369.

As soon as the Constitutional Convention ended in September 1787, people divided over their support or opposition to it. Those who were against the ratification of the document were called Anti-Federalist, while those who supported it took the name Federalist. From these names we can tell that the response of the Anti-Federalist was negative - that is, their goal was to argue that "consolidation" of governmental power in the United States would rob the states of their power and thus be a bad thing. Federalist on the other had were positive; they argued that they did not support total consolidation, but that they favored a Federal system of shared powers.

## I. Anti-Federalists

A. From the beginning of the Constitutional convention there were people at the local and state level who opposed the new Constitution. These men were known as Anti-Federalists. They were opposed to the ratification of the Constitution.

B. The Anti-Federalists believed the new Constitution gave far too much power to the central government.

C. Some of their major concerns were:

1. The logical incongruity of *imperium in imperio* (a state within a state)
2. The broad powers given to the Congress of the United States, especially the "necessary and proper" clause and the "supreme law of the land" clause.
3. They were opposed to central taxation (a power which the Confederation Congress did not have under the Articles of Confederation)
4. They were opposed to a standing army, which they believed the President could use as a tool to force his opinion on the states or the people.
5. They believed that republics, where people ruled themselves through their freely elected representatives, were fragile. In these republics - as Montesquieu said - there was a need for uniformity of opinion, and therefore the republic needed to be small. For how could the people rule themselves, if everyone disagreed with one another. Republics were based on virtue, and disinterested leadership. The further the people were removed from the exercising of power, the more dangerous the leaders might become - tyranny lurked around the corner.
6. Patrick Henry, one of the leading Anti-Federalists, argued that men were not virtuous but were instead innately evil. By combining this political realism with the implied powers and the necessary and proper clause, he said the Federalists were setting the country up for ruin.
7. The opponents of the Constitution also lamented the fact that there was no written Bill of Rights. The state constitutions of the 1780s, and indeed the English constitution since 1689, had included a bill of rights. Anti-Federalists asked what assurances they would have that their individual rights would be protected under the new Constitution, which said a great deal about what the new central government could do, but very little about what it could not.

## II. Federalists

A. The Federalists went to work immediately after the Convention was over. The most important work of this group was done by James Madison, Alexander Hamilton, and John Jay in the *Federalist Papers*. These men thought that it was absolutely essential to ratify the Constitution for the preservation of the republican experiment in America. To win the ratification debate, they would have to convince people that the situation under the Articles of Confederation was verging on chaos, and that only a strengthening of the power of the central government could remedy the problem.

B. The Federalists had to dispell the image of the Constitution that was created by the Anti-Federalists.

### C. Their responses to the Anti-Federalists

#### 1. Response to the logical incongruity of imperium in imperio

a. Why can't two governments share power

b. In New York, Pennsylvania, and Virginia (for instance) there are state governments, town governments, and county governments. These share power and overlapping jurisdictions, and yet it is possible for them to coexist.

c. The Federal government has specified powers beyond which it cannot go. The bulk of powers - all those not delegated to the national government - are reserved to the states.

2. The response to the problems posed by the necessary and proper clause and the supreme law of the land clause were dealt with the same way. The Federal government has specified powers, and a strict construction of the Constitution, which will be defended by the Supreme Court (see Federalist 39) and the people, will prevent the usurpation of power by the central government.

#### 3. Response to the fear of a standing army

a. The Federalists argued that in a free state a military officer is simply the "occasional servant of the people, employed for their defense" in a monarchy he is always the instrument of schemes of oppression.

b. Moreover, this will be an army of the people. Military appropriations, which must originate in the House of Representatives, can last only two years, and must be passed by the "immediate delegates of the people"

c. Furthermore, the army would not have a monopoly on power; the states could maintain their militias.

4. Finally, Madison brought together the political realism of Patrick Henry and the republican political theory of David Hume to provide a response to those Anti-federalists who insisted that a Republic must be small.

a. Madison argued in Federalist X that there was no way to restrict the self-interestedness of men. Therefore factions - groups based on the pursuance of their own self-interests - would form.

b. In a small republic, Madison argued, factions were dangerous. A small but majoritarian faction might - because the population and the number of factions were so small - enforce its opinion on the entire group of minority factions, thus creating the tyranny of the majority.

c. However, if you "extend the sphere" the dangers of faction are reduced. By making a republic larger more factions will be included and there will be less likelihood that one will have the power to overwhelm the others.

d. Therefore, Madison argued that republican government would actually work better in a large area than it would in a small one.

### III. Ratification:

A. 7 Dec. 1787: Delaware becomes first state to ratify.

1. Small states realized they could not make it on their own.

B. Other states follow:

1. 12 Dec. 1787: Pennsylvania ratifies.

2. 18 Dec.: New Jersey.

3. 2 Jan. 1788: Georgia.

4. 4 Jan.: Connecticut.

5. 6 Feb.: Massachusetts.

6. 28 April: Maryland.
7. 23 May: South Carolina.
8. 21 June: New Hampshire. New Hampshire's ratification was enough to put the Constitution into effect, but need VA and NY to make it work.
9. 25 June: Virginia.
10. 26 July: New York.
11. 21 Nov. 1789: North Carolina.
12. 29 May 1790: Rhode Island.

C. Serious opposition to Constitution in Massachusetts, New York and Virginia overcome and the Constitution was implemented in the summer of 1788.

D. The new Constitution, then, granted new powers to Federal Government, including the power to tax, regulate interstate commerce, and enforce its own laws. Two powers were withdrawn from the states: the power to coin and print money, and from interfering with obligations of contract (no more stay laws.).

E. Once it was clear that the Constitution would be implemented, opposition faded and people began working within the new frame to flesh out the new government of the United States.

